

**Town of Southeast
Zoning Board of Appeals
Minutes of June 15, 2020**

Timothy Froessel, Chairman	Present
Paul Vink, Vice Chairman	Present
Roderick Cassidy	Present
Greg Wunner	Present
John McNeill	Present
Steve Corozine	Present
Andres Gil	Present
Ashley Ley, Town Planner	Present
Victoria Desidero, Board Secretary	Present
JoAnne Ciralli, Assistant Secretary	Present

Work Session:

Regular Session:

Chairman Froessel: Good evening. Welcome to the June 2020 meeting of the Town of Southeast Zoning Board of Appeals. My name is Tim Froessel. I'm the Chairman and on with us this evening we have our Vice Chairman Paul Vink and Boardmembers Rod Cassidy, Greg Wunner, John McNeill, Steve Corozine and Andres Gil and our Administrative Assistant Victoria Desidero is on with us as well. We have two items on the agenda this evening. Item number one is Nury & Jorge Barrios and item number two is PLI, LLC. We'll actually flip those PLI, LLC number two is a carryover from last month but we, because we believe that the first matter will take a lot less time, we're going to take that applicant first and conclude that business before we move on to the PLI, LLC Stateline Retail Sign Variances.

1. Nury & Jorge Barrios, 58 Fairview Road, Tax Map ID 46.-1-6

Public Hearing to review an application for a proposed porch addition to a single-family home that requires the following variances: 17.7 ft. on the west front setback where 17.3 ft. is proposed and 35 ft. is required; 16.2 ft. on the north side setback where 3.8 ft. is proposed and 20 ft. is required; 12.8 ft. on the south side setback where 7.2 ft. is proposed and 20 ft. is required; and 39 ft. total side yard setback where 11 ft. is proposed and 50 ft. is required. Owner Nury Diaz represented the application.

Chairman Froessel: So do we have anyone on the line, on this Zoom conference for Nury & Jorge Barrios?

Ms. Diaz: Yes, Nury Diaz.

Chairman Froessel: OK. Hello, ma'am. We typically swear in our witnesses first so I would ask you to please raise your right hand and let the Vice Chairman swear you in please.

Boardmember Vink: Ma'am, do you swear that the testimony you are about to give us is the truth to the best of your knowledge?

Ms. Diaz: I'm sorry?

Boardmember Vink: Do you swear that the testimony you are about to give us is the truth to the best of your knowledge?

Ms. Diaz: Yes.

Boardmember Vink: Thank you.

Chairman Froessel: OK, thank you. OK. We've taken a look at your application and actually I took a drive by your house earlier today. Why don't you just kind of give us a general description of what it is you're planning to do and what you need a variance for?

Ms. Diaz: We would like to make the deck a little bit bigger. It's nothing special. It's nothing (inaudible) the house a beautiful view, but that's, that's all we want to make a little bit bigger... the porch.

Chairman Froessel: OK. When you say the porch, my understanding is we have a deck.

Ms. Diaz: Sorry. The deck.

Chairman Froessel: I'm sorry?

Ms. Diaz: Sorry. It's a deck. It's not a porch.

Chairman Froessel: Yeah, and you're putting this on the front of the house, correct?

Ms. Diaz: Yes.

Chairman Froessel: OK. I don't know if any of the Board members had a chance to take a look at this property. I drove by; took a look at the Google Maps image and saw it was from 2012. So, things tend to change over time so I went and took a drive by and what's there today is not, not what you see on the picture from 2012. But, in any event it's, it's in the Tonetta Lake neighborhood which is, which tends to be smaller lots. The house is pretty typical of, of what you see in that area. (Inaudible.) This, this, oh, part of my question is this... is it just going to be a deck; it's not going to have any type of roof over it; a covering?

Ms. Diaz: I can't, I didn't understand. What did you say?

Chairman Froessel: Will this deck on the front of your house have a roof over it?

Ms. Diaz: No, it's not going to be having a roof; just the deck.

Chairman Froessel: OK, and it's going to go across the entire, across the entire width of the house, correct?

Ms. Diaz: Yes.

Chairman Froessel: OK. That's 25 ft.?

Ms. Diaz: 25 ft. by eight ft.

Chairman Froessel: OK. OK, I'll go around person by person and ask each of the members of the Board if they have any comments or questions on this application. Paul, I'll start with you. Any questions or comments?

Boardmember Vink: No, no. I actually drove by the property myself last week and I have no questions about it.

Chairman Froessel: Rod, how about you?

Boardmember Cassidy: No questions.

Chairman Froessel: OK. Greg, any questions for the applicant?

Boardmember Wunner: I have no questions.

Chairman Froessel: OK. John, any questions for the applicant?

Boardmember McNeill: No questions.

Chairman Froessel: OK. Thank you. Steve, any questions for the applicant?

Boardmember Corozine: Yes, just one. I did drive by the property yesterday and just had a question. Would the driveway be eliminated by the deck? Is that the plan?

Ms. Diaz: Yes, we... we are planning to move the driveway eventually.

Chairman Froessel: Yeah, based on what I saw, it looks like the driveway is pretty much gone now.

Boardmember Corozine: Yes.

Chairman Froessel: They're parking the cars over on to the right of what used to be the driveway and there used to be, if you look at the picture from 2012, there was a garage door on the lower level in the front, and that garage door is gone. It's been blocked over.

Ms. Diaz: Yes, we... we already eliminated that garage.

Chairman Froessel: OK. Andres, do you have any questions for the applicant?

Boardmember Gil: No questions, Tim.

