

1 5/19/21
2 TOWN OF NORTH HEMPSTEAD
3
4 BOARD OF ZONING APPEALS
5 VIRTUAL ZOOM PUBLIC HEARING
6
7
8

9 Wednesday, May 19, 2021

10
11 10:00 A.M.
12
13

14 BOARD MEMBERS PRESENT:

15
16 DAVID L. MAMMINA, A.I.A - CHAIRMAN

17
18 LESLIE FRANCIS, ESQ. - VICE CHAIRMAN

19
20 DANIEL DONATELLI, ESQ. - MEMBER

21
22 PATRICIA GOODSSELL, ESQ. - MEMBER
23
24
25
26

27 ALSO PRESENT:

28
29 DEBORAH ALGIOS - DEPUTY TOWN ATTORNEY

30
31 VIRGINIA WAGNER - SECRETARY

32
33 RYAN ASECIO - STENOGRAPHER
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4 MS. WAGNER: Chairman
5 Francis, take it away.
6

7 VICE CHAIRMAN FRANCIS:
8 Good morning, everyone. Welcome
9 to the Town of North Hempstead
10 Board of Zoning Appeals. I'm
11 just going to go over a few
12 things before we get started.
13 We have a relatively short
14 calendar today.

15 As you can see, we're
16 missing two of the members of
17 the Board of Zoning Appeals, our
18 Chairperson, David Mammina, and
19 Jay Hernandez are not with us
20 this morning, so we will
21 continue without them and do our
22 best to hear everyone's
23 presentation.

24 With regards to the
25 presentation, the applicant will
26 be first to give us their story
27 in terms of why they are before
28 us, after which, if there are
29 any opposition to those
30 applications, those people will
31 have an opportunity to voice
32 their opinions after the initial
33 presentation. Our town attorney
34 will inform you that you are
35 limited to three minutes in your
36 opposition response and she will
37 notify you when that time has
38 arrived.

39 Once opposition, if any,
40 has been given, then the
41 applicant will have a last turn
42 to summarize and address those
43 opposition points, if anyone
44 made, and then we will either
45 reserve the case, we will decide
46 the case or continue it if
47 necessary. And continuing only
48 means that a case will be open

1 5/19/21
2 for additional comment or
3 additional submission of
4 evidentiary material.

5 With that said, I normally
6 lead the pledge of allegiance,
7 so I think I'm wearing two hats
8 today. I will do that also. So
9 if everyone would join me in the

pledge of allegiance.

(Pledge of allegiance)

VICE CHAIRMAN FRANCIS: Are there any changes to today's calendar?

MS. WAGNER: Yes, Chairman. We have an adjournment of Appeal #21060: LIDL US, LLC; 2470, Jericho Turnpike, Garden City Park; Section 9, Block 612, Lot 51 in the Business-A Zoning District. It is adjourned until June 16th.

VICE CHAIRMAN FRANCIS: Okay so that appeal will not be heard today. If there's anyone here who is interested in that appeal, feel free to hang out with us and listen to the other appeals, but nothing will be done on that one until June 16th.

With that said, let's get started. Ginny, would you please call the first case.

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Appeal #21058

MS. WAGNER: The first appeal, Appeal #21058: Andrew and Lauren Baranello; 40 Combes Avenue in Manhasset; Section 3, Block 58, Lot 266 in the Residence-B Zoning District.

Variances from 70-42 & 7-100.2K to legalize a roofed over patio too close to a rear property line and to install a generator too close to a side property line.

VICE CHAIRMAN FRANCIS: You

17 heard Appeal #21058, Andrew and
18 Lauren Baranello.

19 Is there anyone interested
20 in this application other than
21 the applicant? If so, just
22 raise your hand in the chat box
23 and you'll be recognized.

24 All right, and representing
25 this applicant I see is
26 Ms. Leis, and you gave your
27 appearance this morning, so if
28 you would give your full name?
29

30 MS. LEIS: Good morning.
31 My name is Jessica Leis. I'm an
32 attorney with Forchelli Deegan
33 Terrana with offices at 33 Earle
34 Ovington Boulevard in Uniondale,
35 New York. We represent the
36 applicants, Lauren and Andrew
37 Baranello.

38 So, the subject property is
39 located within the town's
40 Residence-A District. The
41 applicants are seeking to
42 legalize a roofed over patio
43 that's in the rear of their
44 property and install a generator
45 on the west side of the house.

46 Both structures encroach
47 into the required setbacks, so
48 our requested variances are.

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3 pursuant to Section 70-42, which
4 single-family residence
5 buildings require a rear yard of
6 no less than 15 feet and we are
7 proposing to maintain the roofed
8 over patio that is 10'8" inches
9 from the rear property line.
10 The structure has been in
11 existence since prior to the
12 Baranello's purchasing the
13 property in 1998.

14 We're also pursuant to
15 71-00.2(K) seeking a variance
16 that requires that generators
17 shall be permitted only in the
18 side and rear yard, so long as
19 the outer face of the generator
20 or fuel tank is not less than
21 five feet from the side and rear
22 property lines, but in no case
23 shall be located no more than

24 five feet from the subject
25 dwelling, so we're requesting a
26 variance to install the
27 generator 4'4" inches from the
28 western side property line with
29 the deficiency of the eight
30 inches.

31 Before I get into the
32 variance criteria, I just want
33 to note that we did get consent
34 from all three neighbors that
35 can possibly be affected by the
36 requested variances. Virginia,
37 is it possible to pull up the
38 exhibits that I submitted or I
39 can share my screen.

40
41 MS. WAGNER: What would you
42 prefer?

43
44 MS. LEIS: I can share, if
45 that works.

46
47 MS. WAGNER: Okay.
48

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3 MS. LEIS: So our subject
4 lot -- we're 266. We did
5 receive variance -- sorry.
6 Consents from 36 Combes Drive to
7 the south beach, which is Lot
8 267.

9 MS. LEIS: We received a
10 consent from 301 Thompson Shore
11 Road to the south, which is Lot
12 272 and from Lot 264, which is
13 290 Manhasset Avenue. The
14 requested variance for the patio
15 in the rear yard will not cause
16 an undesirable change in the
17 character of the neighborhood.
18 I do have some pictures of the
19 backyard.

20 As I mentioned, the
21 structure has existed for at
22 least 23 years without issue.
23 You can see the patio is only
24 located on the western rear of
25 the house, so it's basically a
26 15-foot section of the rear yard
27 that does not comply with the
28 setback requirement. You can
29 see it's an open structure. It
30 doesn't block -- or views, and

31 the property is sufficiently
32 landscaped in the rear here to
33 not disturb the adjoining
34 neighbor.

35 The applicant does not have
36 any alternative than the
37 requested variance. The
38 structure was there when they
39 purchased the property. They
40 are limited by the existing
41 footprint of the dwelling, and
42 also, as per the architect,
43 Peter Chinqumani (phonetic),
44 attempting to revise the
45 existing structure would be very
46 cost prohibitive. It would
47 require the entire removal of it
48 and reconstruction and also

6

7

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2 Appeal #21058
3 reconstruction of the foundation
4 below.

5 So the requested variance
6 should not be seen as
7 substantial. The structure, you
8 can see is not fully enclosed.
9 It still provides for over ten
10 feet of setback where it does
11 lay. As this is a --
12 (inaudible) -- application, it
13 will not negatively effect the
14 physical or environmental
15 conditions in the neighborhood.
16 And last, the applicants
17 purchased the property. Since
18 they purchased it with an
19 existing structure already
20 installed, any self-creation
21 should not preclude the granting
22 of this variance.

23 And then our second request
24 for the generator, this
25 similarly will not cause any
26 undesirable change in the
27 character of the neighborhood.
28 So generators have become very
29 common in this day and age,
30 especially after Hurricane
31 Sandy. The Baranello's lost
32 power for several weeks and
33 since then, there have been
34 additional storms that have
35 caused them to lose power.

36 The generator would be
37 sufficiently screened from the

38 neighboring property. Also, to
39 show that it is in character
40 with the neighborhood -- so we,
41 again, are 266. There was a
42 variance granted at this
43 property circled in blue, which
44 is 5 Van Ardsdale Place in 2007
45 and that was similarly for a
46 setback variance for a
47 generator.
48 The applicants have no

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2 Appeal #21058
3 alternative than the location as
4 New York State Building Code
5 requires that generators be set
6 back at least 18 inches from the
7 dwelling, and the proposed
8 location is the most ideal and
9 logical as it's being positioned
10 within a few feet of the gas
11 meter, and repositioning it
12 would require digging a long
13 trench with an underground gas
14 pipe. This is considerably
15 costly and also inefficient.
16 This deficiency in the
17 setback is for less than one
18 foot and the variance will not
19 have any adverse physical or
20 environmental impacts on the
21 community. So that will be my
22 presentation. If you have any
23 questions for myself or for
24 Mr. Baranello.

25
26 VICE CHAIRMAN FRANCIS:
27 Jennifer, you don't have a
28 picture or a rendition of the
29 placement of the generator?
30

31 MS. LEIS: So it was -- it
32 was included in the packet. Let
33 me see. I'm going to stop
34 sharing my screen because --
35

36 VICE CHAIRMAN FRANCIS: I
37 don't know whether or not I
38 received it.
39

40 MEMBER DONATELLI: Yeah,
41 Mr. Chairman it was in our
42 packet. It's shown on a survey
43 marked in red, halfway down.
44

45 VICE CHAIRMAN FRANCIS:
46 Okay. One moment.
47
48 MS. WAGNER: I can pull it

8

9

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2 Appeal #21058
3 up, Jessica.
4
5 MS. LEIS: Thank you.
6
7 MS. WAGNER: If it was in
8 the application package.
9
10 MS. LEIS: Yeah, it was in
11 the handed in on a survey to
12 show the location.
13
14 MS. WAGNER: Can everybody
15 see it.
16
17 MEMBER DONATELLI: Not yet.
18
19 VICE CHAIRMAN FRANCIS: No.
20
21 MEMBER GOODSELL: Not yet.
22
23 MS. WAGNER: You know,
24 something just glitched with my
25 --
26
27 VICE CHAIRMAN FRANCIS:
28 That's okay. I'm looking at it
29 now.
30
31 MS. WAGNER: How about now?
32
33 MEMBER DONATELLI: Yes.
34
35 VICE CHAIRMAN FRANCIS:
36 Yes.
37
38 MEMBER GOODSELL: Yes.
39
40 MS. ALGIOS: Yes.
41
42 MS. LEIS: Okay. Thank
43 you.
44
45 MEMBER GOODSELL: If I can
46 ask the question, Ms. Leis: I
47 presume that the Board of Zoning
48 Appeals decision that you

9

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2 Appeal #21058
3 submitted, dated September 19th,
4 2007, is for the other property
5 that you showed us where a
6 variance was granted for a
7 generator; is that correct?
8

9 MS. LEIS: That is correct.
10 Sorry, I didn't scroll down to
11 it, but it's for -- to permit
12 the relocation of a generator
13 unit with insufficient front
14 yard setback.
15

16 VICE CHAIRMAN FRANCIS:
17 Right.
18

19 VICE CHAIRMAN FRANCIS: So
20 Jennifer, I think what we're
21 going to do is reserve this
22 until we have an opportunity to
23 discuss it with our two other
24 members of the board, but in
25 contemplation of doing that, I
26 already see two possibilities
27 for conditions with regard to
28 the application, one of which
29 would be evergreen screening of
30 the generator, such that it's
31 not visible and the other would
32 be a condition that the roof
33 over porch never be enclosed.
34

35 Do you believe that your
36 client's would be amenable to
37 those two conditions?
38

39 MS. LEIS: I do have
40 Mr. Baranello on the line. I
41 mean, would you care to comment
42 if those would be appropriate
43 conditions?
44

45 VICE CHAIRMAN FRANCIS:
46 Sure. Just have him give his
47 name and address first.
48

MR. BARANELLO: Andrew

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3 Baranello, 40 Combes Drive,
4 Manhasset.

5 I appreciate all of your
6 time today. Those conditions
7 are perfectly fine. The
8 location of the generator,
9 interestingly enough, Jessica
10 was talking about before -- and
11 I just flipped her a photo
12 because it's actually kind of
13 sitting there right now, waiting
14 for us to get this approval and
15 install it.

16 It resides, oddly enough,
17 between the electric service and
18 the gas service, so it -- it
19 kind of belongs there, if you
20 guys were amenable to that, and
21 yes, we can put shrubs around
22 it, and I spoke to my neighbor
23 about this and he's okay and I
24 think everybody will walk away
25 happy.

26
27 VICE CHAIRMAN FRANCIS:
28 Okay. Okay, good, very good.

29
30 MEMBER GOODSSELL: If I
31 could ask a question?

32
33 MR. BARANELLO: Sure.

34
35 MEMBER GOODSSELL: For
36 Mr. Baranello, I notice on the
37 survey that you already have
38 what looks like an air
39 conditioning unit for central
40 air on the same side of the
41 house. Did that need setback or
42 was that granted a variance when
43 you brought the house or before
44 you brought the house?

45
46 MR. BARANELLO: That was
47 prior to our buying the house.
48 I believe that is with Peter

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3 Chinquamani, my architect, and
4 he's filing application with
5 permit to maintain that as well
6 and from what I understand, the

7 requirement will be to put
8 shrubbery around it to conceal
9 it similarly.

10
11 MEMBER GOODSELL: Thank you
12 for that, yes.

13
14 MS. LEIS: I think that the
15 variance sections, the permitted
16 encroachments, the AC unit
17 probably complies with the
18 permit encroachment, but there
19 are specific regulations
20 pertaining to generators and
21 aboveground fuel tanks.

22
23 MEMBER DONATELLI: I would
24 also just note for the record --
25 sorry.

26 I would also just note for
27 the record that the survey is
28 showing brick pavers on the
29 opposite side of the house, so
30 that would make it even more
31 improbable to relocate the
32 generator on that side.

33
34 VICE CHAIRMAN FRANCIS:
35 Absolutely. I think in terms of
36 positioning, it's in a position
37 that it should be as
38 Mr. Baranello indicated.

39
40 MR. BARANELLO: Yeah, for
41 your own edification, to answer
42 your question, the house is, for
43 the most part, slab on ground,
44 and the gas service and electric
45 service reside on the west side
46 of the house, what we're
47 intending to relocate the
48 generator.

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3 if we wanted to put it up on the
4 other side of the house where
5 the brick pavers are, because
6 the houses are all the same
7 exact house, the setbacks
8 between the houses, the
9 dimensions are all the same, so
10 you run into the same problem
11 anyway, only putting it to the
12 east side of the house, you have
13 the utility problem with trying

14 to get the gas line and
15 everything over there.
16
17 MEMBER GOODSSELL: That's
18 correct.
19
20 VICE CHAIRMAN FRANCIS: All
21 right. Any other questions for
22 Mr. Baranello or Miss --
23
24 MS. LEIS: I just --
25
26 MEMBER DONATELLI: I have
27 no further questions.
28
29 MEMBER GOODSSELL: I have no
30 further questions.
31
32 MS. LEIS: -- point out
33 that I just forwarded the
34 e-mail, the picture to Virginia
35 and Michael. I do think that it
36 is helpful that Mr. Baranello
37 just sent me, so if that could
38 be just added to the record to
39 show it to the board, I would
40 appreciate that.
41
42 VICE CHAIRMAN FRANCIS:
43 Absolutely. All right, as I
44 indicated, we will reserve
45 decision on this case. Like I
46 said, this may or may not be
47 decided today, and Ginnie will
48 let you know or you can contact

13

14

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2 Appeal #21058
3 Ginnie to find out the status of
4 the application.
5
6 MS. LEIS: Thank you for
7 your time.
8
9 VICE CHAIRMAN FRANCIS:
10 Thank you both.
11
12 MEMBER DONATELLI: Thank
13 you both for your time.
14
15 MS. ALGIOS: Thank you.
16
17 MS. WAGNER: Next appeal,
18 appeal number -- so let's just
19 confirm that appeal was
20 reserved, correct Deborah?

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MS. ALGIOS: Correct.

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5/19/21
Appeal #21032.
MS. WAGNER: Next appeal,
Appeal #21032, TYB Management,
Fayyaz Khan; 208 Grant Street,
Westbury, New Cassel District;
Section 11, Block 47, Lot 15 in
the Residence-C and New Cassel
Urban Renewal Overlay District.
Conditional use under
Section 70-195.16(B) and
variance from 70-100.1(B) to
legal a finished cellar which
includes a three-piece bathroom,
walls that exceed six feet in
length, plumbing lines for a
shower, all permitted by
conditional use only, and to
legalize a frame shed that is
too close to the side and rear
property lines.
VICE CHAIRMAN FRANCIS: You
have heard Appeal #21032, TYB
Management. Is there anyone
interested in the application
other than the applicant? If

28 so, please indicate by racing
29 your hand in the chat box.
30 Okay. Is our applicant
31 ready to go? Please give your
32 name and address.
33

34 MR. LIECHTUNG: Hello. My
35 name is Charles Liechtung , I'm
36 an attorney representing TYB
37 Management Corp., the owner of
38 the property and the applicant
39 in this application.

40 I would just like the
41 confirm, Virginia, did you get
42 the exhibit package on this?
43

44 MS. WAGNER: Let me check.
45 Yes, we do have it. Would you
46 like me to share the exhibits or
47 would you like to share your own
48 screen?

15

16

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3 MR. LIECHTUNG: You can.
4 I'm not up on that.
5

6 MS. WAGNER: Let me see if
7 I can rotate this. You can
8 begin your presentation.
9

10 MR. LIECHTUNG: Good
11 morning, chairman and members of
12 the board. I represent TYB
13 Management Corp., the current
14 owner of 201 Grant Street,
15 Westbury, New York. The
16 property is located on the east
17 side of Grant Street,
18 approximately 250 feet south of
19 Broadway.

