

Minutes of the Zoning Board of Appeals Meeting held on February 9, 2022, at 7:30PM

Present: Karen Ungerer, Chairwoman  
Kevin Abrams, Craig Brady, Andrew Zoumas

Also Present: Kelly Naughton, ZBA Attorney; Christopher Gerver, Planning Board Chairman; Katheryn Luciani, Town Council

Chairwoman Ungerer, opened up the meeting with the pledge of allegiance, introduced the board and stated that the next meeting will be held on March 9, 2022. She then stated that the board does not have a fifth member and wanted the applicants to be aware.

**1. Executive Session:** N/A

**2. Approval and Acceptance of Previous Minutes:**

Motion was offered by C. Brady, seconded by A. Zoumas, to approve and accept the minutes of the meeting held on January 10, 2022. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

**3. New Business:**

**4. Action on Decisions:**

**5. Public Hearings:**

**A. Beer World –**

Continuation of Public Hearing requesting variances from: (1) Section 310-32(B) to exceed the square footage for a retail establishment; (2) Section 310-30(D)(2)(d) to allow an additional wall sign in excess of what is permitted; and (3) Attachment 11 of Chapter 310 to allow additional wall sign area in excess of what is permitted. Said property is located in the LC Zoning District at 159 State Route 32 in Central Valley and is known on the Village of Woodbury Tax Maps as Section 226, Block 1, Lot 9.2.

Chairwoman Ungerer stated that Beer World has reached out and stated they are in the process of getting more information due to the concerns of the board. A motion was made by A. Zoumas, seconded by Chairman Ungerer, to continue the public hearing until the meeting in March at the request of the applicant. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

**B. Woodbury Chicken LLC –**

Public Hearing requesting variances for construction of a Popeye’s Restaurant from Village Code Sections 310-27 and Chapter 310, Attachment 11, relative to the number and size of signs including landscaping. Said property is located in the IB Zoning District at 20 Centre Drive in Central Valley and is known on the Village of Woodbury Tax Maps as Section 225, Block 3, Lot 1.12.

Chairwoman Ungerer stated the landscaping and the location of the front of the building was a big discussion at the previous meeting. She then stated the applicant resubmitted a new rendering pushing the building back and putting extra landscaping in the front. They then discussed the signage and the wall area. Chairwoman Ungerer asked how the wall area of the obscured sign was measured. Drew Gamils the Attorney for the project said they drew a rectangle around the entire sign and measured it that way. She then stated that the Engineer and Architect for the project are present and could further assist.

Matt Bersch the Engineer supplied visuals of the site plan to the board stated the Popeyes restaurant is a 2454 square foot building with four signs on three sides of the building. He then stated there is no room on the free-standing sign, so they need the signage on the building. He then stated they added two and a half feet of landscaping to the front of the building with the sidewalks remaining the same width.

Chairwoman Ungerer then asked if the public had any comments.

Maria Hunter asked if this building is half the size of the current building that is there and stated she appreciates the changes that were made. The architect, Robert Grimaldi stated that it was less than half of the current building.

A. Zoumas made a motion, seconded by K. Abrams to close the public hearing. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

**C. NMJ Ceasar PE/Choi-**

Public Hearing requesting variances for the construction of a single-family residence. Whereas pursuant to Section 310-7, properties in the R-2A district are required to have a minimum lot width of 175 feet, and pursuant to Section 310-12, properties in the R-2A district are required to have a minimum street frontage of one hundred (one hundred) feet. The application proposes a minimum lot width of fifty (50) feet and 81.75 feet of street frontage. Said property is located in the R-2A Zoning District at 372 Route 32 in Central Valley and is known on the Village of Woodbury Tax Maps as Section 218, Block 1, Lot 42.2.

James Choi stated he was there with his engineer. Chairwoman Ungerer stated she received the 239 back from the county dated January 24<sup>th</sup> and it stated that it was left to local determination. She then stated the property is adjacent to Woodbury Creek and is part of the water quality overlay district and is surrounded by wetlands. Chairwoman Ungerer then stated due to all those factors the board would have to go in front of the planning board. K. Abrams stated he spoke to the Water Superintendent, and it is on the Village aquifer the applicant will have to receive a special permit for the water overlay district and the planning board will have to go over the application.