Chairman Froessel: OK, thank you. Is there anyone else on this Zoom call; a member of the public that has any comments or questions about this application? If so, please speak up. (Pause.) Nope. I hear silence. So I'll take that to mean no one has any comments or questions. I looked at the survey and the, the letter from (Building Inspector) Mike Levine that denied the Building Permit. Just to enlighten the Board members, there was no 'existing' column in Mike's letter for what the existing measurements are. I always like to see that to sort of get an idea of what's really being changed. The biggest change is the... is the front, obviously, which is on the, I guess, the west side of the property; which is going from, the existing measurement is 30.37 ft. according to the original survey. That'll go down to 17.3 ft. with the addition of this deck on the front. I will note that the picture on Google Maps from 2012 did show a very small landing off of that front door and then stairs down. So, it technically was closer than the 30.37 ft. so the change is not as dramatic as you might think it was just by looking at the survey because my guess is that staircase probably, with that landing and the staircase, it probably came out about at least another 10 ft. So I don't think it's as, as drastic a change as you would think it is just from looking at that survey. I just thought I would put that out there for the Board members. It's apparent to me that this was, must have been a Stop Work Order because it appears that the applicant started building this and must've gotten a Stop Work because there's no landing at all off that front door. If somebody from inside the house walked out the front door, you'd have to call an ambulance because they'd drop about 8 ft.

Ms. Diaz: OK.

Chairman Froessel: So, and that's the biggest change. The only other... the only... there's a couple of other minor changes. On the north side, the existing measurement was 6.41 ft. That'll go down to 3.8 ft. so it's a change of under 3 ft. There's no change on the south side that I can tell and the total side variance, it's currently 13.61 ft. and it'll drop down to 11 ft. so, again, you know, a change of less than 3 ft. So the real changes here are not, again, not too drastic. Ma'am, unless you have any other statements to make, we can close the Public Hearing and vote on this. Do you have any other comments you'd like to make?

Boardmember Vink: Before we do that, Mr. Chairman, can we just confirm that the mailings are in order?

Chairman Froessel: Ah, the mailings.

Secretary Desidero: Yes, the mailings are in order.

Chairman Froessel: Very good. Thank you. OK, so Ms. Diaz, do you have any final comments or questions you'd like to... comments or statements you'd like to make in support of your application?

Ms. Diaz: No, no, I don't have any questions. I just want to know what, what you guys going... going to decide on the project only.

Chairman Froessel: OK. Well, you'll know soon enough. Do you feel you've been given a fair and adequate opportunity to present your application?

Ms. Diaz: Yes, definitely.

Chairman Froessel: OK. Thank you. OK. Unless the Board members have any, any final comments or questions for the applicant, I'll close the Public Hearing. OK, so the Public Hearing

is closed. I'll entertain any, is there any deliberation, anyone have any comments to make about this? (Pause.) OK. In that case, I will entertain any motion that anyone might care to make on this application.

The motion to grant the applicant an 18 ft. variance from the west front setback; a 17 ft. variance from the north side setback; a 13 ft. variance from the south side setback; and a 39 ft. variance from the total side setbacks for the construction of a proposed deck as indicated on the plans was introduced by Boardmember Vink, seconded by Boardmember Cassidy. The criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood.
I don't believe that there will be any. I think this proposal is entirely in keeping with the character of the neighborhood.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
No, it can't. The house was not conforming in the first instance so any construction, even in the back, would require variances. So it could not have been done without a variance.
3. Whether the requested variance is substantial.
Given the way the house is situated on the lot, I do not believe that it is substantial since it is only moderately increasing the size of the encroachments as it is.
4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
There's no evidence to suggest that and I don't believe it will.
5. Whether the alleged difficulty was self-created.
I do not believe it was self-created as the house is already non-conforming. Again, and any application to expand it would have required a variance.

Roll Call Vote:

A. Gil	In Favor
S. Corozine	In Favor
J. McNeill	In Favor
G. Wunner	In Favor
R. Cassidy	In Favor
P. Vink	In Favor
T. Froessel	In Favor

The motion to grant the Area Variances as stated in the motion passed by a vote of 7 to 0.

Chairman Froessel: So that's a unanimous 7-0 vote. Your variance has been granted.

Ms. Diaz: Thank you.

Chairman Froessel: You're welcome. So what happens here is Victoria will prepare a resolution memorializing our vote. She'll send that to me. I will sign it and send it back to her,

and in a matter of a couple of days, you'll be able to get that; send it to the Building Inspector and get your Building Permit and you can go back to work.

Ms. Diaz: That's great. Thank you.

Chairman Froessel: You're welcome. Have a good night.

Ms. Diaz: You too. Bye, bye.

2. PLI, LLC, (aka Stateline Retail / Restaurant Depot) Sign Program 3411-3751 Danbury Road, Tax Map IDs 68.-2-48.1 & 48.2

Continued Public Hearing to review an application for permission to vary the terms of section 138-75.1 of the Zoning Code as the same limits the number and size of signs erected in connection with commercial developments to permit:

A. At eastern elevation (i) proposed sign of 12' in height where 6' is permitted; and (ii) proposes three (3) separate signs where one (1) is permitted.

B. At northerly elevation a proposed sign of 12' in height where 6' is permitted.

C. At southerly elevation proposes two (2) signs 12' in height where 6' is permitted for each sign.

D. Applicant proposes two (2) Monument signs where only one (1) is permitted.

Jeff Contelmo, Insite Engineering and Paul Camarda, Owner represented the application.

Chairman Froessel: OK, so item number two, PLI, LLC aka Stateline Retail/ Restaurant Depot. Good evening, Mr. Camarda, and I think Mr. Contelmo is here too. Yes.

Mr. Contelmo: Good evening.

Chairman Froessel: Gentlemen.

Boardmember Vink: I'll remind both of you that you're still under oath.

Mr. Contelmo: Duly noted. Thank you.

Chairman Froessel: OK. So Ashley has put up the correct graphic because this brings to mind something that I think sort of slipped my attention last month, and the reason why is... is because the letter from the Building Inspector, I think, misses one of these. Last month, this drawing had just sign C, but there were two of them. Now there's C-1 and C-2. So we understand that there's three monument signs as opposed to possibly thinking there was just two. Is that correct?

Mr. Contelmo: Yes, that is correct, and we were less than clear last time. After the meeting, Paul and I actually spoke about it and felt that we didn't have clarity on that so, just to be able to make it clear, the two monument signs out front at Route 6 in our intersection of our new driveway are actually permitted signs. One is for Restaurant Depot and one is for the balance of the center. So, my understanding is (Building Inspector) Michael Levine found them both to be compliant. It's the third sign, monument sign, a freestanding sign that's up on the front corner of the building that directs customers to the left and deliveries to the straight and the right. That is the additional monument sign requiring a variance. So, again, I believe we were less than clear on that last time, and hopefully, it's now clear.