20 The applicant purchased the
21 property in May of 2014 with the
22 intention to use the house as an
23 investment property. Prior to
24 the applicants purchase of the
25 property, the property had
26 suffered fire damage to the
27 boiler room and the bathroom in
28 the cellar.

29 There were also several
30 open permits dating from 1992,
31 1994 and 2007 respectively, to
32 which the applicant was required
33 to obtain permits to complete
34 extensive work to various

35 portions of the building and/or
36 to obtain final inspections and
37 sign-offs from the Building
38 Department.

39 The required work under the
40 permits was performed and
41 completed by the applicant and
42 the certificates of completion
43 for this work are next as
44 Exhibit A to the packet. With
45 respect to the application for
46 conditional use under code --
47 town code 70-195.16(B) to
48 maintain this three-piece

16

17

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3 bathroom and the existing
4 storage room partitions in the
5 cellar, I refer to the plan for
6 the second floor addition that
7 was submitted by Alan L. Aaron.
8 I had sent this to Steve
9 Paratta or Mike much earlier. I
10 didn't include it in the packet.
11 I'm assuming that it's available
12 because he asked me for it.
13 Virginia, is that available?
14

15 MS. WAGNER: Well, I can't
16 share both the application and
17 the exhibits at the same time.
18

19 MR. LIECHTUNG: Yeah, I
20 would like to go the survey, if
21 we could. Actually, it's a plan
22 for alteration, if we can do
23 that.
24

25 MS. WAGNER: If it's in
26 this packet, then the
27 application --
28

29 MR. LIECHTUNG: No, it's
30 not in that packet. It was sent
31 separately.
32

33 MS. WAGNER: It's not this
34 survey?
35

36 MR. LIECHTUNG: No, it's
37 not a survey, it's a plan. It's
38 a 1992 building plan.
39

40 MS. WAGNER: Okay. Let me
41 --

42
43 MR. LIECHTUNG: I sent that
44 and I sent a 2007 plan as well.
45

46 MS. WAGNER: Hold on, I'll
47 check with them to see.
48

17

18

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3 MEMBER DONATELLI: Yeah,
4 Ginnie, I think that's part of
5 our packet. It looks like it's
6 --
7

8 MR. LIECHTUNG: There's a
9 survey in the packet from 1986
10 which shows -- that's really for
11 the shed, the shed portion of
12 this. It shows the shed back in
13 its current position.
14

15 MEMBER DONATELLI: Are you
16 referring to the building plans
17 from 1992?
18

19 MR. LIECHTUNG: Yes.
20

21 MEMBER DONATELLI: That is
22 part of that packet.
23

24 MR. LIECHTUNG: Okay, so
25 then you have it.
26

27 MEMBER DONATELLI: It's
28 part of your packet. It's about
29 four-fifths of the way down,
30 Ginnie.
31

32 MS. WAGNER: Okay, because
33 I just shared the packet and he
34 said it wasn't in there. Okay,
35 let me --
36

37 MR. LIECHTUNG: I guess
38 Steve may have added it.
39

40 MEMBER DONATELLI: All the
41 way toward the bottom.
42

43 MEMBER GOODSSELL: There's
44 the survey, there's the existing
45 cellar.
46

47 MS. WAGNER: This?
48

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3 MR. LIECHTUNG: Yeah, I
4 guess.
5
6 MS. WAGNER: Is this the
7 plan?
8
9 MR. LIECHTUNG: Yes.
10 That's it, yes. So you can keep
11 it -- yeah.
12 So this is a plan submitted
13 and approved in 1992 to
14 construct the second story
15 dormer. We're dealing strictly
16 with the cellar here today, so
17 Virginia, if you could bring
18 that down just a tad. I need to
19 get the upper left corner of
20 this plan.
21 If you look at the upper
22 left corner, it says "existing
23 cellar plan; no changes." Now,
24 this is the configuration of the
25 current cellar in question, so
26 the storage rooms and the
27 existing boiler room and the
28 three-piece bathroom existed
29 certainly prior to 1992, and the
30 work for the second story dormer
31 was actually completed and
32 signed off in September of 2015,
33 based on these plans.
34
35 VICE CHAIRMAN FRANCIS:
36 Ginnie, could you just make it
37 just a tad larger?
38
39 MS. WAGNER: You want me to
40 zoom in?
41
42 VICE CHAIRMAN FRANCIS:
43 Yes, please. Thank you.
44 You know, despite what the
45 two rooms are labeled as, in my
46 mind, those two rooms are
47 bedrooms with the addition of a
48 three-piece bathroom and an

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2 Appeal #21032
3 entrance into the cellar from
4 the outside and a closet between
5 these two rooms. It's apparent
6 to me that this is easily or was
7 a cellar apartment, which is
8 prohibited in the Town of
9 North Hempstead.

10
11 MR. LIECHTUNG: I believe
12 what happened was that the tax
13 -- right? The Taxing Department
14 said that this is a two-family?
15

16 MR. KHAN: Yeah, the taxes
17 said this is a two-family house,
18 but when I rented, I say this is
19 one-family, so they --
20 inspection on this.
21

22 VICE CHAIRMAN FRANCIS: I
23 don't know who is speaking, but
24 whoever is speaking should give
25 their name and address for the
26 record.
27

28 MR. KHAN: My name is
29 Fayyaz Khan. I'm the
30 Representative President of the
31 TYB Management Corporation.
32

33 MEMBER DONATELLI: Well, I
34 would agree that it's very
35 problematic, particularly with
36 the cellar entrance -- separate
37 entrance. That really presents
38 an issue for us.
39

40 VICE CHAIRMAN FRANCIS:
41 Yeah, this is something that we
42 almost never approve. There's a
43 very long history with regard to
44 the New Cassel area of illegal
45 apartments and one-family
46 residences, and this certainly
47 looks like Exhibit A for an
48 illegal apartment.

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2 Appeal #21032
3 MR. LIECHTUNG: Well, he

4 has rental permits for the
5 entire house as a one-family.
6

7 VICE CHAIRMAN FRANCIS: As
8 a one-family, yes.
9

10 MR. LIECHTUNG: As a
11 one-family, the inspections were
12 done. This is -- presentation,
13 I guess we should just openly
14 discuss and see what we can do
15 here because this hasn't
16 changed. This configuration
17 hasn't changed despite
18 inspections and sign-offs and
19 rental permits being granted,
20 and certainly since he's owned
21 it, he's had no problems until
22 the 2019 rental permit, when the
23 inspector granted a conditional
24 permit conditioned on getting
25 the cellar squared away, so to
26 speak.
27

28 VICE CHAIRMAN FRANCIS:
29 This premises has never had
30 violations issued against it?
31

32 MR. LIECHTUNG: Has it?
33

34 MR. KHAN: For this thing?
35

36 MR. LIECHTUNG: Not for
37 this --
38

39 VICE CHAIRMAN FRANCIS: I'm
40 shocked.
41

42 MR. LIECHTUNG: This
43 property was sold to him by
44 Wells Fargo. It was an absolute
45 nightmare for the town. It had
46 squatters, it had garbage all
47 over it. It was terrible. They
48 did have violations filed

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3 against it, but to his
4 knowledge, not for this.
5

6 VICE CHAIRMAN FRANCIS: Not
7 for a finished cellar?
8

9 MEMBER DONATELLI:
10 Mr. Chairman, as part of the

11 packet, we do have a notice of
12 violation that was issued
13 May 20th; alterations without a
14 permit. It appears that it was
15 for the finished cellar with
16 outside entrance.

17
18 MR. LIECHTUNG:
19 Mr. Donatelli, that was for the
20 rental permit in 2019, I
21 believe.

22
23 VICE CHAIRMAN FRANCIS: So
24 there were violations issued
25 against this.

26
27 MR. LIECHTUNG: Well, there
28 was for this, but that's why
29 we're here. We're here because
30 of that violation and --

31
32 VICE CHAIRMAN FRANCIS:
33 Well, you can't say one thing
34 and then say the opposite. You
35 made a representation that there
36 were no violations issued
37 against this property and now
38 you're saying the opposite.

39
40 MR. LIECHTUNG: Before you
41 asked me, in my narrative, I
42 qualified it by saying that
43 there was a condition to the
44 rental permit in that we had to
45 have this legalized.

46
47 VICE CHAIRMAN FRANCIS: And
48 in saying that, you never

22

23

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3 said --

4
5 MR. LIECHTUNG: Then I
6 misspoke.

7
8 VICE CHAIRMAN FRANCIS: --
9 violation against this property.

10
11 MR. LIECHTUNG: Then I
12 misspoke. But that's the
13 violation that brought us here,
14 so there wasn't any prior
15 violations before that one, but
16 that's what brought us here. So
17 this hadn't changed.

18 I mean, admittedly, the
19 condition of the cellar is
20 exactly the way it was in that
21 plan. He never had -- up until
22 the 2019 rental permit
23 inspection, he never had any
24 indication there was anything
25 wrong with that and he wants to
26 maintain it. I'm getting the
27 feeling that that's not going to
28 be possible.

29
30 VICE CHAIRMAN FRANCIS: In
31 my mind, that is not possible.
32

33 MEMBER GOODSSELL: I have a
34 question, Mr. Liechtung. I'm
35 Patricia Goodsell, I'm the
36 newest member of the board. Can
37 you explain what the need might
38 be for a three-piece bath in the
39 basement as opposed to a
40 two-piece bath?
41

42 MR. LIECHTUNG: Well the
43 rental permit allows occupancy
44 by up to 15 people and there is
45 currently -- we have two
46 three-piece bathrooms.
47

48 MR. KHAN: Yes.

23

24

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3 MR. LIECHTUNG: So I think
4 the feeling is that he would
5 like to maintain it just to make
6 it more convenient for the
7 people living there.
8

9 MEMBER GOODSSELL: There are
10 already two full bathrooms on
11 the first floor and the second
12 floor on the premises.
13

14 MR. LIECHTUNG: Yes,
15 correct.
16

17 MEMBER DONATELLI: In my
18 mind, this is exactly the reason
19 why we have a zoning code and
20 why we're really charged in part
21 with trying to help protect the
22 quality of life in the Town of
23 North Hempstead.
24

This really greatly lends

25 itself to use as a separate
26 apartment and I don't know if
27 neighbors have noticed increased
28 parking, increased coming and
29 going, but this is exactly the
30 kind of thing that we have to
31 guard against and so I would
32 echo what the Vice Chair has
33 said that this is a very, very,
34 hard sell for us.
35

36 MR. LIECHTUNG: Okay. So
37 removing -- I guess we would go
38 down to a two-piece bathroom.
39 Would that be acceptable?
40

41 VICE CHAIRMAN FRANCIS:
42 We're not going to render an
43 opinion on what would or would
44 not be acceptable. That's not
45 our job. Our job is to enforce
46 the zoning law, your job is to
47 mitigate the use of variances.
48

24

25

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3 MEMBER DONATELLI: Let me
4 suggest that you complete your
5 presentation or continue with
6 your presentation because this
7 isn't really something of horse
8 trading. It's -- we're here to
9 hear your entire presentation,
10 so I would suggest that you put
11 that on the record.
12

13 MR. LIECHTUNG: Just
14 getting back. With respect to
15 the application for -- we're on
16 70-195.16(B) based on the plans
17 that were submitted by Alan L.
18 Aaron, the permits, permit
19 numbers 92747 and 92748 were
20 issued.

21 In 2006 or 2007, after fire
22 damaged the boiler and bathroom
23 areas in the cellar, plans were
24 submitted by the then owner to
25 repair the fire damage and
26 install a fire door in the
27 living room, and that's on the
28 next plan Virginia. That's on
29 2007.
30

31 MS. WAGNER: Just give me a

32 minute. Sorry. Is this the
33 plan you're referring to?
34

35 MR. LIECHTUNG: No. Keep
36 going down, please. Next one
37 should be it. Yes, that's it.
38 So this is the 2007 plan that
39 was to repair the fire damage
40 and add a sliding glass door in
41 the living room. The location,
42 and you'll notice that the area
43 right above -- the drawing right
44 above where it says "found
45 plan," just notes the
46 three-piece bathroom and notes
47 the area to be repaired.

48 Based on this plan, the

25

26

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3 four 2007 permits were issued to
4 do variance works at the
5 property, so it would seem that
6 the Building Department gave at
7 least some kind of tacit pass to
8 the existence of the three-piece
9 bathroom going on the plan. The
10 work done under these permits --
11 work was completed and the
12 certificates of completion were
13 submitted in September of 2015.
14 That's Exhibit A to the package.

15 Further, upon conducting
16 his final inspection under
17 permit number 940008-BP, which
18 is -- that inspections ticket is
19 in the package, the exhibit
20 package that we had prior to
21 this, Virginia.

22 This inspection was done on
23 October 21st, 2014. Inspector
24 Borio (phonetic) rendered his
25 written inspection report,
26 indicating that the wooden deck
27 had been repaired and the cellar
28 had been completed as per
29 approved plans, but noting that
30 the interior alteration had not
31 yet begun, and that's that, yes.

32 So, again, at this point in
33 time, in 14, there was no
34 violation. No, in fact, the
35 inspector says the cellar has
36 been completed as per approved
37 plans. Before the applicant
38 applied for rental registration

permits for each of the years,
2015, 2017 and 2019, all
inspections were made and
permits were issued.
The rental permit issued in
2019 restricted use of the
cellar, pending approval and
sign-off, and as we mentioned
before, noted a violation
against the property for the

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three-piece bathroom and the
partitions. Applicant made
application to maintain the
existing cellar as shown on the
February 18th 2020 submitted
with the application. This was
disapproved by the town on the
original notice of disapproval
dated March 2nd, 2020, and the
applicant consequently made this
application to the Board.
As pointed out upon --
sorry. As pointed out, at all
times prior to 1992 to today,
the configuration and use of the
cellar at the subject property
has remained unchanged.
Applicant did not create the
condition in the cellar, but
inherited it when he purchased
the property. Despite various
plan submissions, the issuance
of numerous permits by the
Building Department, inspections
by the town's inspectors and the
issuance of certificates of
completion, applicant was never
made aware of any issue with the
cellar until the inspection for
the 2019 rental permit and had
no reason to believe any further
application would be required.
In good faith, reliance on
the approved plans and building
permits, applicant spent money
cleaning out the existing cellar
and preparing it for legal use
for the tenants, including
painting and repairs to the
storage areas, replacing damaged
fixtures in the bathroom, as
well as repairing the entire
damaged area to comply with the

46 existing configuration of the
47 cellar.
48 It would present a great

27

28

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2 Appeal #21032
3 and costly hardship on the
4 applicant were he to be required
5 to now remove the existing --
6 and bathtub in the cellar. The
7 applicant -- yes?

8
9 VICE CHAIRMAN FRANCIS:
10 What would the cost of that be?

11
12 MR. LIECHTUNG: What would
13 the cost be to do that?

14
15 MR. KHAN: 20,000. To move
16 out the --

17
18 VICE CHAIRMAN FRANCIS: Has
19 he gotten estimates on the cost
20 for removal?

21
22 MR. LIECHTUNG: He hasn't,
23 but he says it depends on what's
24 going to be required to be
25 removed, but it could range to
26 20,000 if he had to remove
27 everything.

28
29 MEMBER GOODSELL: I have a
30 question for the applicant. Who
31 has access to the basement right
32 now?

33
34 MR. KHAN: Right now, the
35 tenant -- only I had the access
36 from outside, so nobody will go
37 inside the basement, but the
38 town said no, you cannot do it.
39 You have to give the access to
40 the tenant so they can get into
41 the -- because it's a hazard, a
42 fire hazard. If something
43 happens in the boiler room, they
44 have to go down.

45
46 MEMBER GOODSELL: So
47 there's no interior access to
48 this basement?

28

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2 Appeal #21032
3 MR. KHAN: There is.

4
5 MS. GOODSSELL: There is
6 interior access. And the tenant
7 is currently using it or has
8 access or you cut off access?

9
10 A. They have the access, but
11 nobody is using. It's empty.

12
13 MR. LIECHTUNG: -- did
14 inspection a couple of weeks ago
15 for the new rental permit and
16 the space is empty. There's
17 nothing in there.

18
19 MEMBER DONATELLI: Is there
20 a lock on the door from the --
21 leading from the main floor of
22 the house into the basement.

23
24 MR. KHAN: From outside, it
25 has a lock, but inside it does
26 not have the lock. They can go
27 inside -- inside door to the
28 side. I mean, I can put the
29 lock, to be honest with you. I
30 want to put the lock so nobody
31 can access --

32
33 MEMBER DONATELLI: That
34 creates a bunch of other issues.

35
36 MR. KHAN: -- so nobody can
37 access but me.

38
39 VICE CHAIRMAN FRANCIS:
40 Counsel, do you want to discuss
41 the shed? How it got to where
42 it is.

43
44 MR. LIECHTUNG: Well, we
45 don't know how it got to where
46 it is because it's been there
47 prior to 1986. My client
48 brought it in 2014. So we're

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talking about a 1.8 setback currently. We need three. So with respect to the variance requested on the 70-100.1(B), relating to the legalization of the shed at the rear of the property, applicant seeks a variance of approximately 1.2 feet from the legally required three-foot setback required under the code.

To applicant's knowledge, the shed first appeared on the certificated title survey, dated February 6, 1986, that's shown as Exhibit D in the exhibit packet. The shed is also shown on the site plan indicated in the 1992 plans. Thus, the shed -- yes? Sorry.

VICE CHAIRMAN FRANCIS: I don't think anybody said anything.

MR. LIECHTUNG: The shed has existed in the same location for more than 35 years. The shed backs up to and is partially hidden by a neighbors wooden fence in the rear of the property. In the seven years since applicant's ownership of the property, there have been no complaints made to him by neighbors regarding the shed or its location.

To the best knowledge of applicant, there have been no violations issued by or complaints made to the town regarding the shed or its location.

The applicant has, after he brought the property, the applicant had repaired and

30

31

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refaced the shed at some cost, which was in a dilapidated state when the property was purchased.