Anthony Rodriguez stated he is his neighbor and looks forward to seeing what he will build, since he has been a good neighbor for many years.

Mr. Dana Song stated her father would like to say that he thinks the house would be a promising idea.

K. Abrams, made a motion, seconded by C. Brady to close the public hearing. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

**D. 14 Castleton Drive LLC –**

Public Hearing appealing the determination of Building Inspector Michael Panella that the use of the property as a commercial business including uses such as private catering events, a wedding venue, a restaurant, and place of assembly, is outside of the approved special permit use, and the issuance of a Notice of Violation of Zoning & Order to Cease Same. Said property is located in the R-1A Zoning District at 14 Castleton Drive in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 202, Block 1, Lot 70.

Attorney Naughton stated she received a letter from the applicant’s attorney, Michele L. Babcock, after 5pm on this day, stating the following:

*Dear Chairwoman, Ungerer and Board Members:*

*“Our office has just received notice that the above referenced matter is scheduled on the Zoning Board of Appeals agenda for a hearing this evening. It was our understanding that this application would be further adjourned due to ongoing negotiations with the Village to resolve the issues raised in the Notice of Violation that is the subject of this appeal. We respectfully request an adjournment to your March meeting since no one from our office is available to attend this evening due to other scheduling conflicts and we have not had an opportunity to prepare for this hearing. As noted, the applicant has submitted a proposal to resolve those issues which is currently being reviewed by the Village. The applicant filed the*

*appeal to assure timely compliance with the appeal process set forth in the Village Code and State Law and to fulfill any obligation to exhaust administrative remedies. Furthermore, it is our understanding the Zoning Board of Appeals did not vote to schedule this public hearing.*

*Pursuant to State Village Law Section 7-712-a(7), the Zoning Board of Appeals has the authority to schedule a public hearing which may be accomplished only by a vote of the Zoning Board of Appeals at a public meeting. As the Zoning Board of Appeals does not appear to have done so, the public hearing on this matter, and any action that might be taken, is void. If the Board does not believe that holding this hearing would be a jurisdictional defect, we request that the Board adjourn the hearing without action to allow us to be adequately prepared to be heard on this appeal."*

Attorney Naughton stated that there was no relevance to this letter and that the applicants had ample time to respond due to their request to continue the hearing at the Zoning Board of Appeals previous January meeting where they requested a postponement on their hearing. She also stated that the ZBA has the ability to schedule public hearings on matters pending before it and did so for this application. She then stated no proposal has been submitted to the Village Board to resolve any issues that were raised by the Building Inspector in the Notice of Violation. Any submission to the Village Board of Trustees would be in an effort to prevent future events from being in violation of Village Code and is a completely separate matter than what is in front of this board. She then suggested to the board that they continue this until the March meeting but no longer due to the rudeness of the submitted letter.

C. Brady made a motion, seconded by A. Zoumas, to carry over the public hearing until the March meeting. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

**E. Mendelovits –**

Public Hearing requesting an interpretation of Accessory Use #7 on the Schedule of Zoning District Regulations for the R-3A district and for an area variance to permit the keeping of livestock (chickens & roosters) on a parcel having less than 2 acres with less than 200 feet from a property line. Whereas pursuant to Section 310-7(accessory uses) a minimum of two acres of lot area is required and a minimum distance of two hundred feet to property lines for housing and grazing. Said property is located in the R-1A Zoning District at 72 Summit Avenue in Central Valley and is known on the Village of Woodbury Tax Maps as Section 228, Block 2, Lot 4.

Mr. Paul Baum the applicant’s attorney stated the applicant seeks an interpretation that the keeping and raising of no more than twenty-five fowl is permitted in the R-1A zone on less than two acres. In the event the Board determines that a minimum of two acres is necessary, the the applicant seeks a variance from the two-acre requirement to permit the raising of fowl on a lot consisting of .86 acres. The applicant also seeks to permit a chicken enclosure to be located with two hundred feet of the property lines. The chicken enclosure is located sixty-two feet away from the westerly property line and fifty-one feet from the easterly property line and 108 feet from the northerly property line. He then went on to say that the submitted language set forth allows the keeping of up to twenty-five fowls for every two acres of land. The two acres is not stated as a minimum amount o land required to keep up to 25 fowl, as interpreted by the building inspector/code enforcement office, but is stated “for every two acres of land” applying a reasonable interpretation of the phrase “for every two acres of land” would mean that for every two acres of land owned, an owner may keep up to 25 fowl. Stated another way would mean that if one owns four acres the landowner could have up to fifty fowl and so on. He then went on to say because the code does not clearly provide those two acres is minimum requirement, the code must be interpreted in a manner that benefits the applicant.