Chairman Froessel: I'm not clear that you're permitted two monument signs down at the road. The Building Inspector's letter says 'proposed second monument sign, see where one is permitted. Variance requested for additional monument sign.' That suggests to me that he missed one of them. If one is permitted, and you're putting up three then you need a variance for two.

Mr. Contelmo: Yeah, I believe, we... we spoke very specifically to him on this, and what he is suggesting is, I believe, is that Restaurant Depot is allowed two monument signs. So, Signs C-1

and C-2 are for Restaurant Depot. Sign D is not for Restaurant Depot. OK, it does include Restaurant Depot on it. It's for the balance of the center so it would be for Lot 3. So my understanding, and we talked to Michael about this on several occasions, is that Sign D is permitted for Lot 3; Sign C-1 is permitted for Lot 2, Restaurant Depot and sign C-2 is a second monument sign for Restaurant Depot requiring a variance.

Chairman Froessel: All right, you understand that if we grant you a variance for one additional monument sign beyond what you're permitted, and there's a mistake, you're going to have to come back.

Mr. Contelmo: We... we fully understand that. We believe we have clarity on it. So we... we understand that perfectly.

Chairman Froessel: OK. Very good, and other than that, I think the other change you made is you formalized the change in your application to remove one of the signs on the south side of the building so that you only have a total of one sign on the south side.

Mr. Camarda: That's correct.

Mr. Contelmo: That's correct.

Chairman Froessel: OK, which leads us back to the issue of the prior variances; which I think is the biggest sticking point for all of us. Excuse me. I went back through the Minutes of last month's meeting and I noted that Mr. Contelmo stated, 'we didn't make application and try to connect our current sign package to the old variance package primarily because there would be too much brain damage to that, and we let Michael Levine look at it, just look at it from square one.' I think that's a reasonable approach, but if you haven't made the attempt to connect that, to connect your current package to the previous sign variances, I don't know how we can approve anything that leaves any type of, of building sign or monument sign prior variance in place, because there's no way... there's no way... You haven't made the effort to connect them. We certainly can't do it. We've got a completely different development and a subdivided property, so which... which variances were on which side of that subdivision line? I don't know. You don't know either because you didn't tell us. So, I'm... I will just tell you I'm not inclined... I like what, what is proposed for Restaurant Depot but I'm not inclined to approve anything... to approve anything with any of those prior variances in place. That's just my view. I'm just one out of seven.

Mr. Contelmo: Just in response to my statement, Mr. Chairman, that's an accurate statement that I made. We did not sort it out prior to the last meeting, but for this meeting we did sort it out, and what we did was we actually went through the old Sign Table and highlighted the ones where variances were granted and we struck the ones that were on our westward edge that we felt were no longer applicable to the future development of retail on Lot 3, and I believe Mr. Camarda's position on this is these are very valuable in attracting class A tenants to a retail center and to have them in pocket was the intent back in 2010 when they were granted, and that same purpose continues today. So we did take the attempt to clarify what our proposal is and we apologize that we hadn't done that for the last meeting, but we certainly did it for this meeting.

Chairman Froessel: Which... which lots were buildings, which of the current lots were buildings A, B, C, and D so on?

Mr. Contelmo: So, basically before, Buildings A, B, and C were continuous building group; starting from east to west and then building D was a separate building which sat about in the middle of... yeah, let's say, in the middle of the Restaurant Depot site. So, Building D isn't even in play anymore, so we did strike them. The issue that we don't have clarity on in order to get into detail is who the users would be and what their specific needs may be, but certainly these

variances say to a potential tenant: 'hey, you're going to be able to make yourself known' and again is a very attractive component of an approval for a retail center.

Chairman Froessel: All right, but what I see now on your proposed Site Plan that's before the Planning Board, on that Lot 3 is one building that's 127,000 sq. ft. When we granted those variances back in 2010, yes, they were hypothetical but they were also very specific. There was, there were drawings showing where the storefronts were, what have you. We knew what we were granting to go where. Now we have 127,000 sq. ft., basically square building on Lot 3. How do I know what's attached to what? (Pause) Any of the other Board members have any comments?

Boardmember Cassidy: Tim, I share your feelings as I raised last week. I mean, they have a bushel of hypothetical variances from last time; from a decade ago and now want more variances. So, we're just going to... we're just going to put more actual variances on top of the hypothetical bushel of variances they already have and I can't in good conscience grant any more variances on this until we know what we've got and what we don't have. I agree with you. If they're willing to surrender all of their prior variances, it's an easy application to deal with tonight. If they want to pick and choose or, God forbid, suggest that all of these variances go wherever they want them whenever they want them, it's a much bigger issue.

Boardmember Vink: I do think that they've... If I'm reading this correctly, they've eliminated one-two-three-four-five-six-seven-eight... they're eliminating, they're waiving nine of the previously granted variances if I understand that correctly.

Mr. Contelmo: That's correct. Yes, you understand that correctly, yes.

Mr. Camarda: That's true. If I can, if I can join in. I don't know if I'm, can you hear me in the meeting?

Chairman Froessel: Yes, we can.

Mr. Camarda: What we're trying to do is, we're prepared to give up nine variances; which were variances for that section of the property and when we come forward with the next applicant, we will then take a look at it again and see, and give up more variances for the variances we need. We don't want to give them all up now. We don't even know what we're going to need, but we're very happy to trade nine variances for the five you're giving me. I think that was sort of a good faith effort on our part. We're not here to just add to the pile. We have a great applicant here, who's done a great job and we will come back with you again with another applicant. Hopefully, he will do an equally fine job. We'll get the necessary variances; talk to the Board about them; see if you agree. Then at that point, once you agree with the package, we'll say, 'OK, we're also willing to eliminate the next 10, 11, 12 variances depending on the size of the next user. We're not looking to pull a fast one over anybody and my user... quite frankly, they've been a saint. They went along with all the architectural upgrades. They eliminated the big sign on the south side of the building facing I-84, and myself as an applicant, you may have disagreed or resented the fact that we got a lot of variances the last time. I'm not disagreeing with that. That could be your opinion. You're entitled to it. I'm willing to work with you. We've put, we've taken nine variances off the table and said 'here.' We're not trying to be pigs here and I'm not out trying to sell variances, and I'll be back in front of you, hopefully, sooner than later with another applicant who's willing to try to do a good job here.