MEMBER DONATELLI: Do we

8 have any consent from the
9 neighbors?

10
11 MR. LIECHTUNG: No. We
12 have no objections from them but
13 no consent.

14
15 MEMBER GOODSSELL: What is
16 the shed built on? Is it built
17 on a concrete slab? Is it built
18 on pavers? What is it built on?
19 What is the foundation?

20
21 MR. KHAN: I think the
22 foundation is concrete.

23
24 MR. LIECHTUNG: That's a
25 concrete foundation?

26
27 MEMBER GOODSSELL: So it's
28 not simply a portable shed that
29 can be picked up and moved?
30 It's built on some sort of
31 foundation?

32
33 MR. KHAN: Yes.

34
35 VICE CHAIRMAN FRANCIS: And
36 the shed is used for the storage
37 of gardening material or --

38
39 MR. KHAN: Yes.

40
41 VICE CHAIRMAN FRANCIS:
42 What is the use?

43
44 MR. KHAN: It's used for
45 the landscaping things and stuff
46 like bicycles.

47
48 MEMBER GOODSSELL: Tenant is

1 5/19/21
2 Appeal #21032
3 currently using the shed?

4
5 MR. KHAN: Yes because they
6 are -- the landscaping so they
7 have --

8
9 MEMBER GOODSSELL: You
10 mentioned before that the rental
11 permit allows for 15 people. Do
12 you know how many people are
13 actually living on the property
14 right now?

15
16 MR. LIECHTUNG: I think ten
17 or twelve. Three or four kids
18 and the rest are adults.
19

20 VICE CHAIRMAN FRANCIS: How
21 many bedrooms and bathrooms in
22 this house again?
23

24 MR. KHAN: It has
25 seven-bedroom house.
26

27 MR. LIECHTUNG: He
28 responded that it's a legal
29 seven-bedroom.
30

31 MEMBER GOODSELL: But it's
32 a one family house, this is not
33 a two family.
34

35 MR. KHAN: I asked the town
36 if I could -- it is one-family
37 house. I asked the town if they
38 can make the two family house
39 because seven bedrooms are
40 there, but they said no, the law
41 is a -- qualify for two family
42 house, so you cannot apply.
43

44 VICE CHAIRMAN FRANCIS:
45 Just to go back to the cellar
46 again for at moment. The cellar
47 is not being utilized in any
48 way, shape or form for storage;

32

33

1 5/19/21
2 Appeal #21032
3 would that be correct?
4

5 MR. KHAN: Right now it's
6 not. It's totally empty.
7

8 VICE CHAIRMAN FRANCIS: I
9 don't have any further
10 questions. I don't know if any
11 other members of the board --
12

13 MEMBER DONATELLI: Sorry, I
14 do. Did the fire occur -- did I
15 hear you say the fire occurred
16 prior to your ownership of the
17 premises.
18

19 MR. KHAN: Yes.
20

21 MEMBER DONATELLI: So we

22 don't really know what may have
23 caused the fire. Do you know if
24 the fire started on the basement
25 level or did it start on the
26 first floor level?
27

28 MR. KHAN: I believe it
29 started in the boiler room
30 because there was a -- it shows
31 in there that there was a damage
32 in the boiler room, in the
33 cellar so maybe it started from
34 there, but I'm not sure to be
35 honest with you.
36

37 MEMBER DONATELLI: I have
38 no further questions.
39

40 VICE CHAIRMAN FRANCIS:
41 Patricia, do you have anything
42 further for the applicant?
43

44 MEMBER GOODSELL: I have no
45 further questions.
46

47 MS. ALGIOS: Did the
48 applicant indicate whether or

33

34

1 5/19/21
2 Appeal #21032
3 not there were any prior
4 convictions relating to the --
5

6 MR. LIECHTUNG: I was
7 getting to that, but the Vice
8 Chairman wants me to go on to
9 the shed.

10 Yeah, there were no prior
11 convictions for any other
12 illegal occupancy as part of the
13 application.
14

15 MR. KHAN: Once I brought
16 the property, the town came in:
17 At that time, they told me that
18 our -- but we're going to issue
19 you violation. You have to
20 remove everything. So I went to
21 the -- I had to remove
22 everything -- let me go.
23

24 MR. LIECHTUNG: These were
25 conditions that existed when
26 Wells Fargo had it.
27

28 MS. ALGIOS: Does the Board

29 have any further questions
30 relating to the factors
31 contained in 71-95.16(D)?
32

33 MR. LIECHTUNG: You're
34 asking me?
35

36 MS. ALGIOS: No, I'm asking
37 the board members if they have
38 any questions relating to the
39 backers.
40

41 MEMBER DONATELLI: I do
42 not.
43

44 MR. LIECHTUNG: The Vice
45 Chair mentioned that -- no, I
46 think Mr. Donatelli mentioned
47 that this is a -- that this
48 would have a negative impact to

34

35

1 5/19/21
2 Appeal #21032
3 the community if this was
4 allowed. I'm not sure I -- I
5 don't see a negative impact on
6 this on the community, if this
7 was a --
8

9 MEMBER DONATELLI: Why
10 don't you address that and if
11 you want to add something to the
12 record -- we're very concerned
13 in the Town of North Hempstead
14 with overcrowding and as the
15 Vice Chairman has intimated and
16 also as I have intimated, this
17 kind of structure readily lends
18 itself to that kind of use, so
19 if you feel like you want to
20 present something in opposition
21 to that, please do so.
22

23 MR. LIECHTUNG: Yes, it
24 does. I can't -- there's no
25 kitchen. There's simply a
26 bathroom and rooms down there,
27 but there's no kitchen. I guess
28 somebody could always come in
29 with a cook top, but
30 essentially, it's not a
31 habitable unit without a kitchen
32 so in that regard, it would lend
33 itself more to some kind of
34 recreational area rather than an
35 apartment.

36 It does have two means of
37 ingress and egress, one through
38 the house and one exteriorly,
39 which is pre-code, but I would
40 argue that it's not set up as an
41 apartment.
42
43 MEMBER GOODSSELL: Okay,
44 well then --
45
46 MR. LIECHTUNG: The rental
47 apartments already allow 16
48 people --

35

36

1 5/19/21
2 Appeal #21032
3 MEMBER GOODSSELL: -- with
4 respect to the plan that's
5 actually shown then, the area
6 that's marked "laundry area,"
7 what's there now?
8
9 MR. LIECHTUNG: Nothing.
10
11 MEMBER GOODSSELL: No
12 washer, no dryer?
13
14 MR. KHAN: Nothing,
15 nothing.
16
17 MR. LIECHTUNG: Is there a
18 washer and dryer in the house?
19
20 MR. KHAN: No.
21
22 MEMBER GOODSSELL: Is there
23 a plumbing line where that
24 laundry area used to be?
25
26 MR. KHAN: Right now,
27 there's nothing.
28
29 MEMBER GOODSSELL: And
30 there's no gas line going down
31 there?
32
33 MR. KHAN: Only the boiler
34 room.
35
36 MEMBER GOODSSELL: No, I'm
37 looking at the area marked
38 "laundry area" on your floor
39 plan marked "1992."
40
41 MEMBER GOODSSELL: I
42 realize, Mr. Liechtung, that

43 you're saying that there's no
44 kitchen down there, but if I
45 look at the diagram, you know
46 Counsel's point is well taken
47 that the area on the 1992
48 diagram shows a laundry area,

36

37

1 5/19/21
2 Appeal #21032
3 and I presume for the laundry
4 area, there must be a water
5 source and there must be some
6 electricity.

7
8 MR. KHAN: Right now, there
9 is nothing. There is just empty
10 storage.

11
12 MEMBER GOODSSELL: I accept
13 that there's nothing there, I'm
14 just asking what --

15
16 MR. LIECHTUNG: This is
17 from 1992. Right now, there's
18 nothing there. It's just a
19 storage room. What could have
20 happened between then and 2014,
21 when he brought it, we don't
22 know. We're just looking at
23 what we have in front of us.
24 This is what we were able to
25 get.

26
27 MEMBER GOODSSELL: Thank
28 you. You've answered my
29 questions.

30
31 MR. LIECHTUNG: I have
32 nothing else.

33
34 VICE CHAIRMAN FRANCIS:
35 Deborah, did we have anyone in
36 our room that wanted to speak on
37 this application?

38
39 MS. ALGIOS: I don't see
40 anyone. Let me just check
41 again. No, there are no hands
42 raised.

43
44 VICE CHAIRMAN FRANCIS:
45 Counsel, if you have nothing
46 further, we're going to reserve
47 your application at this time,
48 unless, of course, there's some

1 5/19/21
2 Appeal #21032
3 other information you want to
4 submit.

5 If there is, we will
6 continue your application to
7 allow you to do that, but at
8 this point, I think we've gotten
9 a good sense of what your
10 application is in regard to this
11 particular case.

12
13 MR. LIECHTUNG: Can I have
14 a second and just ask my client?

15
16 VICE CHAIRMAN FRANCIS:
17 Sure, absolutely.

18
19 MR. LIECHTUNG: Thank you.
20 No, we don't have to
21 continue. We'll await the
22 decision.

23
24 VICE CHAIRMAN FRANCIS: All
25 right. Thank you very much.
26 Thank you for your presentation,
27 Counsel. Very well done.

28
29 MEMBER DONATELLI: So this
30 is reserved then, Mr. Vice
31 Chairman?

32
33 VICE CHAIRMAN FRANCIS:
34 Yes, we're going to reserve
35 decision on this application.

36
37 MR. LIECHTUNG: Thank you.
38 Have a good day.

39
40 VICE CHAIRMAN FRANCIS:
41 Thank you very much. Should we
42 move on to the commercial
43 calendar?

44
45 MS. WAGNER: Yeah, just
46 give me one minute before I read
47 the next appeal.
48

1 5/19/21
2 Appeal #21032
3 MEMBER DONATELLI: I'm
4 sorry, I have somebody outside
5 who just needs me for
6 30 seconds, I will be right
7 back. You can continue while
8 I'm --
9
10 MS. WAGNER: Well, we don't
11 have a quorum.
12
13 MS. ALGIOS: We can't, we
14 don't have a quorum. Why don't
15 we take a short five-minute
16 break?
17
18 MEMBER DONATELLI: All
19 right. Thank you.
20
21 (Whereupon, a short recess
22 was taken.)
23
24 VICE CHAIRMAN FRANCIS:
25 Everyone back?
26
27 MS. WAGNER: Everybody
28 ready?
29
30 MEMBER DONATELLI: Thank
31 you for that.
32
33 VICE CHAIRMAN FRANCIS:
34 Yep.
35
36 MS. WAGNER: Do we have
37 mister --
38
39 MS. ALGIOS: We have
40 Mr. Filipazzi.
41
42 MS. WAGNER: Okay.
43
44
45
46
47
48

1 5/19/21
2 Appeal #21044
3 MS. WAGNER: Next appeal,
4 Appeal #21044: Su Yong Choi,

5 Kione Enterprises; 400 Northern
6 Boulevard, Great Neck;
7 Section 2, Block 85, Lots 35 and
8 36 in the Business-A Zoning
9 District.

10 Variances from
11 Section 70-103(A)(1) to legalize
12 interior alterations and
13 construct new alterations to a
14 commercial space for use as a
15 tutoring center and office with
16 not enough parking.

17
18 VICE CHAIRMAN FRANCIS:
19 You've heard Appeal #21044, Su
20 Yong Choi, Kione Enterprises.
21 Is there anyone interested in
22 the application other than the
23 applicant? If so, raise your
24 hand in the chat room.

25 Counsel, please give your
26 name and address.

27
28 MR. FILIPAZZI: Thank you.
29 Andrew Filipazzi, attorney with
30 Harris, Bloom and Archer; 445
31 Broadhollow Road, Melville,
32 New York. Attorney on behalf of
33 the applicant and owner, Su Yong
34 Choi, Kione Enterprises. Also
35 here with me today, if we can
36 add them into the Zoom, Sean
37 Mulryan, the traffic engineer,
38 Tom Lazarro, the architect, and
39 I believe the applicant and
40 owner is also in the meeting as
41 well.

42
43 VICE CHAIRMAN FRANCIS:
44 Okay.

45
46 MR. FILIPAZZI: As we
47 stated, this is an application
48 for a variance from

1 5/19/21
2 Appeal #21044
3 Section 70-103(A)(1) for
4 insufficient off-street parking
5 in connection with the proposed
6 interior alterations through
7 work done with the Kumon Center
8 and new interior alterations to
9 the second floor commercial
10 space.

11 This is being done to

12 convert that space that was
13 previously used as a church and
14 a residential apartment into now
15 a general office space. The
16 notice of disapproval says that
17 16 parking stalls are required.
18 The property can provide five
19 parking stalls requiring a
20 variance of 11 parking stalls
21 from this board.

22 A parking study has been
23 prepared and submitted to the
24 board along with this
25 application that was prepared by
26 Sean Mulryan of Mulryan
27 Engineering, who will be able to
28 give some finer detail on what's
29 been provided. Also, prior to
30 this hearing, we've been in
31 touch with Steve Pearlman, the
32 president of the University of
33 Gardens Property Owners
34 Association.

35 Regarding this application,
36 we've answered all of their
37 questions with respect to what
38 we're proposing and the Property
39 Owner's Association has
40 indicated that they are okay
41 with it and have no comment or
42 no objection on the application.

43 So the proposed work
44 requires variances for
45 off-street parking. There will
46 be no changes to the exterior or
47 the bulk of the building.
48 Everybody driving by the

1 5/19/21
2 Appeal #21044
3 building from Northern Boulevard
4 or from any of the residential
5 streets behind will notice no
6 difference in the exterior
7 appearance with respect to what
8 we're seeking today, and as I
9 mentioned the interior -- would
10 propose new interior alterations
11 -- convert the new second floor
12 space into general office space
13 and to maintain and legalize the
14 interior alterations with
15 respect to the Kumon Center, and
16 what we're seeking to do with
17 respect to the second floor is
18 actually more in concert with

19 the character of the
20 neighborhood with offices and
21 retail spaces along as opposed
22 to residential apartments.
23 So I'll give a little
24 background on those two existing
25 tenants, the Kumon's been in
26 this location since 2015. Prior
27 to the applicant and owner
28 purchasing the property, they
29 had taken over the space from
30 another similar tutoring
31 business, I believe it was Mega
32 Study that was there for about
33 ten years prior, and the
34 interior alterations were due to
35 that change in operation and
36 tenant.
37 The current hours of the
38 Kumon Center are only on Mondays
39 and Wednesdays, on Monday from
40 3:30 is 6:30 on both days. None
41 of the employees park onsite.
42 Most of the employees are
43 actually high school students
44 who assist with the tutoring of
45 the younger students. There are
46 two adult employees who either
47 park on street or take public
48 transportation, and since the

42

43

1 5/19/21
2 Appeal #21044
3 onset of the COVID pandemic,
4 they've transitioned to a hybrid
5 approach where half of the
6 classes are in person, half of
7 the classes are done virtually
8 or from home, so that's cut down
9 on the number of people coming
10 in and out and the traffic and
11 the parking related.
12 They've been enforcing a
13 strict time limit of 25 minutes
14 per class, and the students that
15 are taking the tutoring classes
16 are being dropped off or picked
17 up from either parents or
18 guardians or what have you, so
19 there really isn't any parking
20 demand related to what's being
21 done with the Kumon.
22 The other tenant is Hermes
23 Design; they're an interior
24 design company. They've been at
25 this site for about ten years,

26 since 2009. They operate Monday
27 to Friday, 9:00 to 6:00 by
28 appointment only. There are
29 only two employees working at
30 this business and they alternate
31 so there's usually only one of
32 them in the office or showroom
33 at a time. A majority of their
34 business is done at the
35 customers home, onsite
36 inspection, and the site is
37 really only used as a showroom
38 to show what kind of products
39 they have, but a majority of
40 their work is done offsite.

41 The proposed office space
42 on the second floor will just be
43 general office space. Any
44 potential tenant that's coming
45 in will be made fully aware of
46 the parking situation. They'll
47 have to comply with the limited
48 parking and on-street parking as

43

44

1 5/19/21
2 Appeal #21044
3 a condition of leasing this
4 space, much like many other
5 office buildings and properties
6 along Northern Boulevard in this
7 area.

8 I have Sean Mulryan, who
9 can give a full explanation of
10 the parking study. Just to
11 summarize, the study found there
12 would be no negative impact if
13 this variance should be granted.

14 There's sufficient parking
15 on the street to deal with the
16 insufficient offstreet parking,
17 and there's no spillover into
18 the residential streets behind
19 or in the surrounding areas, so
20 there wouldn't be any negative
21 impacts on those residential
22 neighbors, so I'll turn it over
23 to Sean now to give more detail
24 this report.

25
26 MR. MULRYAN: Good
27 afternoon. Sean Mulryan of
28 Mulryan Engineering. 1225
29 Franklin Avenue, Garden City,
30 New York.

31 Good morning. Again, we
32 prepared a parking study for the

33 subject property. The building
34 in question was built in 1953,
35 so approximately 70 years ago.
36 The property sits along Northern
37 Boulevard between Maryvale Road
38 and -- drive. Along this entire
39 block of Northern Boulevard is
40 commercial properties, so we are
41 towards the western end. We are
42 not a corner property, but we
43 are in a row of commercial
44 properties.

45 The site across the street
46 of Northern Boulevard is also
47 all commercial properties.
48 These properties share similar

44

45

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2 Appeal #21044
3 types of uses. We have a
4 two-story building, but it is a
5 partial second story, so the
6 second story only goes over half
7 the building. There is other
8 building that is to our west on
9 this block that also has a
10 second story and that is the
11 former -- which has offices on
12 the second floor. So it shares
13 a similar style or similar --
14 this is a smaller, less intense
15 use. Again, we have five
16 parking spaces in the rear of
17 the property.