The board spoke in length about lot size and what is appropriate and the code that is put in place is for the protection of the neighborhood and the infringement on other neighbors’ property lines. The board then stated that if they go by what the applicant is proposing than a homeowner owning four hundred square feet of land could own a horse, Mr. Baum stated that is what he interpreted the code to say. The board disagreed. Mr. Baum then stated he could own a 10,000 square foot property and own five dogs and have them run around all

day barking, he stated they would have a significant impact on surrounding property owners. K. Abrams stated that is why the Village has noise ordinances. Mr. Baum stated Mr. Mendelovits only has six chickens and they do not make a lot of noise; they do not give off any odors and the waste from the chickens is well maintained so there will be no smell. Mr. Baum then stated he does not think that having the chickens will create an impact that the board is assuming they will. Chairwoman Ungerer stated the board is looking at the code and it says two hundred feet minimum on a two-acre lot, and whether it was the intention of who ever wrote this code to protect the neighborhood from the disturbance of noise or smell, the code states minimum. Mr. Baum then stated that is why the applicant is in front of the board, so that he may be granted relief from the code. A. Zoumas then asked Mr. Mendelovits if he is requesting a variance for both lot size and setbacks. Mr. Baum then stated they initially are looking for an interpretation of the code, if the board disagrees with how they applicant reads the code, then they would seek a variance. A. Zoumas then stated during the Hamaspik application there were at length conversations and discussions over the debate of the minimum lot size at a request of this size. Mr. Baum stated when reading the minutes of the Hamaspik application he did not see any mention of an interpretation. Chairwoman Ungerer stated the board never saw that as something ambiguous. Attorney Naughton stated there was never a formal request for an interpretation from this board regarding the two-acre minimum, but she feels the board is saying is that they did not find it ambiguous, and it made their decision pretty clear when deciding upon the decision of the Hamaspik application. The board found that the proposed location for the foul was too close to neighboring properties and if the lot was two acres as required by the village code there would be more space to provide separation's for the neighbors so they wouldn't have to contend with the noise and the odor produced by the animals which is a quote form the decision of the board in the Hamaspik application. Mr. Baum then stated the applicant would have to have a perfect square lot to meet the requirements, he also stated that he provided the board with some articles regarding how chickens are finding their way into more residential zones and that it is becoming a hobby for some people. He then stated that in this case it is not a hobby and that these chickens are emotional support animals for Mr. Mendelovits' s son. He then stated that based on the pressures of life and his sons' limitations and disabilities these chickens are especially important to the family and that is why they are seeking relief. He stated chickens are not dirty or noisy and they do not create odors.

Mr. Mendelovits stated female chickens are hens, and male chickens are roosters, male chickens crow, female chickens do not. Normally people keep one rooster per flock, however he does not have one. The chickens stay silent at night despite what the board has been told and noise is not an issue. He stated he has mulch as bedding and then he uses the mulch as compost. NYS law mandates six chickens to be bought together so that is why he has six. He purchased the chickens for his son, since he could not get a cat or a dog due to his sons' allergies. They had to get rid of their pet birds. He then stated his son snuggles with his chicken and named his favorite chicken snuggles. He never had a problem until someone filed a complaint against him. He stated his property should be allowed to have chickens with the size of his property.

Chairwoman Ungerer stated the board received a letter from the grandmother of Hudson Mendelovits stating he is a seven-year-old delightful child that is dealing with adult issues. She states that he is allergic to many things including animals and many types of food. She pleaded with the board on behalf of her grandson to allow him to have the chickens as his emotional support animals.

Many neighbors including Victoria Smyth, Victoria Cefalu, Deborah Tomaras, Sara Fry, Matt Fry Ernest Daminett, Frank Karkowsky all spoke on behalf of the Mendelovits stating the chickens are great for Hudson, they see his interaction with them, their children enjoy playing with the chickens. They all stated they never hear the chickens, they are well cared for, the family shares the eggs, and they have no issues with the chickens living there.