Chairman Froessel: Paul, you don't have to give up any variances. Just don't subdivide the property and don't come in with a new Site Plan. But when you do that, isn't it kind of like all bets are off?

Mr. Camarda: What do you want me to do?

Chairman Froessel: We granted... it was very specific what we granted in 2010. We knew what was going on what storefront and what have you. Now, the ones for Building A, on your 127,000 sq. ft. building, where am I putting those? Can you tell me right now where they go?

Mr. Camarda: That's if we sat down and looked at them, yes, we could. They're self-explanatory where they go. They go on the north side, the east side, you know. Look, I'm not trying to... to be difficult with the Board. We're not going anywhere with these variances and we're coming back before your Board again and, let's face it, I'm not going to try to put 17 variances on one building. Nobody wants them. We'll just... Look, each applicant I bring is probably going to want some signage facing the north, Route 6; probably a sign or so facing the east if he's in a position where that sign can be seen by I-84 traffic. If he's not, he won't value that, and a sign on the back of his building. Nobody here is trying to... to schmuck up the buildings with too much signage or do a bad job in the Town of Southeast. I think one of your members said he's been to a number of these Restaurant Depots. So have I. This is by far the nicest looking, best designed building this company has ever done, and they didn't do it because they were asked to do it by anybody at the Town. I asked them to put your best foot forward and you'll be treated nicely. Don't go in with the, excuse me, with the 'D' plan and sit there and try to negotiate and end up with the 'B' plan if you're lucky. You should just go in with your 'A' plan. So I just hope the Board just... Know I'm trying, I'll work with you. I'm not trying to pull anything over your eyes and I do recognize you feel there was a lot of variances the last time. I'm not arguing with you here. Now I have an applicant that wants to break ground next month and I think it's great. I think it's great for the Town. It's great for Paul Camarda personally, after 10 years. It's a great user for the Town. It's going to attract other users to come to the Town. I'm not going to let anybody come here and give us the 'D' plan and try to sell it to you. I'm just not going to do it and I didn't allow this company to say, 'oh, the economy stinks, and this is bad, and why are we going to go over the top.' I convinced them let's just do it right the first time.

Chairman Froessel: Well, based upon the comments that I heard from the Board members last month, I don't think anybody's got a real problem with Restaurant Depot and with most of what you're asking for. The problem for us is the unknown of what's left behind from those prior variances.

Mr. Camarda: I'm asking the Board to please grant these variances so that Restaurant Depot can get in the ground and start building and I promise the Board... and if I don't... you can hang me the next time I'm in front of your Board. I'm coming, I'll have to come to you to get...

Chairman Froessel: I'm not interested in hanging anybody, Mr. Camarda. Believe me, we're not in that business here. We either grant a variance or we don't grant a variance or what have you. There are no lynchings here.

Mr. Camarda: I just used that a... what I'm trying to say to you is I have to come back to be in front of your Board again. Maybe I used the wrong choice of words, hanging, but you're going to be able to have an intelligent discussion with me for the next time I bring something to here, and at that point...

Chairman Froessel: I think that discussion should be with a clean slate because if we leave those other variances hanging out there, honestly, I think I'd create a... We would create a bureaucratic nightmare for the Building Inspector when that next application comes in; of trying to figure out what goes where and what was, you know, what was left.

Mr. Camarda: Whatever is there, whatever is there is going to be held there and I'm going to come in with another user with a sign package or with certain variances and your Board is going to judge them and say, 'OK, we...' just kind of like you said tonight, 'I kind of like what Restaurant Depot has done. The Board doesn't hold it against Restaurant Depot but Paul you're

still holding 25 or 26 of your 35 variances, what are you going to do?' I'm going to say, 'well, let's take more back. Let's give them to you. I don't want them. They're of no value to me.' When this is all done, if I have 15 variances left, I can't sell them. I can't do anything. I'm going to say 'extinguish them all' at that point but we'll get to there. It may take two or three steps but I don't have any use for them, I don't want them at that point. All I want to do is bring in one or two more users; maybe three more and put them there, and whatever is left that the Board doesn't think is appropriate, you can have the variances back. I'm giving you nine variances tonight. I thought that was, it was at least something here. You're giving me variances for a section of the property and I'm giving you nine variances back. If on the next application you want more than that because it's a bigger user, I'll give you more of them back.

Chairman Froessel: John, I saw you had your hand up?

Boardmember McNeill: Yeah, again, you know, I'm only on the Board two or three years. I don't care what happened 10 years ago. You know, obviously this is a sticking point with some people that have been on the Board a long time, and I understand that, but I'm here to vote on the Restaurant Depot application. These... Mr. Camarda has come and he's already given back nine. I see that the south side sign has already been removed which was specifically asked for by the Board and I think we should concentrate on the Restaurant Depot application that's before us tonight and you know... We're going to be here years from now, and if Mr. Camarda or you know, whatever, comes back to us, we're... we're just guessing on what's going to happen in the future. I mean, he got these variances legally. Now he's giving nine back. He's taken the south side variance off of there and, you know, I think we should concentrate on the Restaurant Depot application and, you know, if we lose this, if we lose Restaurant Depot, what are we doing? You know, it's... it's just... I just think that we should concentrate on the Restaurant Depot application, not what happened in ancient history. Thank you.

Boardmember Gil: I agree with John. I agree with John 100% and I mean, some of the questions, public policy questions, I mean, we're... we're applying a legal analysis for the variances and whether to grant the variances, but the fact of the matter that we cannot miss is what's Mr. Camarda paying for taxes right now and what's he going to pay for taxes when this building is built and then if we are continuing to frustrate the process by digging into the weeds too much and over and over again when he's going to be back in front of us anyway. He's looking for... he's providing us with a good faith effort of giving nine for five. We're going to revisit this issue again when the next... the plans come before us for the next building. So, I think at some point our stagnation is really causing a hindrance that could have a public policy perspective or public policy impact on our Town and so I'm... I'm in favor of voting tonight. I think that.