18 This property, 400 Northern
19 Boulevard, is the western most
20 property in a stretch between
21 400 and 450. All of those
22 properties, the parking here,
23 you can drive from one parking
24 lot to the next parking lot
25 along the back of the buildings,
26 however the parking in the rear
27 of these buildings is segregated
28 by tax lot, so although you can
29 access that parking, it's not
30 shared.

31 All these properties have
32 small lots in the rear. The
33 outlier is the property at 450
34 which is at the eastern end of
35 the block which is a spa, which
36 has somewhat of a larger parking
37 lot. The other buildings, that
38 include Chase Bank -- all have
39 very small parking lots at the

40 back of the property and utilize
41 Northern Boulevard which has
42 parking permitted, which is
43 limited in duration, but it is
44 allowed. There are some parking
45 spaces that are not permitted,
46 no standing here any time, but
47 those are further down the
48 block.

45

46

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2 Appeal #21044
3 what we did as part of this
4 application, is look not only at
5 the parking that's onsite as
6 provided, but we also looked at
7 the parking that's along
8 Northern Boulevard. This block
9 sits on Northern Boulevard and
10 one block to the south is a
11 block that's called Summerset
12 Drive North and that's within
13 University Gardens -- to
14 identify any spillover parking
15 from not only our site, but
16 other commercial properties --
17 this block, and we found that
18 because there is one parking
19 restriction on the south side of
20 the block and limited parking
21 duration permitted, that
22 businesses and customers of
23 these properties do not tend to
24 go into that residential area,
25 so any parking issues that do
26 come up are contained within the
27 commercial corridor.

28 These businesses, as we
29 have explained, are not that
30 intense. The tenants that take
31 space in these buildings are
32 aware of the conditions that
33 surround the property, and the
34 uses that exist today, including
35 the tutoring center and the home
36 repair had existed on this
37 property for numerous years
38 without issue.

39 Again, because of COVID,
40 the tutoring facility has become
41 even less intense because of
42 online learning and we believe
43 that that business model will
44 continue into the future. The
45 small office space on the second
46 floor, we feel again that

47 tenants that are taking this
48 space will look at it as an

46

47

1 5/19/21
2 Appeal #21044
3 opportunity to take a small
4 office space, understand that
5 there's limited parking.
6 These types -- where an
7 individual owner/operator may go
8 in, have limited consultations
9 with customers and or similar to
10 the home repair, go out to meet
11 customers at their location, so
12 we believe that, again, the
13 building is something that was
14 created 70 years ago, we do not
15 have the ability to create
16 additional parking on the
17 subject site.
18 The tenants that do take
19 space here are aware of the
20 situation as it's been a long
21 standing condition. We did not
22 find any spillover parking
23 occurring in the residential
24 area, and any parking that would
25 have occurred there would not be
26 limited to our site, but would
27 be for any of the businesses
28 along this stretch of Northern
29 Boulevard, and as we did not
30 find that happening, we do not
31 believe that any occupation of
32 the second floor, which is only,
33 again, a half second floor,
34 would spillover into the
35 residential area, so we believe
36 it's self-contained, we believe
37 that it's a good application,
38 and again, this is a building
39 that has stood on this property
40 for the last 70 years, so again,
41 we do not believe that is this
42 is a significant variance that
43 we're requesting -- by the
44 parking along Northern Boulevard
45 and the parking on the subject
46 site. If there's any questions
47 for the Board, I'll be happy to
48 try and answer.

47

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3 MR. FILIPAZZI: Thank you,
4 Sean. If I can just stress one
5 point that Sean made. This is
6 an existing building. We're not
7 proposing any exterior bulk
8 additions and due to the
9 configuration of the lot and the
10 existing building, there would
11 be no use -- no permitted use in
12 the town that would comply with
13 the parking requirements of the
14 zoning code.

15 To sum up, pursuant to Town
16 Law 267(B), there are five
17 factors that the board should
18 consider when granting or
19 denying the application. Those
20 factors, there will be no
21 undesirable change to the park
22 of the neighborhood or nearby
23 properties if the board were to
24 grant the requested variance.
25 They will lease off on the
26 applicant and not be achieved by
27 any other method other than an
28 area variance.

29 The requested variance is
30 not substantial. The requested
31 variance will not have an
32 adverse impact on the physical
33 or environmental conditions in
34 the neighborhood, and the last
35 factor dealing with
36 self-creation which shall not be
37 determinative, but one of the
38 factors to consider, and while
39 the alleged difficulty may be
40 self-creative, there's only one
41 factor not determinative, and
42 due to the existing conditions
43 of the lot and the property, I
44 would submit that this isn't a
45 self-created hardship, so at
46 this time, I request that this
47 board grant the requested
48 variance, and if you have any

questions of myself or Sean, of the architect, Thomas Lazarro or the applicant owner, I would be willing to answer those questions.

VICE CHAIRMAN FRANCIS: I have a question in regards to the five parking spaces that are provided by Sean. Number one, are these full-sized parking spaces and the second part of the question is, is one of the parking spaces handicap parking?

MR. MULRYAN: Yes. We did not come up against any requirements for variances for undecided parking spaces and as such, those parking spaces do comply with the town code and due to ADA, it would be an ADA compliant parking space.

VICE CHAIRMAN FRANCIS: Okay, thank you.

MEMBER DONATELLI: I don't have a question. I would just note for the record, and I think applicant touched upon this, but it is truly mid-block. The subject site is mid-block. The likelihood of any spillover effect of parking on residential streets is highly unlikely.

Someone would have to walk really quite a ways to park on one of the side streets and I think that is a factor in favor of this application.

MEMBER GOODSELL: I would also like to comment that in light of the age of the building in 1953, we had very different

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parking requirements because we didn't have as many cars.

I believe Northern Boulevard is also a bus route and if anyone really wanted to, I believe there is a bus stop

9 within a block of this building,
10 there is accessibility by public
11 transportation, so I don't know
12 how much difficulty the owner
13 might have in leasing the second
14 story as office space, but there
15 are certainly other ways to
16 access the building other than
17 by car, so I think it might be
18 something the Board and
19 certainly I would consider.
20

21 MR. FILIPAZZI: To that
22 point, one of the employees of
23 the Kumon Center does utilize
24 that bus route as their main
25 road of transportation to and
26 from the site.
27

28 VICE CHAIRMAN FRANCIS:
29 That's a good point. Did
30 somebody want to make a motion
31 or did we want to reserve this?
32

33 MEMBER DONATELLI: I'm
34 comfortable proceeding. So with
35 the Vice Chair's permission, I
36 make a motion to grant the
37 application.
38

39 VICE CHAIRMAN FRANCIS: We
40 have a motion. Do we have a
41 second?
42

43 MEMBER GOODSELL: I will
44 second.
45

46 VICE CHAIRMAN FRANCIS:
47 Ginnie, please poll the board.
48 Is Ginnie with us?

50

51

1 5/19/21
2 Appeal #21044
3 MEMBER DONATELLI: She's on
4 mute.
5

6 VICE CHAIRMAN FRANCIS:
7 Ginnie's on mute. Will you poll
8 the board instead?
9

10 MS. ALGIOS: Of course.
11 Member --
12

13 MS. WAGNER: Sorry. I'm
14 here, Deborah. What had
15 happened was, somebody expressed

16 interest in participating in
17 this hearing from the village of
18 Russel Gardens. I told them
19 that if they would like to
20 submit comments in writing. Do
21 we want to leave this open or
22 how would you want to handle?
23

24 MS. ALGIOS: So they don't
25 have the ability to participate
26 in the hearing, Ginnie?
27

28 MS. WAGNER: Apparently
29 not. I guess the mayor of
30 Russel Gardens wanted to make a
31 statement on the record. I just
32 got this e-mail now.
33

34 MEMBER DONATELLI: Maybe
35 Mr. Vice Chairman, it's more
36 appropriate that I withdraw my
37 motion.
38

39 VICE CHAIRMAN FRANCIS: I
40 think so.
41

42 MS. WAGNER: Is that how
43 you want to handle this,
44 Deborah?
45

46 MS. ALGIOS: That's fine.
47 So we'll continue it until the
48 next -- well, I mean, we could

51

52

1 5/19/21
2 Appeal #21044
3 possibly put this on the
4 continued calendar for later. I
5 don't know how quickly they
6 could get the --
7

8 MS. WAGNER: Yeah, I was
9 just on the phone with them, so
10 I can find out.
11

12 MS. ALGIOS: Why don't we
13 -- why don't we continue it to
14 the next meeting, which is June
15 2nd, but in the event that we
16 get the statement before the end
17 of today's hearing and the Board
18 feels that they can decide it
19 today, then they will.
20

21 VICE CHAIRMAN FRANCIS:
22 That's fine. I think that's

23 fine. Mr. Filipazzi --

24
25 MS. WAGNER: I think
26 Ms. Choi would like a speak.

27
28 VICE CHAIRMAN FRANCIS: I
29 think we had a good indication
30 of where we were going -- we
31 allow the Mayor to put his
32 statement on the record.

33
34 MR. FILIPAZZI: Yes, I do
35 see Keyin Choi would like to
36 make a comment. I would just
37 add one thing, if you'd like to
38 reserve a decision, leave it
39 open for the Mayor to submit
40 that and make your decision
41 following that. I think that
42 would be an accomodation that
43 we're fine with.

44
45 MS. ALGIOS: Mr. Filipazzi,
46 you would also be furnished for
47 a copy of the statement and
48 afforded the opportunity to --

52

53

1 5/19/21

2 Appeal #21044

3 MS. WAGNER: Deborah, also,
4 there was a person that had
5 registered to speak that didn't
6 show up and I tried to contact
7 her. She already submitted
8 comments on the record that were
9 forwarded to the applicant. I
10 don't know if she had anything
11 additional to say. I don't know
12 -- she indicated that she wanted
13 to be present, but she's not
14 here.

15
16 MS. ALGIOS: She's not
17 here. Since we're keeping the
18 record open, if she wants to
19 furnish a statement or any other
20 additional comments, that's
21 fine, but once now we move on,
22 she will not be able to speak.
23 I mean, she had the opportunity
24 to come and participate, so.

25
26 VICE CHAIRMAN FRANCIS: So
27 I think Ms. Choi wants to say
28 something.
29

30 MS. CHOI: Keyin Choi. 17
31 Vanderbilt Avenue, Manhasset,
32 New York. This is my father, Su
33 Yong Choi. He's the owner of
34 the property.
35 So actually, two things:
36 The woman who had some comments,
37 her comment was, she was afraid
38 building on the second floor
39 would cast a shadow -- the
40 houses, but we were not actually
41 building anything on top --
42
43 (Audio distortion.)
44
45 MEMBER DONATELLI:
46 Ms. Choi, you have an unstable
47 internet connection, so we're
48 having difficulty hearing you.

53

54

1 5/19/21
2 Appeal #21044
3 MS. WAGNER: Ms. Choi, we
4 can't hear you.
5
6 VICE CHAIRMAN FRANCIS: I
7 don't know if you have two
8 devices on Ms. Choi. You're
9 getting feedback and it's very
10 difficult to hear you.
11
12 MS. CHOI: Oh, okay. Let
13 me see if --
14
15 MR. FILIPAZZI: Just while
16 Ms. Choi tries to get --
17
18 MS. CHOI: Is that better?
19
20 MS. WAGNER: Yes, it's
21 better.
22
23 MS. CHOI: My other
24 computer is shutting down right
25 now. Can you hear me?
26
27 VICE CHAIRMAN FRANCIS:
28 Yes.
29
30 MS. CHOI: Okay. So we
31 brought this property in 2016.
32 The prior owner had said that
33 they have -- second floor --
34 Kumon -- but we've been waiting
35 for a long time and we've been
36 through many architects.

37 Now, our bank is --
38 mortgage, so we have to move it
39 to another bank, but no bank
40 will approve the mortgage
41 because the second floor has
42 been vacant for too long, so we
43 promised the bank that we'll
44 have a decision.
45 First, it was last month
46 and now this month and I don't
47 think that they'll be able to
48 wait another month, a whole

54

55

1 5/19/21
2 Appeal #21044
3 month, so I was just wondering
4 -- worried about now being able
5 to -- move the mortgage, so if
6 there's any way to speed up the
7 process of getting a decision.
8

9 MS. ALGIOS: So Ms. Choi,
10 it wouldn't be another month, it
11 would be two more weeks. Like I
12 said, if we should get the
13 comments before the end of
14 today's hearing, we'll get them
15 over to Mr. Filipazzi, and if he
16 has a comment, then the Board
17 can review and do all that
18 today, they will, but if not,
19 the Board cannot make a decision
20 until the next hearing, which is
21 on June 2nd. They cannot do
22 anything before that.
23

24 MS. CHOI: Okay. Thank
25 you.
26

27 MS. ALGIOS: You're
28 welcome.
29

30 VICE CHAIRMAN FRANCIS: All
31 right, Mr. Filipazzi, do you
32 have anything else?
33

34 MR. FILIPAZZI: No. I have
35 nothing else to have. I thank
36 the Board for its time in
37 hearing the application this
38 morning and take my testimony
39 and Mr. Mulryan's testimony into
40 consideration, and hopefully the
41 Mayor of are Russel Gardens can
42 submit their comments quickly
43 and you can submit your decision

44 later today, so I thank you for
45 that and look forward to hearing
46 from you.
47

48 VICE CHAIRMAN FRANCIS:

55

56

1 5/19/21
2 Appeal #21044
3 thank you very much. Have a
4 good day.
5

6 MS. ALGIOS: Thank you.
7

8 MS. WAGNER: Thank you.
9

10 VICE CHAIRMAN FRANCIS:
11 Okay. Moving on.
12
13
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1 5/19/21
2 Appeal #20938
3 MS. WAGNER: The next
4 appeal is Appeal #20938, Vohora
5 Realty; 27 Myrtle Street,
6 Manhasset; Section 3, Block 44,
7 Lot 1 in the Business-B Zoning
8 District.
9 Variances from
10 Section 70-208.G and 7-208.F to
11 convert a nonconforming
12 mixed-use building entirely to
13 residential, expanding a
14 nonconforming use, and additions
15 to the building, expanding a
16 nonconforming building.
17
18 VICE CHAIRMAN FRANCIS:
19 You've heard Appeal #20938,
20 Vohora Realty. Is there anyone
21 interested in the application
22 other than the applicant? If
23 so, please raise your hand in
24 the chat room.
25 Deborah, anyone there?
26
27 MS. ALGIOS: I just
28 promoted Mr. Ianonne and there
29 are two other people.
30
31 MS. WAGNER: One of them is
32 the reporter.
33
34 MS. ALGIOS: What's his
35 name?
36
37 MS. WAGNER: Ryan Asencio.
38
39 MS. ALGIOS: I don't know
40 if Neal is with Mr. Ianonne's
41 team or someone who would like
42 to speak on the application.
43
44 VICE CHAIRMAN FRANCIS: I
45 guess we'll figure that out once
46 Mr. Ianonne starts his
47 presentation. Mr. Ianonne, if
48 you unmute yourself, you can

1 5/19/21
2 Appeal #20938
3 give your appearances for the
4 record.
5
6 MR. IANNONE: Good morning,
7 Mr. Chairman. Good morning,
8 members of the board. Can you
9 all hear me?
10
11 MEMBER DONATELLI: Yes.
12
13 MEMBER GOODSSELL: Yes.
14
15 MS. ALGIOS: Yes.
16
17 MR. IANNONE: And you can
18 see me?
19
20 MS. ALGIOS: No, we can't
21 see you.
22
23 MR. IANNONE: I don't know
24 why. Does that work now?
25
26 VICE CHAIRMAN FRANCIS: No,
27 you're still --
28
29 MR. IANNONE: Hold on, just
30 give me one second.
31
32 MS. ALGIOS: There you are.
33
34 MR. IANNONE: Sorry about
35 that. Good morning, Chairman of
36 the Board, members of the Board,
37 and Secretary Wagner and the
38 court reporter.
39 For the applicant, Vohora
40 Realty, James Iannone; Law
41 Offices of James O. Iannone
42 P.C., 421 Willis Avenue,
43 Williston Park, New York 11596.
44 Mr. Vorhora is on behalf of
45 Vohora Realty as well as Sol
46 Hakimian. He's a licensed real
47 estate agent who is with him.
48 They are both in support of the

1 5/19/21
2 Appeal #20938
3 application. Hi, Neal.
4
5 MR. VORHORA: Good morning.

6
7 MR. IANNONE: If I can
8 start my application, I don't
9 know if there was anyone else
10 who said that they were
11 interested in the application.
12 This application has been before
13 the board a couple of times.
14 It's been reconfigured. Now
15 this has been deemed a business
16 commercial application, so I
17 asked if we could redo our
18 application when that decision
19 was made back in March, after
20 our second hearing. I would
21 ask, Ms. Wagner, could you share
22 the exhibits that I --

23
24 MS. WAGNER: Mr. Iannone,
25 you just sent me an exhibit.
26

27 MR. IANNONE: That one is
28 not as necessary --
29

30 MS. WAGNER: It's difficult
31 to share things if they're sent
32 -- I can share what was sent and
33 saved and then the other ones,
34 you'll have to be patient and
35 wait for me to download them.
36

37 MR. IANNONE: That's fine.
38 One through nine are fine. By
39 oversight, I didn't include ten
40 and eleven. That's my
41 oversight. I apologize to the
42 Board. Those aren't as
43 important, they should just be
44 there for the file.