Kyle Begert stated his family requests that it be denied. The chickens have been there since June. The variance itself creates an undesirable change to the neighborhood. It is next to a dilapidated shed and held together with screws and plastic tarp. He is concerned with the two hundred feet. The smell is extremely bad during the summer. He then stated he is an architect, so he deals with zoning all the time, and there are zoning codes for a reason.

Fred Clark stated he has concerns regarding the chicken waste on Dogwood drive when it rains hard, there is a lot of run off and the catch basins overflow, where does the waste and water go into the drainage pipes – eventually it goes into the stream. He also stated he is worried about this setting precedent in regard to allowing applications like this to be approved.

Mr. Baum stated the use is not detrimental to the community. He then stated they do not need a variance if they disagree with the interpretation from the building inspector. Mr. Mendel stated he gets a lot of run off and that they have cleaned up the property and the chicken coup is on the other side of the property. Mr. Clark wanted to know what is done with the chicken waste. Mr. Mendelovits stated the water that is running off is one hundred feet away from the flooding path of Summit. Attorney Naughton stated Mr. Clark wants to know where the stockpile is. Mr. Mendelovits stated it is in a raised bed that is contained within the mulch

A. Zoumas made a motion, seconded by K. Abrams, to close the public hearing. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

**F. Eastgate Management –**

Public Hearing requesting an area variance from the required side yard setback. Whereas pursuant to Section 310-7 a minimum side yard setback of thirty (30) feet is required and 22.7 feet is provided. Said property is located in the R-2A Zoning District at 300 Forest Road in Central Valley and is known on the Village of Woodbury Tax Maps as Section 213, Block 1, Lot63.

Jay Myrow attorney for applicant, Isaac Weinberger applicant. He is here as part of the Village ARB – He gave a brief history of what was purposed and Mr. Gary Thomasberger, the previous building Inspector approved and gave him a building permit for. The applicant wanted to change the design and make the modifications to the building permit. He stated at the time that the Applicant and Mr. Thomasberger had the meeting there was no Village code that needed planning board approval or ARB approval. Mr. Myrow stated the applicant installed the foundation for the addition in accordance with the plot plan. The applicant then decided that he wanted to change the house design by replacing the proposed flat roof with a pitched roof and to significantly redesign the floor plans and exterior elevations, including fenestration. The applicant inquired to the building department and was advised that the Village Code now required and approval from the ARB for any change in the house design. Applicant then applied to the ARB for design approval and the SRB decided that a small section/bump out evidenced by the existing foundation violated the required 30-foot side yard setback. The ARB review then referred this matter to the ZBA for consideration.

Mr. Pat Hutton with MJS engineering shared his screen with the board showing the preexisting non-conforming lot which was 22.7 feet where thirty feet is required for the side-yard setback. The variance only affects a small portion of the side of the house and a cost estimate was submitted as part of the application showing \$65,875.00 to remove the portion of the foundation and is undisputed that the existing foundation was installed in reliance with the building permit that was issued.

C. Brady made a motion to close the public hearing, seconded by K. Abrams. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

**6. Building Inspectors Report – N/A**

**7. Deliberations on closed Public Hearings**

**A. Eastgate-**

The following responses were provided in the “Statement of Ownership and Interest” provided by the applicant for a use variance and the Boards decision on each question follows:

1. *Will the granting of this variance produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties?* The applicant stated the property is located in the R2 zoning district and the single-family dwelling is a permitted use. The variance only affects a small portion of the structure to the extent that it will have no adverse visual or other impact on the neighborhood. The Board agreed

2. *Can the benefit you seek be achieved by some other feasible method other than variance?* The applicant stated there is no other reasonable alternative to the variance. The cost to remove the encroachment is completely disproportionate to any benefit to be gained there from. The Board Agreed.
3. *How substantial is the variance that you are requesting?* The applicant stated the requested variance is not substantial, especially when considering the totality of the circumstances. The encroaching area is small and does not in and of itself evidence a substantial deviation from the code requirement. The Board Agreed and stated that it would be almost sixty-five thousand dollars to remove the foundation as well as the applicant coming to the board in good faith, and it is a straight line.
4. *Will the granting of the variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?* The applicant stated the proposed variance will have no such adverse effect or impact on the physical/environmental conditions. The Board agreed
5. *Is the alleged difficulty self-created?* The applicant stated to the extent the applicant used due diligence in processing the building permit application, and the fact that the foundation was constructed in accordance with the building permit and approved plot plan, the applicant’s hardship is not self-created. The board agreed.