Boardmember McNeill: He will. He will absolutely have to come before us again, you know, on the next phase of the project, but let's get... let's get Restaurant Depot in the ground.

Boardmember Gil: I agree with John.

Boardmember Cassidy: I couldn't disagree more. I think if we're just focusing right now and we're not looking at the past and we're not looking to the future. The man asked for 35 variances. He's using... he's banking them. They were hypothetical variances to begin with and, yes, he's coming back because he got a bunch of variances that he obviously doesn't need and he'll just continue to horse trade them as we go along. I think if we look at this application tonight, I agree with John and Andres that we should look at it in a vacuum. Then let's look at it in its true vacuum. Wipe out all the other variances and let's vote on it tonight. And let's forget about the 35 other variances that he may or may not need and that he may want on Lot A; may need on Lot B; or may want to use on Lot C. I mean, let's... let's look at it as it is. Let's just focus on... on Restaurant Depot and let's forget about the past. And if we're going to forget

about the past then the other variances have to be given up. If we're going to let him walk away with 30 variances and the variances he wants tonight, then the past is very relevant.

Mr. Camarda: I'm giving back nine variances.

Boardmember Cassidy: It's very short-sighted of us. Again, it's very short-sighted of us just to ignore the past and just have confidence that he'll be back before us again asking for more signs; which is a guarantee he'll be back again asking for more variances.

Boardmember McNeill: I think that's absolutely... he will absolutely have to come back, as, as this project moves along. This isn't the last we're going to see of Paul Camarda for sign variances for this project.

Boardmember Cassidy: Right and he's already got 35 of them.

Boardmember McNeill: OK, but he got them legally. They were... you guys voted them. I don't know who voted.

Boardmember Cassidy: We sure did.

Boardmember McNeill: I mean, they... they were... they were passed by this Board.

Boardmember Cassidy: I didn't like it then, John, and I don't like it now.

Boardmember McNeill: OK.

Chairman Froessel: He got them, he got them legally and they were approved by this Board.

Boardmember McNeill: Right.

Chairman Froessel: And now he's back here not building what he got approved in 2010; but subdividing the property with a new Site Plan. This was referred to us by the Planning Board.

Boardmember McNeill: But Mr. Chairman, Mr. Chairman. We're talking about 10 years ago. That's a lifetime ago. You know, that, honestly, that's a lifetime ago. I think Mr. Camarda is in front of us knowing that those variances are probably going to go out the window and he's going to have to apply to us individually as he is with Restaurant Depot going forward with... with anything else that he does with this property because, from my understanding, what originally was planned on going there, it's totally different. So, we're here to vote on Restaurant Depot; not vote on what happened 10 years ago. That... that's all I have to say.

Mr. Camarda: May I say something, Mr. Chairman, if I could?

Chairman Froessel: Paul had his hand up. Let me just hear Paul's comment. I'm sorry.

Boardmember Vink: I... I just want to say I was on the Board 10 years ago. I was in favor of these applications. I granted... I voted in favor of the motions. I think I made some of the motions on these, to grant these variances. I actually disagree with both of you John and Rod, at least parts of what both of you are saying. I think it's... it's important for us and necessary for us to consider what happened in the first place. You know, it is, but at the same time, it is a changed application. The Site Plan is different. The change is different. In my mind, and it's not simply a matter of Restaurant Depot, and I do... and I... and I don't think it matters. I don't think we need to approve a variance for anything just because it gets a business in or keeps a business in or anything along those lines. I don't think that's our job. I don't think that's really an appropriate way to look at it, but all that said, I do believe that he has come forward in good faith and is waiving nine of the variances that he received, and... and I agree that he's going to be back in front of us to revise the other variances going forward because the variances that were granted do not suit the current Site Plan. So there's no way to approach this without having to review these other variances later and we're going to be doing that. We routinely grant... perhaps not... perhaps it's not the best practice, but we... but we do routinely grant sign variances in anticipation of businesses coming in, and sometimes that happens and sometimes it didn't. If this were not Mr. Camarda appearing in front of us today but he had sold the property to somebody else and was coming in with this application, I'm not sure we would be having this discussion the same way. So, you know, I think it's appropriate to deal

with it the way we are. I... I don't... I wouldn't be in favor of forcing him to vacate all the variances received. I think this is actually an appropriate way to deal with it.

Boardmember McNeill: He's right.

Chairman Froessel: Mr. Camarda, did you want to speak?

Mr. Camarda: Well, I... I was just going to say that when we came in with Restaurant Depot, we didn't take into consideration that we had all the other variances and I didn't try to, to trade with you, or use them as leverage. We came in with what we thought was a good faith, good effort, and the Board said, 'you know what, we like it but please take that second big sign off the south side.' We didn't argue with you. I didn't try to say, 'I'll give you five variances.' That's not... we're going to do the same thing again the next time. We're going to come with what we think is a good application and I'm going to look to your Planning Board, Town Board, Zoning Board, ARB and say, 'what do you guys think?' Yes, I am a taxpayer here but I respect the fact that there's four good Boards in this Town and I'm always going to try to work with you. There's no... I don't make, at the end of the day if there's six variances left over, I can't sell them for \$10,000 apiece. They're worthless to me. All I want to do is... I got a good first user coming in here; going to set a good pace, and I hope to God I can come to see you in the near future with a second good user. Where we can have another intelligent conversation and you can say, 'good job, but we'd like you to do this and this.' I'll be all ears for you.

Chairman Froessel: All right, is there anyone from the public that's on this Zoom conference that has any questions or comments?

Town Planner Ashley Ley: You can either use the raise your hand feature or *9 if you're on the phone. (Pause)

Chairman Froessel: I'll... I'll take it as a 'no.' I just hear silence. All right, well, it sounds like the Board is wanting to vote on this tonight. So I guess... Oh, I'm sorry, Greg. Greg has his hand up.