45 With respect to this
46 property, this property is --
47 the applicant is seeking to
48 expand a nonconforming use.

1 5/19/21
2 Appeal #20938
3 this property is located at 27
4 Myrtle. Currently, what we have
5 for the property that we
6 submitted, there is a house
7 currently at 31 Myrtle which
8 we're in the process of
9 renovating and making into a
10 beautiful four-bedroom
11 single-family home as exhibited
12 by -- which Secretary Wagner

13 very graciously shared. That is
14 Exhibit 1. That is 31 Myrtle,
15 the plan for how it will look
16 when it is fully completed. The
17 third photo is what it will look
18 when it's fully completed.
19 The third photo is -- the
20 third and fourth photo is what
21 our proposal for 27 Myrtle,
22 which right now is -- we have a
23 certificate of occupancy, a
24 certificate of existing use as a
25 nonconforming use, which is a --
26 the use as it exists right now
27 is a one-family -- is 31 Myrtle,
28 one-family residence with a
29 detached garage used for retail
30 with the apartment above, so the
31 second home that you see
32 depicted here on the right is 27
33 Myrtle, our proposal for what it
34 will look like.
35 Right now, it is currently,
36 as I stated, it is currently a
37 garage used for retail with an
38 apartment above. In its current
39 configuration, it has two
40 bedrooms on the second floor
41 with a kitchen and a full
42 bathroom and empty office space
43 on the first floor. My client
44 purchased this property back in
45 2019. What we're proposing, and
46 that Exhibit 2 which -- thank
47 you, Ms. Wagner.
48 As Secretary Wagner is

60

61

1 5/19/21
2 Appeal #20938
3 showing the certificate of
4 occupancy search and the
5 certificate of existing use from
6 1986. What we're looking to do,
7 our proposal is to build as
8 close to a mirror image house,
9 not exactly a mirror image house
10 because they're not exactly the
11 same size, but our proposal is
12 to build a four-bedroom,
13 single-family residence at 27
14 Myrtle.
15 The four bedrooms would be
16 upstairs with one full bath. We
17 would take out the kitchen
18 that's on the second floor. We
19 would install an eat-in kitchen

20 on the first floor, put in a
21 full bath on the first floor --
22 the first floor is lacking any
23 bathroom right now -- and use
24 the remaining space as a living
25 room. It would be an open
26 concept area. Right now, the
27 area that we're talking about is
28 Zone Business-B. Business-B, if
29 you -- just indulge me.
30 Business-B -- because this is a
31 use variance, it needs to go
32 through all the permitted
33 applications -- Business-B
34 allows for all of the uses
35 allowed in Business-A as well as
36 -- for shops for carpenters,
37 furniture repair and upholstery,
38 electric work, hand metal
39 working, blacksmith, tinsmith,
40 new and unused plumbing, hot
41 water fittings and bicycle
42 repair, barber, hair dressing or
43 secretarial schools, medical or
44 dental laboratories, radio or
45 television studios, research
46 laboratories or in electronics
47 or percussion instruments and
48 accessory uses on the same lot,

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3 customarily incidental to any of
4 the above permitted uses, except
5 accessory driveway facilities,
6 which shall be subject to
7 provisions of Section 70-203(T)
8 and for below grade parking
9 structures which will be subject
10 to 70-203(U).

11 Now, Business-A provides
12 offices, financial institutions,
13 retail stores, except those
14 listed in 70-126(B) and (F), and
15 stores typically known as
16 farmers markets and stores
17 typically of a type known as big
18 box commercial use as defined as
19 Section 70-140(B), sales of
20 repair or jewelry, watches,
21 clocks for optimal goods,
22 musical, professional or
23 scientific, jobs of professional
24 services, beauty shops, barber
25 shops, self-service laundromats
26 or dry cleaning pickup shops,

27 hand, laundry, custom tailoring,
28 hand dress making, shoe making
29 and repairing, employment
30 office, funeral homes, funeral
31 directing and embalming,
32 greenhouse, flower shops, a
33 regularly organized institute of
34 learning, approved by the state
35 board of regents and supported
36 by public funds, a general
37 public library, public art
38 gallery, public museum,
39 municipal or volunteer
40 firehouse, municipal park for
41 recreational use, railway or
42 passenger station, church or
43 other building used for
44 religious purposes, parish
45 house, parochial school, private
46 school, philanthropic or
47 institutions other than
48 correctional institutions,

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3 hospital or sanitarium, although
4 except those prohibited under
5 70-207, nursing home, clubhouse,
6 fraternity house, lodge, golf
7 house or recreational building,
8 public utility, government or
9 office buildings, regardless of
10 whether said buildings are
11 erected for the purpose of
12 discharging government or
13 corporate functions, accessory
14 uses for the same lot
15 customarily incidental to any of
16 the above permitted uses except
17 for those through drive thru
18 facilities that will be subject
19 to the provisions of 70-203(T)
20 and below grade parking
21 structures which will be subject
22 to provisions of 70-203(U).

23 Buildings in uses provided
24 in Section 70-125(J)(2)(S)
25 inclusive shall conform to the
26 provisions of Article 6 to the
27 height plot areas, lot coverage
28 and open spaces. Dry cleaning
29 establishments, employing a
30 maximum of five workers,
31 provided that the dry cleaning
32 equipment utilizes nonflammable
33 liquids and bears the approval

34 of Fire Underwriters
35 Laboratories, mixed-use
36 buildings within the New Cassel
37 Urban Renewal, and a caretaker
38 unit as defined by 70-231,
39 located within a building or a
40 property designated in the
41 National Register of Historic
42 Places, State Register of
43 Historic Places or designated as
44 an individual landmark under
45 Chapter 27 of this code and
46 having a portion of the building
47 accessible to the public, and
48 for the use of the court

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3 reporter, I just read
4 Section 70-138; permitted uses
5 in Business-B, and
6 Section 70-125; permitted uses
7 in Business District A.
8 The reason I read these to
9 the Board is because, as part of
10 my proofs because this is a use
11 variance, is necessary for me to
12 demonstrate that for each and
13 every permitted use under the
14 zoning regulations for which
15 this particular property is
16 located, the applicant cannot
17 realize a reasonable return,
18 provided that a lack of return
19 is substantial and demonstrated
20 by competent financial evidence
21 that the alleged hardship to the
22 property in question -- and does
23 not apply to a substantial
24 portion to the district or
25 neighborhood, and three, that
26 the requested use variance, if
27 granted, will not alter the
28 essential character of the
29 neighborhood, and four that the
30 alleged hardship is not
31 self-created.

32 As I will show -- and Mr.
33 Hakimian is here as well will
34 testify to the Board is that
35 none of these uses that are
36 permitted under the code could
37 be utilized by the applicant
38 because of the size of the
39 property. Quite honestly, every
40 single one of these permitted

41 uses for business that are
42 permitted in Business-A and are
43 permitted in Business-B are
44 simply not achievable,
45 applicable, or desirable because
46 of the size of the area we're
47 talking about.

48 Clearly, we can't put a

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3 nursing home there, nor anyone
4 would want one, or any of these
5 other uses that I listed. The
6 only options for this area for
7 this particular parcel, 27
8 Myrtle, is to continue to use
9 it, either as it is allowed as a
10 prior nonconforming use, which
11 is as an office space as retail
12 space on the first floor and as
13 residential on the second floor,
14 or possibly to utilize the space
15 as office space.

16 As I'll get into with
17 Mr. Hakimian as I continue my
18 presentation, the layout and
19 size of the location is simply
20 not conducive to office space.
21 The approximate square footage
22 -- as I stated earlier, there is
23 no bathroom on the first floor.
24 If we were going to use this as
25 office space and make any
26 changes to this and utilize the
27 first floor as office space or
28 retail, we would have to install
29 an ADA-compliant bathroom on the
30 first floor. Once we do that,
31 we are down to approximately 750
32 square feet of usable space,
33 which, I submit to this Board,
34 is simply too small to be
35 practical to be used this way.

36 Secondly, the way that this
37 building is set up now as a
38 prior nonconforming use, we
39 have, as I stated, the retail
40 establishment, the first floor
41 has no bathroom. We would have
42 to install a bathroom; a
43 considerable expense, and an
44 ADA-compliant bathroom at that.

45 Secondly, the upstairs,
46 which has a second floor use is
47 really small and undersized and

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3 talking about creating. As for
4 the neighborhood in question,
5 there is already residential on
6 Myrtle Street. 17 Myrtle is a
7 three-family house. The house
8 at the corner of Bayview and
9 Myrtle, which I've attached as
10 Exhibit 3 to my exhibits, is a
11 picture of the house at the
12 corner of Bayview Avenue, which
13 is at the corner of Bayview and
14 Myrtle, which, on the second
15 page, you can actually see the
16 sign that shows Bayview and
17 Myrtle. That's a two-family
18 house.
19 A two-family year-round
20 residence, as I've submitted on
21 page -- I submitted the land
22 records viewer. You can look at
23 page 2 of that middle of the
24 document entitled, "Two-Family
25 Year-Round Residence." As I
26 submitted also to the board in
27 my documents, I submitted a map
28 of the zoning area of Exhibit 4.
29 I apologize, it's a little
30 small, but it is one of the
31 official maps of the area, and
32 as you'll see, Business-B for
33 that area is just a very tiny
34 strip.
35 The immediate area behind
36 Myrtle street is zoned
37 differently. It's actually
38 zoned as Residence-C, which
39 permits a two-family residence,
40 and I know that the Board had
41 some questions about this lot
42 because this is one tax lot and
43 this would be 21 family -- 21
44 family homes on one tax lot. I
45 submit that this property is a
46 unique property and this is not
47 a self-created hardship that my
48 applicant created. He bought

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3 this property as it existed. He
4 has a certificate of existing
5 use for which dates back to
6 March of 1986. Let me just look
7 at my notes for one more second.

8 Also, within the exhibits
9 that we have submitted, we did
10 submit previously, and I'm
11 submitting again as Exhibit 5, a
12 consent from Hillside Lot LLC in
13 support of our application. If
14 I could ask now. I do have
15 Mr. Hakimian, and he is a real
16 estate agent. If I could ask
17 him to unmute, if that's okay
18 with the Board, and I'd ask the
19 Board to look at his -- what
20 we've attached as his resume and
21 ask Mr. Hakimian to please
22 speak, give the Board his
23 qualifications in his area of
24 real estate, both commercial and
25 residential for the area.
26 Mr. Hakimian, could you speak?

27
28 MEMBER DONATELLI: Before
29 you do that, I do have a few
30 questions and now might be as
31 good a time to pose them as any.

32
33 MR. IANNONE: Certainly.

34
35 MEMBER DONATELLI: You
36 mentioned the cost of trying to
37 install a bathroom on the first
38 floor of what is now the retail
39 space. What is that cost?

40
41 MR. IANNONE: I believe
42 that cost -- I have Mr. Vorhora
43 here. I believe the cost of
44 installing a bathroom,
45 ADA-compliant one, when I spoke
46 to him was approximately
47 \$20,000. Mr. Vorhora -- I asked
48 Mr. Vorhora -- he's the owner

3 applicant -- is that correct?

4
5 VICE CHAIRMAN FRANCIS:
6 Provide your name and address,
7 Mr. Vohora, before you speak.

8
9 MR. VORHORA: Yes, Neal
10 Vorhora, 50 Molok (phonetic),
11 Roslyn, New York.

12 So that \$20,000 estimate
13 for the bathroom could be
14 correct. There's no basement in
15 this building, so running pipes
16 is more complicated so it could
17 end up being more than that.
18 We're looking at the total
19 renovation of this building that
20 would exceed a hundred thousand
21 dollars. The exact breakdown
22 for the bathroom, I don't have
23 that number in front of me.

24
25 MEMBER DONATELLI: I guess
26 my point is, your proposal is to
27 take what would have been a
28 mixed-use with commercial on the
29 first floor and residential on
30 the second floor and you're
31 talking about a total rehab
32 where your proposal is to take
33 the structure and to turn it
34 into a one family house, so,
35 what is the estimate of that?

36
37 MR. VORHORA: That estimate
38 is around a hundred 20,000.

39
40 MEMBER DONATELLI: All
41 right. And to install the
42 restroom in the commercial space
43 alone is, you believed about how
44 much?

45
46 MR. VORHORA: Off the top
47 of my head, I think 30,000.

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3 MEMBER DONATELLI: Okay,
4 well you just said 20, so I'm
5 trying to figure out where we
6 are on this. Do you have any
7 kind of a written estimate.

8
9 MR. IANNONE: Member

10 Donatelli, I said 20,000, just
11 to correct the record. I don't
12 want to -- my estimate, I
13 believe I said over 20,000. I
14 differ to Mr. Vorhora.

15
16 MEMBER DONATELLI: I'm just
17 trying to get an idea, which is
18 why we'd want, at the very
19 least, a written estimate so we
20 have some sort of a practical
21 idea.

22
23 MR. VORHORA: If I may, I
24 don't have a written estimate in
25 front of me. I do think that
26 30,000 is sort of the ballpark
27 number, but I can, as we
28 proceed, see if I can pull that
29 up in my e-mail.

30
31 VICE CHAIRMAN FRANCIS: I
32 think that's something that you
33 can submit to us. The earlier
34 the better, in terms of your
35 application.

36
37 MR. IANNONE: Member
38 Francis, if the Board is going
39 to keep the matter over and
40 reserve a decision, we would be
41 happy to submit any documents
42 that the Board requires.

43
44 VICE CHAIRMAN FRANCIS:
45 Yes, we certainly can continue
46 with that purpose and allow you
47 time. Deborah, you can put a
48 timeframe on the -- on how long

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3 we keep it open, but certainly,
4 I think that's important.

5
6 MR. IANNONE: Just for the
7 Board's knowledge, we do -- with
8 respect to 31 Myrtle, which is
9 the house that we showed in
10 Exhibit 1 in the beginning, we
11 are in the process of completely
12 rehabilitating that house. That
13 is already a permitted
14 one-family residence, even
15 though it's in Business-B. It
16 is a permitted -- one, we have a

17 building application. We are
18 finishing that, and just to --
19 to complete, because I kind of
20 skipped around, we already
21 received, even though we're not
22 done with the work, as
23 Mr. Hakimian will testify to --
24 we already received offers site
25 unseen where people who would
26 want to rent that unit for
27 \$4,500 a month, even though it's
28 not done. We've had to turn
29 them away.

30 Also, one thing that we're
31 trying to do with our
32 application, and I realize that
33 beauty is in the eye of the
34 beholder as the expression goes,
35 but what we submitted, I submit
36 to the Board, is much more
37 aesthetically pleasing than what
38 currently sits there now, is
39 much more in line with what the
40 rest of the -- if you continue
41 to go west and head down Myrtle
42 Street, the residential
43 character of the neighborhood.
44 If I would call Myrtle basically
45 the gateway street into that
46 neighborhood where the rest of
47 the neighborhood behind it,
48 behind Bayview, there is one

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3 more commercial establishment,
4 one more bank, but the
5 neighborhood quickly becomes
6 fully residential.
7 Also, what our proposal
8 would have the effect of doing,
9 rather than having a mixed-use
10 residential on the top, which is
11 currently permitted and
12 commercial retail on the bottom,
13 we would be taking cars off the
14 street, we would have much less
15 traffic because the only way a
16 commercial establishment
17 flourishes is if customers come
18 back and forth to it. If no
19 customers come, that would be a
20 huge problem for Mr. Vorhora and
21 Vohora Realty because they
22 wouldn't have a paying tenant,
23 so by the very nature of having

24 a mixed-use, which is permitted
25 now, you're going to have a
26 full-time resident on the second
27 floor living there, with the
28 need for parking, with the need
29 to get in and out and drive to
30 and from the location, most
31 likely, and to have the need for
32 whoever is using that space on
33 the first floor as retail or
34 commercial to utilize that space
35 as an office, in addition to
36 whoever would come to that
37 location as a customer, whether
38 it be if it was an accountant or
39 whether it be a nail salon,
40 whatever entity that would be
41 there, there would obviously be
42 people coming to that location
43 which would increase the traffic
44 flow, which would increase the
45 demands of the parking which is
46 always an issue for this Board
47 and always an issue for that
48 area specifically. So what

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3 we're trying to do is achieve a
4 meaningful return, candidly.
5 My client bought this place
6 looking to make a financial
7 return which anyone investing in
8 real estate looks to do, but the
9 proposal that he's coming up
10 with, I would submit to this
11 Board, is the most pleasing, is
12 the least offensive, puts the
13 least stress on the neighborhood
14 and the least taxing via parking
15 and resources and traffic to the
16 area. We're also with the
17 proposal, I think we are
18 planning on is as Exhibit 1
19 shows, putting in attractive
20 landscaping to soften the look,
21 to put some trees and shrubbery
22 in front, to really enhance the
23 character of this as, not a
24 boarding house, but a very
25 attractive place where people
26 would want to live --
27
28 MEMBER DONATELLI:
29 Mr. Iannone, I understand your
30 point, but understand that, we,

31 as a board, are constrained by
32 Section 267(B) of the code and
33 so these aesthetics concerns
34 that you have and that you've
35 expressed now several times, we
36 are mandated by law to examine
37 that in terms of a use variance
38 and those specific standards, so
39 speaking as one board member, I
40 would very much appreciate if
41 you or your applicants witnesses
42 would really focus in on that
43 testimony because that would be
44 most helpful.

45
46 VICE CHAIRMAN FRANCIS:
47 Mr. Iannone, before --
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3 MR. IANNONE: I'm sorry.
4

5 VICE CHAIRMAN FRANCIS: Let
6 me just note for the record that
7 our chairperson, David Mammina
8 has joined the hearing and I
9 would like to give him an
10 opportunity to weigh in as well.
11

12 MR. IANNONE: Good morning,
13 Chairman Mammina.
14

15 CHAIRMAN MAMMINA: I looked
16 at the drawings and, you know,
17 my feeling is, you know, and I
18 guess I'm just going to echo
19 what Mr. Donatelli said
20 regarding, you know, but the law
21 is -- and I know Mr. Iannone,
22 you know that we have to travel
23 by what that says. I do think
24 submitting a cost estimate, you
25 know, of what you see here, and
26 I would say in detail please,
27 not just numbers, you know,
28 because a \$30,000 three fixture
29 bathroom just seems like a whole
30 lot of money, and even if you
31 don't have a slab, if I'm
32 reading the drawings correctly,
33 you have a bathroom that's right
34 on top of it almost, so even if
35 you had a little bit of chopping
36 to do in the floor, it's no more
37 than five feet maybe. I don't

38 see anything near a \$30,000
39 bathroom in there, so when you
40 put that together, I'm repeating
41 myself so I'll apologize, I
42 would like to see a good amount
43 of detail in there so that we
44 can really make an evaluation
45 from that perspective, so please
46 be careful when you put that
47 together, because we will
48 scrutinize that.