A motion was made by C. Brady, seconded by A. Zoumas, to have the Board enter into record the acknowledgement and the receipt of a Short Environmental Assessment Form and to declared itself Lead Agency. They requested that the Attorney draft a favorable decision consistent with the facts and findings of the Zoning Board of Appeals. Chairwoman Ungerer stated the board has not received the 239 back from the county and cannot vote on the decision until next month. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

**B. Woodbury Chicken-**

A. Zoumas stated he is fine with all three of the requests and would like to make the decision on them all together, the board agreed.

The following responses were provided in the “Statement of Ownership and Interest” provided by the applicant for a use variance and the Boards decision on each question follows:

1. *Will the granting of this variance produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties?* The applicant goes through a lengthy process of explaining the numbers, signs, and landscape buffers. The Board agrees with the applicant states they moved it back at the board’s request creating less of a variance need for the front.
2. *Can the benefit you seek be achieved by some other feasible method other than variance?* The applicant stated no. The Board stated it was a corporate logo and colors are not allowed to be changed. The board agreed with the applicant.
3. *How substantial is the variance that you are requesting?* The applicant stated no. The Board agreed and stated they created less of a variance since they measured more than they were supposed to.
4. *Will the granting of the variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?* The applicant stated no, since there has already been a similar business in the location, and their building will be smaller. The Board agreed.
5. *Is the alleged difficulty self-created?* The applicant stated no. The Board disagreed, however they also stated that they minimized the variances they requested to the most manageable size. He stated he appreciates what the applicants have done at the request of the Board.

A motion was made by C. Brady, seconded by A. Zoumas, to have the Board enter into record the acknowledgement and the receipt of a Short Environmental Assessment Form and to declared itself Lead Agency in an uncoordinated review. They labeled this application an unlisted action and requested that the Attorney draft a favorable decision consistent with the facts and findings of the Zoning Board of Appeals. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
----------------	------	---	--------------------------------

NOES 0

A motion was made by A. Zoumas, seconded by K. Abrams, to issue a negative declaration. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

**ADOPTED** AYES 4 Ungerer, Abrams, Brady, Zoumas

NOES 0

A motion made by K. Abrams, seconded by A. Zoumas. requesting Attorney Naughton draft a favorable decision consistent with the facts and findings of the Zoning Board of Appeals allowing the applicant their required requested variances. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

**ADOPTED** AYES 4 Ungerer, Abrams, Brady, Zoumas

NOES 0

**C. Mendelovis –**

The following responses were provided in the “Statement of Ownership and Interest” provided by the applicant for a use variance and the Boards decision on each question follows:

1. *Will the granting of this variance produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties? The applicant states the requested variances will not create an undesirable change to the character of the neighborhood The accessory use is permitted and the additional land that may be required does not change any of the impacts that may result from the raising of chickens. Further, the additional requirements imposed on the keeping of fowl makes no sense because an owner can have dogs, cats, or other domesticated animals without regard to the size of the lot or the distance the animal’s quarters are from the property. The board as well as the building inspector determination is two acres are required. Precedent has been dictated that two acres is what is allowed. C. Brady stated that he questioned if it should be allowed in the one acre, and in context to the Woodbury zone it does become problematic, and we should preclude them from residential neighborhoods. With a minimum of two hundred feet from the property line. The board disagreed with the applicant.*
2. *Can the benefit you seek be achieved by some other feasible method other than variance? The applicant states there are no other feasible alternatives that the applicant can pursue in order to raise six chickens without requiring the requested variances. Chairwoman Ungerer stated they have a lot of people supporting this, and a few that have concerns, she stated she was a special ed teacher and understands and is sympathetic to the family. She stated the board is torn with setting a dangerous precedent and then being sympathetic to the family. Hampsik requested a comparable situation in which the board denied the request for the emotional support animals. K. Abrams stated maybe ask the Village board to Amend the zoning code to support emotional support animals to be allowed in the Village code. This application however is a large request. Chairwoman Ungerer asked if the applicant could receive a special permit. Attorney Naughton stated no it would either be that the board disagree with the interpretation, or the board give the applicant a variance. A. Zoumas stated today it is six chickens, tomorrow it could be six roosters. Since the variance goes with the land, they have no way of following through with what could happen in the future. C. Brady then stated there are other alternatives that do not require a variance. There are different emotional support animals and different alternatives. The board disagreed with the applicant*
3. *How substantial is the variance that you are requesting? The applicant stated when deciding if the variance is substantial the ZBA must examine the totality of the circumstances of an application. When reviewing these variance requests in the context of the overall impact they would have on the neighborhood, it is clear that the requests are not substantial because the variances are for a use that will have no impact on any adjacent properties. Attorney Naughton reiterated the proposed variances with question #3. A. Zoumas stated they are all significant variances, in which the board agreed. The board disagreed with the applicant*