Boardmember Wunner: Yes. Can we give like some conditions on this, like perhaps that they have to be used on 'this' lot, for 'this' building, and maybe even put an expiration where these permits will time out after like say two or three years; like some other municipalities do?

Chairman Froessel: The second part of that, Greg, I don't think we can do. I don't think we can put a time limit on them for using them.

Boardmember Wunner: I know in some municipalities... some municipalities... if your variance if it's not acted on within a certain amount of time, it expires. It's gone. Something maybe to look at down the road as well.

Chairman Froessel: OK, limit on them. I'm not sure of the answer. I will... I always understood that to be sort of problematic; putting a time limit on them.

Boardmember Wunner: It's just that they run for eternity apparently. The way we're doing it now so it could be 20 years, 30 years.

Chairman Froessel: Yeah.

Ms. Ley: They generally run with the land.

Boardmember Wunner: Yeah and that seems to be problematic as well because as this land has now changed, this is not in the same form as it was before. I just thought if we could add some conditions, it might be more favorable for people that are voting tonight.

Chairman Froessel: Well, is every...?

Mr. Contelmo: Mr. Chairman, I do have one question. I understand you and the other Board members' concern about bringing forward the past variances, but I thought we were very clear at the last meeting that the clock tower variance and the monument signs at the easterly entrance, the two monument signs at the easterly entrance, which aren't changed and are

discrete were not necessarily something that we were looking to give up, and Paul, maybe you... (Silence.)

Chairman Froessel: You're muted.

Mr. Contelmo: Excuse me.

Mr. Camarda: You were muted, Jeff.

Mr. Contelmo: (Inaudible) some valid arguments made... some made... I can kind of understand but relative to the monument signs out front, the clock tower sign, I just want to be clear, you know, what we're talking about in terms of the Board members' opinions relative to vacating past variances.

Chairman Froessel: I'll tell you what my viewpoint is. The only one I... I don't have a problem with leaving in place is that tall clock tower sign because I see that as being reasonably unaffected, with sort of its own structure and it's... so it's kind of not really affected by the subdivision of the property and the change in the building structure. Other than that, I think all bets should be off.

Mr. Camarda: Mr. Chairman, if I may, is what I brought forward to the Board, was it reasonable? Was it... was it a reasonable request of the Board?

Chairman Froessel: That requires seven people to answer.

Mr. Camarda: OK, I'm sorry. We didn't come in here trying to paste the building with all extra signs because we had all these variances. In fact, I thought what we did was, was a good amount and you asked me to remove that big sign off the south side, we did it. We didn't use it to give more signs and I'm going to come back for a, hopefully sooner than later, and it's going to be the same package. If I have 20 variances left over and I only need to put five signs on the building, we're not going to care about those variances. We're just going to want to do what we need to do; not anymore.

Chairman Froessel: If you don't care about it, why not give them up now? Clean slate.

Mr. Camarda: I gave up, I gave up the south side large sign because you asked me to do it and I thought it was a reasonable, that's all. I'd do it anyway, even though I have the variances to keep it. I don't want to do that. I want to just work with the Board.

Chairman Froessel: Mr. Camarda, as far as Restaurant Depot is concerned, you're preaching to the choir. Again, I don't think anybody's got a problem with what you're proposing to do with Restaurant Depot. It's those old variances from 2010.

Mr. Camarda: What I'm trying... what I'm trying to say is I didn't use the variances. I could've put more signs on the Restaurant Depot building. I put just what, what we thought was appropriate and the Board asked me to remove the one large sign, and we did it.

Chairman Froessel: I don't know that that's a given; that you could've put whatever you wanted on the Restaurant Depot building. I don't know that's a given.

Mr. Camarda: We could've built... All right, all right.

Chairman Froessel: Because this is a new subdivision and a new Site Plan.

Mr. Camarda: OK. I thought what, what we came up with had... Really, we didn't use anything that we had gained in the past. We just came up with what we thought would be an appropriate submission to your Board, and that's it. And I have a good... I have a good company in a very tough environment, very tough economy, who's willing to break ground and maybe attract other businesses to come here in 2021 and I just... We're fighting about a philosophical argument that I'm not going to use it. I have no intention... Just this company wants to come in and do this and they did a wonderful job. I'm just... I'm begging the Board to just please approve this tonight. I'm not here to hurt this Town in any way or this County.

Chairman Froessel: John?

Boardmember McNeill: Mr. Chairman, again, I... I wasn't on the Board 10 years ago, so I... I don't understand why these past variances are, are coming up now when we have Restaurant Depot in front of us. Mr. Camarda, you understand that if you were to do anything else with this property, you're going to have to come before us again anyway even though you hold these variances? You're... no matter what you do... you're going to have to adapt those variances to the restrictions that are the Code of the day, correct?

Mr. Camarda: Yes, we'll have to come in front of your Board and the other three regardless.

Boardmember McNeill: Correct. Correct. So I think we're... We're arguing about something that, you know, even though you hold these variances, they probably aren't going to conform to what you're going to be doing down the road anyway and, you know, as far as giving them up, if you got them legally... I don't... I don't see that being, you know, a possibility either, but realize that going forward they're probably going to have to be changed anyway. You're going to have to come before us, you know, with... with another variance to... to conform to whatever you're building. So, I... I don't, I don't want to go back in ancient history again. I want to... I want to vote on which, I think we all agreed upon, on the Restaurant Depot signage; removing the south sign, the one south sign, was basically what we were anticipating on you going back to Restaurant Depot, getting their approval and moving forward. So, again, you have 30, you have 20. You know what? That's ancient history. You're going to have to come before us again, anyway for whatever you do. So I'd like to stick to the point of Restaurant Depot. Thank you.

Mr. Camarda: And I don't want to create any bad feelings with any of the Boards; the Architectural Review Board, the Zoning Board, the Town Board, because I'm coming back to each one of these Boards with the next thing and I... it's a relationship. I've got to work with the Boards. I'm not looking to fight with any group of people over things.

Chairman Froessel: It's not a matter of fighting. I see this being a bureaucratic nightmare sometime in the future when, on this new Lot 3, some proposal comes in and, and the Building Inspector has to try to figure out what was on Building A, B, or Building C.