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3 MR. IANNONE: Certainly.
4
5 CHAIRMAN MAMMINA: Just for
6 the benefit of the record, a
7 real estate broker, while he is
8 welcome to testify, is not to be
9 confused with a real estate
10 expert who has done a broader
11 look, is typically much more
12 experienced in terms of the rest
13 of the world, so we will permit
14 him to testify, but with that
15 scenario, that this is his
16 opinion.
17 For me it could be an
18 opinion of anyone else in the
19 neighborhood or what they think
20 this house is worth or whatever.
21 Unless you can show us something
22 where courts have said different
23 regarding that --
24
25 MS. ALGIOS: Chairman, I
26 just wanted to follow-up with
27 what the Chairman is saying and
28 just confirm. Mr. Iannone, is
29 Mr. Hakimian a certificated real
30 estate appraiser?
31
32 MR. IANNONE: He's not a
33 real estate appraiser. He's a
34 certificated real estate agent
35 with 15 years of experience in
36 the area and he does commercial
37 and real estate -- commercial
38 and residential real estate. He
39 is currently in leasing and a
40 real estate agent that my
41 applicant uses to lease their
42 properties. He also is the one
43 handling the leasing of the
44 property at 31 Myrtle, which is

45 directly next door and can
46 testify much better than a real
47 estate appraiser who has no
48 knowledge, with all due respect,

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3 as to who is -- since he's
4 handling the listing -- as to
5 whomever is the interest level
6 of the area.
7 Mr. Hakimian makes his
8 living every day selling and
9 renting commercial and
10 residential real estate, so I
11 understand what the Chairman and
12 the Board are saying, but I
13 would just appreciate the Board
14 before they prejudge
15 Mr. Hakimian, he does have a
16 level of expertise. I certainly
17 could submit and get a real
18 estate appraiser, and a real
19 estate appraiser generally is an
20 appraiser as to the sale value a
21 property, but I certainly could
22 supplement the record with a
23 certificated real estate
24 appraiser --

25
26 MEMBER DONATELLI: Let me
27 suggest this because I think
28 it's very important that we
29 follow the letter of the code
30 and so what you're suggesting
31 and what you're asking
32 Mr. Hakimian, the real estate
33 language to testify to, language
34 is the applicant cannot realize
35 a reasonable return, provided
36 that the lack of return is
37 substantial as demonstrated by
38 competent financial evidence, so
39 it's not just somebody getting
40 up there and trying to say,
41 "Well we tried to rent it out as
42 a store and were unable to."
43 This is hard and fast
44 documentation and numbers
45 showing that it is extremely
46 difficult, if not impossible, to
47 get a reasonable rate of return.
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3 MR. IANNONE: And I
4 understand that in my burden and
5 pardon -- with all due respect,
6 on the last meeting on this
7 matter, this was deemed a
8 residential area variance, and
9 only after I completed the
10 hearing did I get a telephone
11 call from the Board saying that
12 after the hearing was closed
13 that the Board reconsidered it
14 and wanted a use variance and
15 then wanted to put me on for a
16 use variance hearing and I had
17 to then scramble to get a radius
18 map and application, so I would
19 ask the Board for some
20 consideration as to allowing me,
21 at the last -- the Building
22 Department took this application
23 in and deemed it a residential
24 and we did two hearings on this
25 where it was deemed as a
26 residential application, and at
27 the March 24th hearing, I, at an
28 abundance of caution, went
29 through both but I was told that
30 this was being viewed as an area
31 variance. Now that it's being
32 viewed as a use variance and
33 we're back here less than six
34 weeks later, there are certain
35 things that I'm happy to
36 supplement my application. I
37 will happily provide and
38 estimate as to, and we are
39 working with a contractor right
40 now who is fixing and renovating
41 the property at 31 Myrtle which
42 is on the same tax lot, so it
43 will be easy for me to get a
44 cost breakdown and submit a cost
45 of renovating the property as a
46 proposal for our entire
47 renovation versus what it would
48 cost just to install an ADA

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3 compliant bathroom on the first
4 floor, and I'm happy to also
5 retain an expert on short order
6 and give the information
7 necessary and have that expert
8 submit a report to the Board and
9 give his opinion as to whether
10 or not a reasonable rate of
11 return can be made under any of
12 the permitted uses as I submit
13 to the Board, some of these
14 things -- I am not an expert,
15 but I can tell you very simply
16 that I don't need to be an
17 expert to say that I can't put a
18 church there, or parish house or
19 parochial school or private
20 school. Most of those uses that
21 are permitted indeed business-A
22 or business-B are simply not
23 feasible under any circumstances
24 considering the size of the
25 property. They're just not, you
26 can't do it.

27
28 CHAIRMAN MAMMINA: The
29 fourth task within the use
30 variance, have you spoken to
31 that? When he brought the
32 property.

33 When he brought the
34 property even if he bought it in
35 ignorance, he brought the
36 property so is the hardship
37 self-created? Yes.

38
39 MR. IANNONE: I don't think
40 that's correct.

41
42 CHAIRMAN MAMMINA: How can
43 it not be correct if he
44 purchased the property?

45
46 MR. IANNONE: Chair --

47
48 CHAIRMAN MAMMINA: If he

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3 purchased the property and felt
4 that he wasn't counseled
5 properly -- Mr. Levine is no
6 longer a member of the Board,

7 but his instant response I think
8 would be, Well he has recourse
9 against his attorney then.

10
11 MR. IANNONE: But this is
12 also -- can I just speak? This
13 is also the Board of Zoning
14 Appeals. The Board of Zoning
15 and Appeals is the entity that
16 someone comes to when they need
17 recourse. The first
18 application, which the Board
19 heard earlier today is one with
20 a generator, which, a generator
21 could have been put in a
22 different place, but because it
23 was not as feasible as
24 aesthetically pleasing, the
25 Board has the right to hear that
26 application and make a
27 determination and I would submit
28 that to the Board that this
29 street that we have is pocket
30 marked with exemptions and
31 variations from what Business-B
32 is. 34 Bayview is a two-family
33 house. That's not permitted
34 there. 17 Myrtle, not
35 Business-A or Business-B and
36 that's on the corner.

37
38 CHAIRMAN MAMMINA: They're
39 existing on conforming uses or
40 they're illegal. It's not
41 necessary for you to apologize ,
42 you go first.

43
44 MEMBER DONATELLI: You
45 cannot equate a use variance
46 with an area variance. So,
47 again, we are bound by law to
48 utilize certain factors in our

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3 decision making process and it's
4 really a very different standard
5 for your burden of proof on a
6 use variance versus an area
7 variance.

8
9 MR. IANNONE: With all due
10 respect, how is it that a two
11 family house that is on the
12 corner, which Nassau county
13 recognizes a two family house if

14 it's in business-A, how is that
15 an area variance. It has to be
16 a use variance. It's not an
17 area variance.
18

19 MEMBER DONATELLI: We're
20 talking about the application
21 that is before us now. I don't
22 think it behooves us to get
23 other properties that may or may
24 not be pertinent to this. The
25 application is before us, and I
26 understand because I also recall
27 your presentation of two months
28 ago.

29 I understand that this is a
30 complex situation, but I felt,
31 when we first heard this case,
32 that it was more appropriate as
33 a use variance, so I sympathize
34 with you, but that doesn't
35 change the fact that the burden
36 of proof for a use variance is
37 substantially higher and
38 different from the burden of
39 proof from an area variance.
40

41 MR. IANNONE: And I'm not
42 arguing in that aspect. I
43 understand my burden, I just
44 feel, unfortunately, that the
45 Board is already predetermined
46 this application. I have not
47 even had an opportunity to put
48 Mr. Hakimian on and testify

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3 anything and it's already been
4 basically said that this Board
5 is not interested in what he has
6 to say. Secondly, the third
7 factor that I have, which is if
8 a use variance, if granted, will
9 not alter the essential
10 character of the neighborhood,
11 so certainly the houses on
12 Myrtle and the corner of Myrtle
13 and Bayview and the fact that
14 they are no parochial schools or
15 philanthropic or uses other than
16 correctional institutions is
17 highly relevant, it is highly
18 relevant, that I submit that
19 every -- including the house
20 that is 31 Myrtle is a

21 residential use. 17 Myrtle is a
22 residential use --
23

24 MEMBER DONATELLI:

25 Mr. Iannone, I'm going to jump
26 in here because I try and I
27 think the rest of the Board
28 members do, but I'm going to
29 speak for myself. I try to be
30 very open-minded when I hear
31 these applications and I'm
32 trying to listen to every
33 discussion and every argument
34 that you're making. It is not
35 my intention to become
36 argumentative with you. I want
37 you to put on your case --
38 however you did hear the
39 chairman indicate as what we're
40 going to require in terms of an
41 expert opinion, and I'll also
42 defer to our counsel on that
43 because Ms. Algios is also very
44 knowledgeable as what we're
45 going to need in terms of
46 evidence. What I'm trying to do
47 is I'm trying to direct you to
48 the appropriate section of law

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3 so that you can meet your burden
4 of proof rather than talk to us
5 about the aesthetic values that
6 really, in my opinion, are
7 irrelevant, okay? And there are
8 very standard burden of proofs.
9 Now we will hear whom ever you
10 want to present, and I
11 personally have not prejudged
12 anything. I'm trying to assist
13 you in trying to meet your
14 burden of proof.
15

16 MR. IANNONE: And I'm not
17 trying to be argumentative with
18 everyone. We appreciate your
19 time. I understand the hurtles
20 involved in this application.
21 I'm not trying to have this turn
22 into an argumentative exercise,
23 and I certainly will, and my
24 applicant certainly will supply
25 every bit of evidence that we
26 can in admissible form that can
27 assist our application and

28 ultimately hopefully being
29 granted, and just for the
30 record, I do believe that
31 Ms. Algios the last time when I
32 wanted to put Mr. Hakimian on
33 before he testified, that the
34 fact that the fact that he was
35 not a certificated real estate
36 appraiser, but real estate
37 agent, would go to the weight
38 that the Board would give him,
39 but not necessarily that his
40 testimony would be not heard.

41
42 CHAIRMAN MAMMINA:
43 Mr. Iannone, here's the
44 difference to me, and I'm not an
45 attorney but I've been here for
46 three decades now. In order for
47 us to grant a use variance, you
48 must meet all four tests. Under

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3 the law, there's no discretion.
4 In an area variance, there are
5 five tests, but none of those
6 single five tests is damming.
7 Not true in an area variance.
8 Do you agree with that.
9

10 MR. IANNONE: I agree that
11 a use variance without arguing
12 and putting myself in a -- I
13 agree that a use variance puts
14 an additional owners on an
15 applicant and is a higher
16 standard to meet than an area
17 variance.
18

19 CHAIRMAN MAMMINA: So you
20 don't have to meet all four, is
21 that what you're saying?
22

23 MR. IANNONE: I'm saying
24 this is within --
25

26 CHAIRMAN MAMMINA: This is
27 a yes or no. I'm sorry, I don't
28 mean to get argumentative or bully
29 you. It's not my style. It's
30 not your style. You're a
31 gentleman. I always enjoy your
32 application, they're well
33 thought out. But the law is the
34 law. We operate under that and

35 there is another source of
36 relief here in that you go to
37 the town Board and you ask them
38 to rezone that area.
39

40 MR. IANNONE: Well, that
41 would be my secondary
42 application that if this fails,
43 that's what I already advised my
44 applicant to do. In the normal
45 course of things, chairman
46 Mammina, and I've known you for
47 many years and appeared before
48 you. I respect you and all the

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3 other Board members. I've been
4 doing this for a while. I've
5 never felt that I've got a bad
6 shake from this Board ever.
7 What I'm simply saying is that I
8 understand my burden and without
9 doing additional research and
10 fully vetting -- I understand
11 your comment about the factors.
12 I certainly -- I would ask
13 preemptively to keep this
14 application open for the
15 following factors, for three
16 things: Number one, in addition
17 to supplement the record, I
18 would like to be able to submit
19 the following things before I
20 end my application. I'd like to
21 continue, but I agree upfront
22 and ask the Board to allow me to
23 continue this application for
24 the following things: Number
25 one, I will submit what the
26 Board requests which is
27 completely reasonable, which is
28 an estimate as to, first, what
29 the cost of our proposal would
30 be, and number two, what the
31 cost would be to install a
32 bathroom and a detailed thing.
33 We have a contractor. It will
34 not be something written on a
35 napkin. We will do that and it
36 will be in a form that the Board
37 will -- and whatever the numbers
38 are, they are. I'm not and
39 architect and certainly not a
40 contractor. I'm just a lawyer.
41 On many days, I wish I was

42 something else, including this
43 one.
44

45 CHAIRMAN MAMMINA:
46 Sometimes I wish I was a
47 plumbing.
48

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3 MR. IANNONE: Moving on, I
4 will do that. The second thing
5 I will submit into my
6 application, my applicant will
7 go and hire and retain a
8 certified real estate appraiser
9 and I will submit to that real
10 estate appraiser all the factors
11 that are outlined in business-A
12 and business-B and also as it's
13 current use and have him or her
14 render an expert opinion in
15 admissible form, which I hope
16 that you will accept him or her
17 as an expert as to whether my
18 client can realize a meaningful
19 return. Believe me, the
20 applicable words are reasonable
21 return, provided that lack of
22 return is substantial as
23 demonstrated by competent
24 financial evidence, so that is
25 what I will task my certified
26 real estate appraiser to do and
27 we will submit that as well.
28

29 VICE CHAIRMAN FRANCIS:
30 Mr. Iannone, if I may -- I'm
31 sorry.
32

33 MR. IANNONE: As to whether
34 there is any ability for the
35 Board to deviate between the
36 four factors, I will also
37 research that, and if I find
38 something that contradicts and
39 there's some case law out there,
40 chairman Mammina that's in my
41 favor that gives me a little
42 wiggle room, by all mean, I will
43 have it. I'm sorry member
44 Francis.
45

46 VICE CHAIRMAN FRANCIS:
47 That's fine. I was actually
48 going to make the point that you

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3 just made. I think that central
4 to your application is the
5 finding that you have met the
6 four factors and to the extent
7 that you can submit -- I
8 practiced as a solo practitioner
9 for 30 years, so I know the
10 burden on time that you face and
11 I don't want to overburden you,
12 but if you could submit
13 something either in the form of
14 a memorandum of law or some
15 argument that addresses the four
16 factors and shows us that yes,
17 you meet the four factors, I
18 think that would be extremely
19 helpful for us in making a
20 determination on your
21 application.

22
23 MR. IANNONE: And I will --
24 as a solo practitioner, I share
25 your burden and plight and I
26 will submit something to that
27 affect, and Chairman Mammia,
28 thank you for confirming to my
29 client that his failsafe
30 emergency position is to go to
31 the Town Board and ask for a
32 change of zone because you made
33 me look more intelligent in my
34 client's eyes, but let me see if
35 I can just bring this
36 presentation at this point,
37 which I'm asking to be kept
38 occupy, I do have Mr. Hakimian.
39 He has been here for the last
40 two hours. I would ask him if I
41 could just -- Mr. Hakimian, if
42 this is okay, could he unmute
43 and give his qualifications?

44
45 MR. HAKIMIAN: Hello, my
46 name is Sol Hakimian. I'm a
47 real estate agent working with
48 Dan. In Manhasset at 364

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3 Plandome Road. I've been an
4 agent for about 15 years and I
5 do residential and commercial in
6 the area in Nassau county mostly
7 and have been selling, renting
8 commercial and residential in
9 the area. Me and my wife are
10 both partners. She's been in
11 real estate for 35 years and at
12 the last meeting I basically
13 mentioned that there is plenty
14 commercial space available for
15 rent in the area, especially on
16 Plandome Road, not only on
17 Plandome Road, also in Port
18 Washington which are sitting
19 vacant for more than a couple of
20 years and unfortunately as far
21 as office space is concerned,
22 very few people who are renting
23 for office space simply because
24 they are working out of their
25 homes. They don't need to have
26 an office, and unfortunately
27 this is what happened during
28 Corona, and a lot of people who
29 are buying houses now, they are
30 looking for extra room in the
31 house so they can have their
32 offices within their houses, so
33 I sent some information to the
34 Board through that attorney
35 showing what is available in the
36 mark, and since then, there
37 hasn't been much rent yet.
38 There was a retail story on
39 Plandome Road which used to be a
40 sushi place for many years and
41 they moved out and that place
42 has been empty for a while, so
43 now somebody rented to have
44 another sushi place which
45 they're waiting for their
46 permit, and other than that, all
47 those spaces that were available
48 before, they are still available

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3 for rent and I just don't see

4 anybody who want to rent
5 either office or retail store
6 would come to the side street on
7 Myrtle Street rather than being
8 on a main -- which is Plandome
9 Road or any area, northern
10 boulevard or as a matter of
11 fact, east shore road, the whole
12 building is sitting vacant for a
13 long time, maybe more than seven
14 years, which is office space.
15 So basically, I don't have to be
16 an appraiser to tell you all
17 this because an appraiser, they
18 don't look at the stuff as an
19 agent are dealing with every
20 day, but as far as being an
21 appraiser, I'm not an appraiser
22 and I couldn't help you as far
23 as that goes, but all I can tell
24 you on the property on a corner
25 which is 31 Myrtle Road, I have
26 two people who are interested to
27 rent it even before it's
28 finished. All I know is that
29 the demand for residential
30 properties as far as rentals and
31 sales are much, much greater
32 than having commercial space in
33 the area. Thank you so much for
34 giving me the opportunity to
35 talk to the Board. Thank you so
36 much.