4. *Will the granting of the variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? The applicant stated the proposed variance requests will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.* C. Brady stated his grandfather had chickens and he is less concerned with the runoff issue due the description of how the waste is handled however the odor is an environmental impact and a negative impact on the neighborhood when a couple of people have already complained about the smell. The board disagreed with the applicant.  
KA stated he feels terrible, but the size of the variance is way too much. The board disagreed with the applicant
5. *Is the alleged difficulty self-created?* The applicant stated they are not self-created, due to his son's limitations, a clinical social worker suggested a daily therapeutic regimen with the use of therapy animals. The Board agreed that it was self-created, the applicant did not follow the law and did what they wanted anyway. C. Brady then stated he does not know if the applicant would want to pursue however they may want to bring this in front of the Village Board. The board disagreed with the applicant

A motion was made by C. Brady, seconded by K. Abrams, to have the Board enter into record the acknowledgement and the receipt of a Short Environmental Assessment Form and to declared itself Lead Agency. They labeled this application a type 2 action under SEQRA and requested that the Attorney draft a negative decision consistent with the facts and findings of the Zoning Board of Appeals. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

**D. NMJ Ceasar PE/Choi -**

The following responses were provided in the "Statement of Ownership and Interest" provided by the applicant for a use variance and the Boards decision on each question follows:

1. *Will the granting of this variance produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties? The applicant stated no, the approval of this variance will not produce an undesirable change in character. This lot is roughly 21.75 acres set within a residential neighborhood. The proposed action is a residential building in accordance with the adjacent properties will within the required setbacks.* The Board Agreed and stated the lot is huge it is just the problem with the driveway
2. *Can the benefit you seek be achieved by some other feasible method other than variance?* The applicant stated no, the lot in its current and existing placement does not meet the minimum width requirements. The Board Agreed
3. *How substantial is the variance that you are requesting? The applicant stated this is a variance of the following distance lot width of 175 feet.* The Board stated that the driveway is the only thing making this variance substantial
4. *Will the granting of the variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?* The applicant stated no, this is a residential neighborhood, and the proposed action is residential. The Board agreed.
5. *Is the alleged difficulty self-created?* The applicant stated no, the current property owner purchased the lot in its current configuration. The Board stated they are not sure about the wetlands and water overlay district. The house he is building is far away from the wetlands C. Brady stated they are meeting the setbacks and there are no wells on that property. Chairwoman Ungerer stated there is already water and sewer connections available to the applicant. Attorney Naughton stated that the board should make sure that the decision reflects the water overlay district so that people in the future know that was one of the boards

A motion was made by Chairwoman Ungerer, seconded by C. Brady, to have the Board enter into record the acknowledgement and the receipt of the 239 from the county, they labeled this application a type 2 unlisted action and requested that the Attorney draft a positive decision consistent with the facts and findings of the Zoning Board of Appeals. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

**8. Adjournment**

With no further business to discuss, a motion was offered by K. Abrams, seconded by Chairwoman Ungerer, to adjourn the meeting at 9:53 PM.

<b>ADOPTED</b>	AYES	4	Ungerer, Abrams, Brady, Zoumas
	NOES	0	

Jessica McClennan, ZBA Secretary