Boardmember McNeill: I don't think any...

Mr. Camarda: We did it this time. We can do it again and we'll work hard...

Chairman Froessel: You should've done it now! Come on, if you want to keep those variances, you've got to have a plan. Mr. Contelmo said last month: 'we didn't want to do it because it was going to cause brain damage.'

Mr. Camarda: Look, I'm not trying to...

Chairman Froessel: Now I'm supposed to figure it out?

Mr. Camarda: I don't want you to. It's not what the point is. I don't know why you're getting so angry. All I'm...

Chairman Froessel: If you want to take a month and come back to me with a plan for what you're going to do on that other lot and how you're going to divvy up these variances, I'm happy to consider it but granting you variances, six or five, or however many variances you need for Restaurant Depot with all the other stuff hanging out there is... is... leaves a... a mystery for somebody in the future to have to deal with. Hopefully, it won't be me.

Mr. Camarda: In good faith, I'm giving you nine variances.

Chairman Froessel: But I... But you can't have your cake and eat it too. You want to subdivide the property and come in with a new Site Plan, you've got to start from a clean slate or at least be able to relate those variances back to what you're doing now, to what your plan is now.

Mr. Camarda: I... We looked at the plan and we're giving you back nine variances. We looked at the plan. We're trying to work with you, OK? We're not just thumbing our nose at you, and

the big point here is, and it's not me. We have a great company who wants to be here and we're getting involved in what is a bit of a philosophical argument, and these people want...

Chairman Froessel: It's not philosophical! It is not philosophical!

Mr. Camarda: All right, well you're really getting pretty excited about this, aren't you? OK.

Chairman Froessel: I don't accept the fact that it's a philosophical argument.

Mr. Camarda: All right. I understand but you're making it... It's starting to sound like it's very personal and it isn't. I'm not trying to get away with anything, sir.

Chairman Froessel: It's not... it's not personal.

Mr. Camarda: I'm not trying to get away with anything. I only proposed the appropriate amount of signs for the building. Your Board asked me to remove one, and we did it. We're not trying to get away with anything. This is not a game. OK, I'll be back in front of you again with a good, reasonable package or application, and if you don't agree with it, you'll say, 'Mr. Camarda, we'd like you to do this, do that' and we're going to try to work with you every time, every Board, because at the end of the day, the Boards are really controlling things, and I know that.

Chairman Froessel: I've said my piece. Anybody else have any comments, questions, what have you?

Boardmember Cassidy: I see Jeff has his hand raised.

Mr. Contelmo: Yeah. I was... I was actually muted and trying to get unmuted, which I did, thank you. The only... the only final comment I will make is that in all fairness to us, we did sort out since the last meeting what the proposal was in terms of the building mounted signage and which ones we didn't think applied anymore and therefore should be stricken from the record. I will also add that I believe the clock tower itself, as well as the two monument signs out front, do have discrete elements and variances and proposals associated with them and certainly I don't think they can be characterized as some of the building mounted signs were characterized. So I just wanted to point that out to the Board. Thank you.

Chairman Froessel: Any of the other Board members have any comments or questions before we close the Public Hearing? (Pause.) Are all the Board members comfortable with voting tonight?

Ms. Desidero: Mr... Mr... I have a question, Mr. Chairman.

Chairman Froessel: I'm sorry, Victoria, go ahead.

Ms. Desidero: My question is if you, if you do go ahead and there is a motion, I don't feel confident right now that what I have in front of me is going to help me write this appropriately... the nine that are coming back and the change that was made to the application that was originally submitted and I'm still not sure... Did we answer the question about 'the three signs where one is permitted' because that's the way Will wrote it in his Legal Notice? I'm just asking how am I going to memorialize it?

Chairman Froessel: Well, part of that is going to depend upon whatever motion is made.

Ms. Desidero: OK.

Chairman Froessel: That's going to depend upon whatever conditions somebody puts on it. You know, I'm... I've been working off of Mike Levine's denial letter.

Ms. Desidero: OK. Weren't there, aren't there nine previous variances that are being given back? I don't really have a clear handle on that.

Chairman Froessel: That's been offered but it hasn't been voted on yet.

Ms. Desidero: OK. I guess I'm just saying I don't really have a clear handle on it so maybe you can help me out when we do the motion? If we could just go through it specifically.

Chairman Froessel: OK. That's fine. That makes sense.

Ms. Desidero: Thank you.

Mr. Contelmo: And... And Mr. Chairman, I'll just add... Victoria, we did submit a schedule, which Ashley had up on the screen earlier, which does indicate which of those signs are being proposed to be vacated and which ones are no longer applicable. So I do think there's a schedule.

Ms. Desidero: I looked. I did look for that in my package, Jeff. I don't have that in my package.

Mr. Contelmo: OK. Well, that's it up on the screen.

Ms. Desidero: I know Ashley sent it to me last time but I can't print it. It's quite large.

Mr. Contelmo: OK. Well we certainly can get it to you in a hard copy.

Ms. Desidero: OK. Thank you.

Chairman Froessel: OK. I... I think I had left it if I asked if everyone was comfortable. Is there anybody who's not comfortable on this, on voting on this tonight? (Pause.) I'll take that as 'yes, we are comfortable.' OK. All right. Very good. OK. Mr. Camarda, Mr. Contelmo, before we close the Public Hearing, do you have any final comments, statements you'd like to make in support of the application?

Mr. Contelmo: None here. Thank you.

Mr. Camarda: I would just say. I'll... I hope that we can get Restaurant Depot a 'go' and I'll be back in front of the Board again and make a good faith effort to do the right thing for the Town and for the County, with your Board and every Board I go in front of.

Chairman Froessel: OK. Mr. Camarda, do you feel you've been given a fair and adequate opportunity to present your application?

Mr. Camarda: Yes, I have.

Chairman Froessel: OK. Thank you. OK. So we'll close the Public Hearing. Any deliberation among the Board members? Any comments we'd like to make before we put together a motion?

Boardmember Vink: Yeah, I'd... I'd just like... I would like some, some clarity among us as to exactly what it is that we're looking at now. So, as I understand it, we are looking at a variance for one monument, for one additional monument sign, correct? One by the building.