37
38 MR. IANNONE: Considering
39 that we are going to be
40 submitting that other additional
41 information in the form of a
42 certified real estate appraiser.
43 I don't feel the need to go any
44 further with Mr. Hakimian other
45 than what he said, unless
46 anybody has any questions for
47 him.
48

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2 Appeal #20938
3 VICE CHAIRMAN FRANCIS: I
4 have none.

5
6 MEMBER DONATELLI: I have
7 none.

8
9 MR. IANNONE: Okay, so at
10 this juncture Chairman Mammina

11 and members of the Board, I
12 would ask to keep this matter
13 open. I don't think anyone,
14 unless I'm mistaken, secretary
15 Wagner, I don't think there's
16 anyone who indicated interest in
17 the proposal in the application.
18 If there is, I'd be happy to
19 answer their questions to the
20 best of my ability. Seeing that
21 there is none, I would ask the
22 Board make an application to the
23 Board to keep this matter open
24 in order to accommodate my
25 schedule to get a real estate
26 appraiser to get those plans and
27 to submit a brief memo of law.
28 Realistically I would ask to
29 Board to keep this open and give
30 me 30 days.

31
32 MS. ALGIOS: Mr. Iannone,
33 the next meeting that would
34 probably fit that would be the
35 June 16th, does that work for
36 you?

37
38 MR. IANNONE: Neal, does
39 that work for you.

40
41 MR. VORHORA: That should
42 work for me, yes.

43
44 MR. IANNONE: June 16th --
45 can I just check my phone? That
46 date is totally fine.

47
48 CHAIRMAN MAMMINA: And I

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1 5/19/21
2 Appeal #20938
3 guess adjourn -- continue, right
4 Deborah.

5
6 VICE CHAIRMAN FRANCIS:
7 Continue.

8
9 MS. ALGIOS: Yes, we'll
10 continue this until June 16th.

11
12 MR. IANNONE: Can I just
13 make one final statement? I
14 hope that none of you took any
15 offense to anything I said.
16 It's a difficult application, I
17 didn't mean to get argumentative.

18 Just doing my job.
19
20 VICE CHAIRMAN FRANCIS:
21 You're a zealous advocate and we
22 take it in that spirit. You're
23 doing a job for your client. We
24 understand the position you're
25 in, and believe me, no offense
26 was taken.
27
28 CHAIRMAN MAMMINA: You are
29 always a gentleman and you
30 always do your best job four or
31 clients.
32 MR. IANNONE: Thank you
33 very much. I appreciate your
34 time.
35
36 MS. WAGNER: Mr. Iannone, I
37 just want to put on the record
38 that this is classified as an
39 unlisted action with respect to
40 SECRA and the Board will be
41 making their SECRA
42 determinations at the conclusion
43 of this hearing.
44
45 MR. IANNONE: Okay, well
46 hopefully there will be a negate
47 declaration. Thank you very
48 much Secretary Wagner. Thank

89

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2 Appeal #20938
3 you, members of the Board.
4
5 CHAIRMAN MAMMINA: Thank
6 you.
7 All right, are we ready for
8 the next case then?
9
10 MS. WAGNER: That's it.
11
12 CHAIRMAN MAMMINA: That's
13 it? The last one was adjourned,
14 yes.
15
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1 5/19/21
2 MS. WAGNER: So we need to
3 vote on SECRA.
4
5 CHAIRMAN MAMMINA: Do we
6 have a motion on that.
7
8 MEMBER DONATELLI: Yeah, I
9 have a motion.
10
11 VICE CHAIRMAN FRANCIS:
12 I'll second that.
13
14 CHAIRMAN MAMMINA: Okay,
15 second. Poll the board please,
16 Virginia.
17
18 MS. WAGNER: Member
19 Donatelli.
20
21 MEMBER DONATELLI: Aye.
22
23 MS. WAGNER: Member
24 Goodsell.
25
26 MEMBER GOODSELL: Aye.
27
28 MS. WAGNER: Vice chairman
29 Francis.
30
31 VICE CHAIRMAN FRANCIS:

Aye.

MS. WAGNER: Chairman
Mammima.

CHAIRMAN MAMMINA: SECRA is
adopted.

MS. ALGIOS: Sorry, could I
just get the first and second on
that.

MS. WAGNER: Dan then Les.

MS. ALGIOS: Dan, you know,
I was going to jump in there
with that comment regarding the
termination by the board.

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MEMBER DONATELLI: Yeah,
yeah --

MS. ALGIOS: -- I let that
stand.

CHAIRMAN MAMMINA: That was
a little bit on the low below, I
was surprised.

MEMBER DONATELLI: That's
all right, I have broad
shoulders.

MS. WAGNER: What was the
comment Deborah.

MS. ALGIOS: That the board
had made a predetermine nation
on the application.

MS. ALGIOS: My comment was
that it was very clear, actually
David after you spoke saying
please submit any additional
information -- it was clearly
trying to help out, so.

MS. WAGNER: Can we take a
short break before the next.

MS. ALGIOS: Sure.

MS. WAGNER: Before we get
into the reserved.

39 VICE CHAIRMAN FRANCIS:
40 Sure.
41
42 CHAIRMAN MAMMINA: Five
43 minutes?
44
45 MS. WAGNER: Grab some
46 lunch if you want.
47
48 VICE CHAIRMAN FRANCIS:

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1 5/19/21
2 More like 15, 20 minutes.
3
4 MEMBER GOODSELL: That
5 would be good for me.
6
7 MS. WAGNER: About 15,
8 Deborah.
9
10 MS. ALGIOS: Yeah, I mean,
11 what is it like 1225, so 1240.
12
13 VICE CHAIRMAN FRANCIS:
14 Yeah, that's good.
15
16 MS. ALGIOS: All right, see
17 everybody back then.
18
19 (Whereupon, a short recess
20 was taken.)
21
22 MS. WAGNER: Okay. Does
23 everybody have their reserve
24 calendar? There's a slight
25 modification to the summary
26 sheet because Appeal #21031, the
27 revised plans that were sent out
28 to the board are, as I stated in
29 the e-mail, are merely a sketch
30 and the architect wanted to kind
31 of feel the chairman out as to
32 whether that sketch addresses
33 the concerns before he proceeds
34 with the final plans, so,
35 because he said that there was
36 some difficulty with following
37 your recommendations literally
38 because he would have to add
39 some beams and things.
40
41 CHAIRMAN MAMMINA: Well, we
42 will look at it and I think I
43 made a note on the scan sheet
44 and I'm not reconciling the
45 entire thing.

46
47 MS. WAGNER: Right, right,
48 so that's why when they started

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1 5/19/21
2 working on it, they discovered
3 those thing, that's why I said
4 it's probably best you send over
5 their ideas to see whether they
6 conform substantially to the
7 recommendations and then we'll
8 go from there.
9

10 CHAIRMAN MAMMINA: Sure.

11
12 MS. WAGNER: He's aware
13 that we're not deciding this,
14 but he just wants some feedback.
15

16 CHAIRMAN MAMMINA: We
17 didn't want him to spend a lot
18 of money. There's no reason to.
19 Hold on, let me just bring --
20

21 MS. WAGNER: We don't have
22 to look at that one now. I just
23 wanted to make a note that we're
24 not deciding that one today. I
25 had written that in the summary,
26 so that should be just changed
27 to "do not decide."
28
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5/19/21

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6 MS. WAGNER: The first
7 appeal is 21030, Xing Xang. If
8 the Board is ready to make a
9 decision, I will read it into
10 the record. And I had sent some
11 additional information regarding
12 the discrepancy on the --
13 between the calculation of the
14 --

15
16 CHAIRMAN MAMMINA: Yep.

17
18 VICE CHAIRMAN FRANCIS:
19 Yep.

20
21 MS. WAGNER: If the Board
22 is ready to make a decision or
23 you need more time.

24
25 MEMBER DONATELLI: Would
26 you just give me another second?
27 I want to review -- I know I saw
28 it. I want to review what you
29 sent again, so please just give
30 me a few minutes while I find
31 it.

32
33 MS. WAGNER: I just sent it
34 again, just in case anybody.

35
36 CHAIRMAN MAMMINA: Yeah. I
37 just wish that Mark Monostary
38 (phonetic) would have given us a
39 cogent explanation because it
40 just didn't seem to answer how
41 is it okay before and then they
42 took out the landscaping and
43 then suddenly it was too high.

44
45 MS. WAGNER: Yeah. Well,
46 that's not the explanation as
47 you can see with the difference
48 between the plans that were

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approved and the current plans.
That the preexisting grade
elevation as represented on the
original plans was slightly --
it showed up slightly lower so
that the eave height came across
as conforming. And you can see
on the comparisons of the cross
sections that there's a
difference.

CHAIRMAN MAMMINA:
Absolutely.

MS. WAGNER: I just resent
the e-mail.

CHAIRMAN MAMMINA: Yeah I'm
opening it up now.

MEMBER DONATELLI: Well, an
answer to your question ginny,
there's nothing else that we're
going to get or nothing else
that's going to change.

CHAIRMAN MAMMINA: I just
want to make sure we're being
fair and that we -- because I
never quite understood it.
There we're shown 10242. He's
saying preexisting grade, but he
doesn't have a number on it.

MS. WAGNER: Yeah, I think
the number you just referenced
is the number, but what happened
was, on the original plans --
where that preexisting average
grade falls with respect to the
cross section of the building is
a little bit -- it's higher in
the existing -- I mean in the
original plan, and then the more
current plan shows it a little
bit lower, therefore, that's why
there's a difference between the

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two eave height calculations,
and one of the questions that
Jay had at one point was
regarding the elevation of the
building or the ridge height or
the eave height, you know, with

8 respect to being sea level, the
9 actual elevation that you just
10 mentioned, 102, so if a surveyor
11 is taking that elevation from
12 the outside, their number might
13 be slightly different than the
14 actually eave height calculation
15 because the eave height
16 calculation is actually done
17 from the inside of the building.
18

19 CHAIRMAN MAMMINA: Look at
20 where the preexisting grade line
21 is. Forget about its elevation.
22 Compared to where the first
23 floor of the house is --
24

25 MS. WAGNER: Right, so
26 that's different --
27

28 CHAIRMAN MAMMINA: And then
29 look at it at the one up above
30 that says preexisting grade
31 line. Now it's almost at the
32 stop of the concrete foundation
33 wall, and I know that you
34 average them, but I don't think
35 he ever presented that and he's
36 a good practitioner, he's not a
37 wise guy.
38

39 MS. WAGNER: No, the
40 average is that 102. He had to
41 do a preexisting grade
42 calculation based on the four
43 corners of the house and then
44 they average -- they got their
45 average, and that's the number
46 that they use when they're -- so
47 it's not as if you're averaging
48 those two cross sections. Those

1 5/19/21
2 are two separate things.
3

4 CHAIRMAN MAMMINA: I get
5 that, but then he's at 24 feet,
6 so it's even worse.
7

8 MS. WAGNER: Well, that's
9 what he's getting the variance
10 for.
11

12 CHAIRMAN MAMMINA: So
13 becomes almost a two and a half
14 foot variance rather than a two

and a half inch.

MS. WAGNER: No, it was always represented as two and a half feet.

CHAIRMAN MAMMINA: Is says -- I guess again I'm trying to figure out is that he's saying preexisting grade on the first section.

MEMBER DONATELLI: My understanding was that the plans were approved with eave height of 22 feet, 2 and a half inches.

MS. WAGNER: Correct.

MEMBER DONATELLI: And they should not have been actually either, but somehow they were, but the building how it was built is 24.5.

CHAIRMAN MAMMINA: That's what I never understood. I don't know.

MEMBER DONATELLI: Right, and it had nothing to do with the removal of the shrubbery at the foundation --

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MS. WAGNER: No, I didn't, that did not impact --

VICE CHAIRMAN FRANCIS: I still don't understand --

MS. WAGNER: It's not measured from the outside, so that has nothing to do with it. It's measured from the inside.

CHAIRMAN MAMMINA: When we say it's measured from the inside, you mean inside the house?

MS. WAGNER: Well, it's to the top of the wall plate.

CHAIRMAN MAMMINA: Yeah

22 but, from the average grade.
23
24 MS. WAGNER: Correct.
25
26 CHAIRMAN MAMMINA: Outside,
27 so --
28
29 MS. WAGNER: Well, you know
30 -- I mean.
31
32 CHAIRMAN MAMMINA: That's
33 where it's measured from.
34 That's where you measure any
35 average grade from. I mean I'm
36 doing a project now that's
37 750 feet long and I measured the
38 four corners. It's completely
39 illogical to me.
40
41 MEMBER DONATELLI: Can I
42 rephrase this slightly
43 differently, I mean, and again,
44 channelling David leave
45 convenient and his affection for
46 malpractice suits, the place is
47 actually still being built, so
48 whatever malpractice liability

99

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1 5/19/21
2 may exist on the part of any
3 profession who actually plan
4 this, when we look at our five
5 factors to determine -- because
6 I do believe that this house
7 really stands out from anything
8 else in the neighborhood and is
9 really crying out to at least
10 have the roof reframed.
11 Presumably, there would still be
12 some professionals on the hook
13 for liability. Again, the town
14 approved 22 feet, 2 and a half
15 inches, but nobody approved the
16 24-foot eave height, so that's
17 really one of the factors that I
18 think we should be considering.
19
20 CHAIRMAN MAMMINA: I think
21 what exacerbates this is when
22 you have a spit level house and
23 you do that other piece that
24 jumps, no matter what the house
25 is going to look larger than
26 anything else in the community.
27 It just will based on the
28 configuration of the house and

29 that could be legal and it could
30 be designed legal and the
31 reality is if had he not put in
32 ten-foot ceilings on the second
33 floor and then be at a four and
34 a half inch variance. It's very
35 tough punishment and we can't
36 look at his punishment because
37 that's not where we're coming
38 from. We're not here to punish
39 anybody. We have laws that we
40 need to follow and I almost want
41 to give him another chance to
42 explain this. Am I missing
43 something Virginia. I mean
44 you're very good at this stuff
45 and I don't know. I just don't
46 understand. Am I reading the
47 drawing incorrectly because
48 maybe I am.

100

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1 5/19/21
2

3 MS. WAGNER: Well what part
4 of it are you having a question
5 about.
6

7 CHAIRMAN MAMMINA: That the
8 preexisting grade. Forget about
9 102.42. That doesn't make any
10 difference. It makes so
11 difference whatsoever. It's
12 24-foot 4 and a half inches. It
13 would have been 24-foot 4 and a
14 half inches in the other
15 drawing. I think it's just an
16 error. I think he made a
17 mistake.
18

19 MS. WAGNER: Well, he did.
20 He made a mistake as to where
21 he's showing that -- where that
22 number falls with respect to the
23 elevation. Let me bring it out
24 so that we can talk about it.
25

26 CHAIRMAN MAMMINA: If he
27 made those purplish marks, I
28 don't see what that does to
29 support his case, unless he's
30 just trying to be very honest.
31 This is what happened and I made
32 a mistake. I've made mistakes.
33

34 MS. WAGNER: No, he didn't
35 make those marks. I highlighted

36 that so the Board --
37
38 CHAIRMAN MAMMINA: That's
39 okay.
40
41 MS. WAGNER: So the Board
42 could see the difference.
43
44 CHAIRMAN MAMMINA: Good
45 job. That was necessary. It
46 just seems so significant, and
47 he's got a bubble around it as
48 well, which means -- when you

101

102

1 5/19/21
2 put a bubble that means you
3 changed it.
4
5 MS. WAGNER: Well that's --
6 I mean, he did change it because
7 it was determined that it was
8 incorrect where it was placed.
9
10 CHAIRMAN MAMMINA: Okay.
11
12 MS. WAGNER: So this --
13
14 CHAIRMAN MAMMINA: You just
15 want top show off.
16
17 MS. WAGNER: Well I won't
18 be able too because I can't get
19 to the same --
20
21 CHAIRMAN MAMMINA: I can't
22 do any of that stuff. There you
23 go.
24
25 MS. WAGNER: This is 102 --
26
27 CHAIRMAN MAMMINA: .4.
28
29 MS. WAGNER: Whatever that
30 number was that you referenced
31 before. Right. And then, if
32 you take your house, whatever
33 the height is, and you add your
34 -- up to the wall plate here,
35 and, so, that distance on this
36 plan was 22 and a half feet from
37 here to here. However, when you
38 go to the new cross section
39 which is this one, you have this
40 spot here, this -- where the
41 preexisting average grade falls
42 with respect to this elevation

43 here is lower. This line.

44
45 VICE CHAIRMAN FRANCIS:
46 Right.

47
48 CHAIRMAN MAMMINA: Right.

102

103

1 5/19/21

2
3 MEMBER DONATELLI: So, is
4 it reasonable to assume that the
5 footings were not sunk deep
6 enough in second instance. In
7 other words, in the first plans
8 that you just showed us, the
9 footings appear to be sunk more
10 into the ground than they do in
11 the second plan.

12
13 MS. WAGNER: I don't think
14 so because this is an existing
15 home.

16
17 CHAIRMAN MAMMINA: Right,
18 those are existing.

19
20 MS. WAGNER: It's just a
21 matter of where he showed this
22 preexisting average grade on his
23 drawings when he added onto the
24 top part of this home, so -- and
25 David, you might understand
26 this. He was explaining to me
27 that because it's a spit-level
28 home, that's some differences
29 between where the first floor
30 elevation lies on one side and
31 where it lies on the other side.
32 That may explain some of the
33 confusion, but when you show the
34 actual preexisting average grade
35 when it was done correctly, it's
36 slightly lower -- it falls
37 slightly lower on the cross
38 section, so that's slightly
39 lower by two feet and that
40 explains why this distance is
41 now 24 as opposed to today 22.

42
43 VICE CHAIRMAN FRANCIS: So
44 the physical grade didn't
45 change. He just made a mistake
46 in where he placed it.