Chairman Froessel: Yes.

Boardmember Vink: Restaurant Depot monument sign, which I... I consider it a directional sign as much as anything else. So we're looking for a... a variance for... for one additional monument sign and we are looking for which other variances if I'm working off Michael Levine's April 28th letter?

Chairman Froessel: You know it seems, Paul, I think from Mike Levine's letter is on the south elevation, instead of two signs, it's one sign because they... they deleted the second sign.

Mr. Camarda: Mr. Chairman, I believe there's also a... a small sign on the east side of the building. Jeff, please correct me if I'm wrong, there's a sign on the east side of the building, a small one that says 'Where Chefs Shop' over the entrance.

Boardmember Vink: You took that out also?

Mr. Camarda: No, that's... That's... I believe that's still there.

Boardmember Vink: That's still there? OK.

Mr. Camarda: Yes, it is.

Chairman Froessel: So in terms of other variables, I... I think it's just what to do with the prior variances from 2010; whether they all get scrapped, nine of them get scrapped, some selection gets scrapped. That'll be up to whoever makes the motion, I guess. I mean, the applicant, I will say the applicant has essentially offered to waive nine of those prior variances. For some of us, there's a question of whether that's enough or not but that's an individual thing. So, perhaps that gets worked in or what have you.

Boardmember Corozine: Removing nine, Tim, what would that bring the total down to?

Chairman Froessel: Of the prior 27, I guess that brings it down to 18.

Boardmember Corozine: OK, so we've got... Yeah, 18.

Boardmember Vink: Plus whatever we're granting... we would be granting today so...

Boardmember Corozine: Exactly, in addition to the current project, right.

Boardmember Cassidy: Thought the prior number was 35.

Chairman Froessel: I believe it was 27.

Boardmember Vink: 27 were granted.

Ms. Ley: I think the 35 number included some of the other site variances; like for manufactured slopes.

Mr. Camarda: Yes, that's correct.

Chairman Froessel: Yes.

Boardmember Vink: Yes, the sign variances were 27. There were 27 sign variances, correct.

Chairman Froessel: OK, if there is no other deliberation, I'll... I'll entertain any motion that anyone would care to make on this application.

The motion to grant the applicant the variances requested as detailed in the April 28th letter with the exception of it being one south elevation sign, not two, and there's only the one monument, the one additional monument sign that's requested. As detailed today in the discussion, the monument sign for up next to the building, conditioned upon the applicant waiving the nine variances listed on the... that had previously been granted in 2010 as detailed on the building mounted sign table presented, which would be all seven of the variances that were granted for Building D and the two variances that were granted for Tenant 8 in Building C. was introduced by Boardmember Vink, seconded by Boardmember McNeill. The criteria:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby property created by the grant of a variance.

No, I don't think so. This is commercial space in a commercial zone along a highway where there is substantial signage that is necessary in order to run the buildings properly based on the existing conditions on the site. So I don't believe that there's an undesirable change in the nature of this highway zone, this highway commercial zone.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

You know, I don't. I don't think so. No matter what the circumstance is and I know we've had a lot of discussion about the number of variances on this property over the years, no matter what, variances are necessary in order to build any kind of commercial development here under our Sign Code. Variances are going to be necessary for this site location, just really because of the nature of the property.

3. Whether the requested variance is substantial.

I think that if we were looking at these variances in a... separately with nothing else going on, I think they would absolutely be substantial but I think based on the size of the property, they're... In the zone, they are not really substantial and the fact that nine variances are being waived in order to get the five variances that are directly applicable to the building that is being proposed, I think makes these not... The "substantialness" of them does not become a factor.

4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.
I don't believe there will be any and certainly there's no evidence of that.

5. Whether the alleged difficulty was self-created.
I... I really don't believe so. The applicant could have tried to squeeze however many different signs onto the property based on the number of variances that already exist for a building there and seen if he could get away with that, but he didn't do that. Instead, he came to us with a discrete plan for a discrete property that changes what was granted based on the conditions 10 years ago.

Roll Call Vote:

A. Gil	In Favor
S. Corozine	In Favor
J. McNeill	In Favor
G. Wunner	In Favor
R. Cassidy	Opposed
P. Vink	In Favor
T. Froessel	Opposed

The motion to grant the variances as stated in the motion passed by a vote of 5 to 2.

Chairman Froessel: Good luck to Restaurant Depot.

Mr. Contelmo: Thank you, Mr. Chairman.

Mr. Camarda: Thank you to the Board and Mr. Chairman and company. Thank you very much and I'll come back next time hopefully, and I'll do my best to get you more comfortable. I know, Mr. Chairman, and I forget the other gentleman's name, I'm going to have to address the issue again. So, I understand and I appreciate it. Thank you very much.

Chairman Froessel: You're welcome. The mechanics of this are... Because we're all working remotely are a little bit off. Victoria's going to have to draft something up for me to sign and then we'll get it to you but within, within a couple of days you'll have the piece of paper you need for the variances.

Mr. Camarda: Thank you. Thank you very much. I recognize your strong feelings, believe me.

Chairman Froessel: Meeting Minutes. We have April and May to approve. Did everyone get a chance to read them all? The April ones kind of came in piecemeal and then May we got on Friday. I did have to chance to read those.

Boardmember Vink: I read April's and I will make a motion to approve April's minutes. The motion to approve the Meeting Minutes of April 20, 2020 was introduced by Boardmember Vink, seconded by Boardmember Cassidy and passed all in favor.

Chairman Froessel: Is everyone OK with voting on May or do we want to, do we want to wait a month?

Boardmember Wunner: I have not read them. I wouldn't mind waiting.

Chairman Froessel: OK, we'll hold off on approving the May minutes then until our next meeting.

The motion to adjourn the meeting was introduced by Chairman Froessel seconded by Boardmember Vink and passed all in favor.

Respectfully submitted,
Victoria Desidero
JoAnne Ciralli

FULL AUDIO RECORDING OF THIS MEETING AVAILABLE AT: <https://www.southeast-nj.gov/335/Zoning-Board-of-Appeals-Audio-Files>