47
48 MS. WAGNER: Correct,

1 5/19/21
2 correct. It's not about how it
3 was changed -- because the
4 calculations that are done to
5 determine the preexisting
6 average grade are obviously done
7 preexisting, before any
8 construction is done, so this
9 102 average grade elevation is a
10 number, is a calculation. It's
11 the average of I think the four
12 corners of the home, and then
13 it's represented on the drawings
14 as 102, and then the plans have
15 to take that into consideration.
16 Take this elevation into
17 consideration when you're
18 planning for the eave height and
19 the ridge height of the
20 construction.

21
22 VICE CHAIRMAN FRANCIS:
23 So's basically two and a half
24 feet taller than he should be,
25 roughly.

26
27 MS. WAGNER: Correct.

28
29 CHAIRMAN MAMMINA: Yes.

30
31 MEMBER DONATELLI: But
32 again, why is the existing
33 elevation shown approximately
34 halfway down the footing on the
35 one and then on the approved
36 plans, it's showing almost all
37 the way on top of the footing.

38
39 MS. WAGNER: Because he
40 made an error in showing where
41 this -- he made an error in
42 showing where this line falls.

43
44 VICE CHAIRMAN FRANCIS:
45 Yeah.

46
47 MEMBER GOODSELL: So which
48 one is correct and which one is

1 5/19/21

2 incorrect.

3

4 MS. WAGNER: This one is
5 correct Patricia, where is shows
6 24 feet.

7

8 MEMBER GOODSELL: Okay.

9

10 MS. WAGNER: This is the
11 one that was submitted with the
12 variance application showing
13 that 24-foot eave height, but
14 what I was trying to say before
15 about the eave height being
16 calculated on the inside is, if
17 you look at this, I think this
18 spot here, right here, you see,
19 this is the top of the wall
20 plate, right here, but this is
21 outside what most people would
22 consider an eave right here is
23 slightly over.

24

25 VICE CHAIRMAN FRANCIS:
26 Right.

27

28 MS. WAGNER: So if a
29 surveyor is observing this point
30 from the outside because they
31 can't obviously see the top of
32 the wall plate, they would come
33 up with a slightly lower
34 elevation, and this is what is
35 seen from the outside, so
36 there's a little bit of a
37 difference there as to where the
38 eave height presents to the
39 outside and the adjacent
40 properties, and that distance
41 maybe a foot, I don't know, but
42 this is where the eave height is
43 calculated to, the top of the
44 wall plate, and David, I think
45 you had talked before about the
46 cathedral ceilings. I hope I'm
47 explaining this correctly, but I
48 think this home had something

105

106

1 5/19/21

2 that's referred to as, I think,
3 as I false cathedral ceiling.
4 When you come in inside the

5 interior, it's raised up a
6 little bit, but it's not raised
7 up at this point, so I don't
8 think that effects the eave
9 height calculation. It goes to
10 this point, whatever that is.
11 He did say ten feet and this is
12 showing ten feet, so I think it
13 goes maybe even slightly higher
14 inside, I'm not sure.

15
16 CHAIRMAN MAMMINA: I think
17 it just surprises me, because I
18 understand just what you are
19 saying Virginia, it just seems
20 like he didn't put his best foot
21 forward. Not that he needs to
22 be penalized for that in
23 explaining this. I think I know
24 what I would do. I'd have
25 sections this the other
26 directions as well. I'd be
27 sweating balls. I don't know if
28 this sounds crazy, and this goes
29 exactly against what the purpose
30 of this regulation was. In
31 other words, people were
32 creating artificial grade and
33 that would then visually make
34 the house lower. They would
35 excavate the foundation, pile up
36 all of that dirt around it so
37 that they would save the cost of
38 carting the dirt away, but also
39 at the same time, they were
40 getting a house that was higher
41 up out of the ground. I'm not
42 necessarily proposing this as a
43 solution, but how could we
44 justify it? The spit level
45 house in my opinion, no matter
46 how you do is always going to
47 look tall on that other side,
48 and Virginia, I don't know if we

106

107

1 5/19/21
2 have the front elevation of this
3 that you've got handy there, and
4 if they were to agree to bring
5 in two feet of fill for some
6 distance around the house, it
7 would diminish what the height
8 of the house looks like on that
9 one side because on the other
10 side the house is shorter,
11 that's the reason why I'm asking

12 if we could find that elevation
13 just so everybody understands
14 what I'm saying so that I
15 understand also to make sure
16 that what I'm saying is correct.
17 So there you go. So point being
18 that when you look at the front
19 elevation on the left-hand side,
20 let me see if I can explain
21 this. For the spit level house,
22 if you took everything that's
23 brick on the right-hand side
24 from where it's got the window
25 sizes, that TW 2446, there's
26 three windows together in there,
27 none of that would be there on a
28 spit level house so what would
29 happen is, you would go up those
30 stairs that you see in the front
31 and then, at that point, you
32 would be at the level of the
33 dining room and kitchen of the
34 house. Then, moving to the
35 left, you would go up a half
36 level or quart level of stairs,
37 whatever it is and then that's
38 where your bedrooms are on that
39 left-hand side where we have
40 those two vertical cables in
41 there and then that's it, that's
42 the house. But now, what this
43 addition does is it takes you up
44 another half level to that whole
45 upper part on the right and
46 that's what makes the house look
47 gigantic and no matter how you
48 look at it, if this was made to

107

108

1 5/19/21
2 a 22-foot eave, if he's still
3 under 35 feet, which I don't see
4 that dimension on here, but I'm
5 going to assume that he is, then
6 he has not exceeded the height
7 that's permitted, but he's got
8 eaves that are too high. Had he
9 taken those two outer eaves and
10 squished them down, he would
11 have still complied. That's why
12 I'm saying -- I know he showed
13 photos and things. It could be
14 that if he built up the grade
15 around that, that whole part in
16 there, that that would help
17 diminish the look of that, maybe
18 and then I would say to Deborah

19 as our attorney. Essentially
20 we're sanctioning something that
21 was put in place to prevent that
22 from happening, but in this
23 case, it would save this -- I
24 know that I shouldn't think this
25 way, but I'm sympathetic as an
26 architect. If they sue him,
27 he'll get killed by this.
28 That's not really our problem,
29 but.

30
31 VICE CHAIRMAN FRANCIS: I
32 don't know.

33
34 MEMBER GOODSSELL: It is
35 unique. When I looked at this,
36 because I did look at this, and
37 when I looked at the houses
38 across the street, nobody has --
39 nobody that I saw at least
40 within a ten house radius has
41 that double gable, that second
42 higher gable. This is not a
43 property on a hill, this is not
44 a property in a dale. It looked
45 pretty level to me. It's not
46 like it's built on a cliff side.

47
48 CHAIRMAN MAMMINA: It's

108

109

1 5/19/21
2 level and he didn't present that
3 it wasn't.

4
5 MEMBER GOODSSELL: Okay.
6 Obviously I didn't hear the
7 presentation, but I did --
8 because I knew we were going to
9 consider this, I did drive past
10 this house and there have been
11 several spit levels where the
12 lower side of the house has come
13 up, but the lower side of the
14 house is a one level roof. I
15 didn't see anything that looked
16 like this, as pretty as it
17 looks. I didn't see anything
18 that looked like this.

19
20 CHAIRMAN MAMMINA: This is
21 a way to gain that extra space.
22 I'm going to assume he had
23 enough floor area to do that
24 because that is a chunk of floor
25 area to the house, but based,

26 Patricia, on what you're saying,
27 I think you are saying that this
28 does kind of sore thumb stand
29 out, not in a positive way, is
30 that correct or am I --

31
32 MEMBER GOODSELL: Yes, a
33 Bavarian castle would stand out
34 too, even though it doesn't suit
35 the neighborhood. It might be
36 very attractive, but it would
37 definitely stand out. In my
38 opinion just based upon what I
39 saw in the surrounding houses,
40 this is a whole area of split
41 levels and some of them have
42 been improved. I've never seen
43 anything like that, at least not
44 in that little section.

45
46 CHAIRMAN MAMMINA: I'm not
47 trying to argue for
48 Mr. Monostary. If somebody else

109

110

1 5/19/21
2 from to do this, that's still --
3 it's still going to look very,
4 very monstrous, they just do
5 when you add that extra level
6 onto the spit and that's not
7 reason to grant this.

8
9 VICE CHAIRMAN FRANCIS:
10 What do we do when we have the
11 next application for a house --

12
13 CHAIRMAN MAMMINA: That's
14 why I said, I'm not necessarily
15 -- it's just a thought because
16 -- let's forget about the
17 architect; I'm also thinking of
18 the homeowner, not that that's
19 how we should be making our
20 decisions.

21
22 MS. WAGNER: Well, it is
23 part of the consideration is
24 does the benefit to the
25 applicant, which is to not have
26 to modify this home to comply,
27 which would come at a
28 significant cost, I'm sure.
29 Does that outweigh the impact to
30 the neighborhood, so that -- it
31 is a factor in consideration.
32

33 VICE CHAIRMAN FRANCIS: It
34 is, but the homeowner actually
35 has an alternative. It's not a
36 plenty one, but.

37
38 MEMBER DONATELLI: We're
39 constantly being presented with
40 builders errors or architect's
41 errors and sometimes they're
42 minimum and sometimes they are
43 not. This is pretty
44 substantial. This is two and a
45 half feet.

46
47 CHAIRMAN MAMMINA: Yep. I
48 would suspect again not that it

110

111

1 5/19/21
2 matters, it's probably a
3 draftsman error, but again, he
4 still responsible for.

5
6 VICE CHAIRMAN FRANCIS:
7 Right.

8
9 CHAIRMAN MAMMINA: He still
10 owns it, no matter what.

11
12 MS. ALGIOS: The balancing
13 test is not just something to be
14 considered. I mean, that really
15 is the consideration, and then
16 you base that on the five
17 factors, but that balancing test
18 is critical, so here, where
19 there is this two-foot overage,
20 and if that now has to be
21 removed, and I'm assuming if
22 this is already -- he started
23 construction, that's a
24 substantial cost, so I think the
25 Board does need to discuss, in
26 detail, how that cost is
27 outweighed to the detriment to
28 the community here.

29
30 CHAIRMAN MAMMINA: Yep.
31 Because you know, I look at that
32 rear elevation on that left-hand
33 side under the front elevation
34 and if you look at that back
35 wall, you say like oh, my gosh,
36 and then the question is, well
37 if was pulled down -- what are
38 we over by? Two and a half
39 feet.

40
41 MS. WAGNER: You know,
42 Chairman, I think another
43 consideration has to be what
44 exactly -- how exactly would
45 they bring that down.
46

47 CHAIRMAN MAMMINA: You have
48 to take the roof off.

111

112

1 5/19/21
2

3 VICE CHAIRMAN FRANCIS:
4 Yeah.
5

6 MS. WAGNER: Would it
7 involve such monumental change
8 to the -- I mean, how do you do
9 that when the windows -- I mean,
10 this house is close to being
11 completed.
12

13 CHAIRMAN MAMMINA: Yeah,
14 that's what I'm saying. I'm not
15 unsympathetic, is that a word?
16 Unsympathetic -- because you'd
17 have to reframe that entire
18 roof. You have to take off
19 what's there, assuming that his
20 sill plates are the correct
21 height because that's -- no,
22 he'd have to take the sill
23 plates off because the sill
24 plates are their own height.
25 That's what's driving the wagon.
26 Sill plates would have to be
27 reduced by 2-foot 4.
28

29 VICE CHAIRMAN FRANCIS: You
30 hate to see a professional take
31 a financial hit, but I think in
32 this case, certainly the
33 applicant, the homeowner,
34 shouldn't be the one to bear the
35 burden of rectifying this
36 mistake. It's got to be
37 Mr. Monostary. I mean, he's
38 going to have to eat the cost of
39 whatever he has to do to make
40 this house compliant.
41

42 CHAIRMAN MAMMINA: I agree
43 with you completely. My only
44 concern is that this homer --
45 this could take a year and a
46 half to sort itself out what --

47 I don't know. That's not
48 justification either. That's

112

113

1 5/19/21
2 not how zoning works, that's not
3 what we're here for because I'm
4 sure that nothing would be
5 touched until it was determined
6 by a judge that he was
7 responsible for it.

8
9 VICE CHAIRMAN FRANCIS:
10 Right.

11
12 MEMBER DONATELLI: How do
13 we deal with the next case that
14 might come down the road where
15 we have another similar builders
16 error. How do we adjust the
17 plan for the building code.

18
19 CHAIRMAN MAMMINA: I agree,
20 that's why my idea of pushing
21 dirt doesn't necessarily thrill
22 me because we've just rewritten
23 --

24
25 VICE CHAIRMAN FRANCIS:
26 Town code.

27
28 CHAIRMAN MAMMINA: For
29 something that the town Board --
30 there are very careful
31 instructions in the building
32 code that tell you how to
33 measure this in order to try to
34 avoid making a mistake. I mean,
35 they lead you by the hand. It
36 could be a little confusing.
37 Zoning frequently is confusing.
38 Especially when you get into --
39 I don't know, my kids say
40 "wonky" as a word -- kind of a
41 thing in here.

42
43 MEMBER DONATELLI: Well, I
44 too am sympathetic. I just
45 don't see how we might
46 distinguish this from another
47 case that might come up, and I
48 know that we had opposition from

113

1 5/19/21
2 the neighbor and he was assured
3 by the applicant that everything
4 was being done in accordance
5 with code, but it turns out that
6 that was not correct. Now, he
7 talks about -- the neighbor to
8 the applicant talks about loss
9 of sight lines and views. We're
10 not really talking about height
11 of the structure, we're talking
12 about height of the eave, so I
13 don't know to what extent the
14 neighbor's sight lines and light
15 would really be diminished by
16 this house as it's currently
17 built, but again, I guess I
18 really come down to the fact
19 that this does appear to be an
20 error, that there are some
21 people -- the homeowner -- were
22 we to deny this application, the
23 applicant would have recourse
24 against other parties, it would
25 appear, and I don't know that we
26 can rewrite the code by pushing
27 up dirt as against the
28 foundation wall to try and make
29 it look better.

30
31 CHAIRMAN MAMMINA: I agree.
32 That was the reason for this
33 whole part of the zoning. As I
34 had said just a couple of
35 minutes ago, the building code
36 has a very clear set of
37 directions on how you measure
38 this under the zoning as they do
39 for floor area as well. Then
40 I'll say okay at the same time,
41 the height of the building is
42 287 of the house and it's
43 allowed to be 35 feet. That was
44 something that I personally
45 disagreed with the town Board.
46 I don't get a vote, but I can't
47 think of another municipality
48 with the exception of the

2 village of west bury that
3 permits a house taller than 30
4 or 32 feet, but a majority of
5 them are 30, so you could -- if
6 I were his attorney in court and
7 I was grasping at straws for my
8 client, I would certainly argue
9 that the house itself could be
10 six feet higher, which would
11 make it look even more
12 monstrous, and it could
13 magically pop up and be six feet
14 higher, that would force those
15 eaves down.

16
17 MEMBER GOODSELL: Well,
18 there's precedent, isn't there,
19 for this Board not only denying
20 the height, but making a
21 homeowner take down a roof and
22 cut a roof down. It's been done
23 before. This is not, at least
24 as far as I can tell, this is
25 not the first time this has ever
26 come up.

27
28 MS. ALGIOS: No, but you do
29 have to -- the Board does have
30 to if they're going to force the
31 homeowner to take on that huge
32 expense, there has to be
33 justification. So the
34 justification has to be that it
35 is -- the detriment to the
36 community is so great by the
37 error that it outweighs -- that
38 detriment outweighs this vast
39 expense that you're going to now
40 impose on the homeowners, so
41 that just has to be very fleshed
42 out, so things that you're
43 discussing now are important,
44 like the height and the bulk, so
45 all of that has to be, again,
46 fleshed out very carefully on
47 the record.
48

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116

5/19/21

1
2 MEMBER GOODSELL: Again,
3 again, in my opinion, having
4 driven through there, these are
5 big pieces of property, these
6 are very nice houses. These are
7 the old spit levels that were
8 all built, I believe most of

9 them date back to the seventies.
10 I remember when they were going
11 up.
12

13 CHAIRMAN MAMMINA: Mid 60s,
14 but you're in the right
15 ballpark.
16

17 MEMBER GOODSELL: Sorry.
18 Based on my age I'm thinking 70.
19 I can see where many of them
20 have been improved, but they're
21 big lots. They're not little 40
22 by a hundred or 50 by a hundred
23 lots and this happens to be a
24 corner property, and so if we
25 were considering the detriment
26 to the community, the community
27 is pretty spread out in this
28 area, the community is not built
29 on top of each other. I don't
30 know, it certainly self-created.
31 It certainly is, in my opinion,
32 substantial. Is it undesirable?
33 Well, it's beautifully
34 undesirable.
35

36 CHAIRMAN MAMMINA: I mean
37 it's residential A for whatever
38 that's worth. Pat, it's your
39 neighborhood to say --
40

41 MEMBER GOODSELL: I want
42 all the houses in my
43 neighborhood to be worth
44 \$3 million so that mine goes up
45 too. That would be lovely. I'm
46 less familiar with the height
47 requirements. I know that this
48 does, at least visually exceed

116

117

1 5/19/21
2 what I see is the average height
3 in the area, and it's a pretty
4 level area.
5

6 CHAIRMAN MAMMINA: And than
7 --
8

9 MS. WAGNER: Keep in mind,
10 the ridge height is compliant.
11

12 CHAIRMAN MAMMINA: The
13 ridge height is very compliant.
14 It's compliant by at least six
15 feet --

16 MS. WAGNER: Chairman, back
17 to your comment by the ridge
18 height. The permitted ridge
19 height is only 30 feet, not 35.
20
21
22 CHAIRMAN MAMMINA: Oh, I
23 thought it was 35.
24
25 MS. WAGNER: No, 30.
26
27 CHAIRMAN MAMMINA: Then I
28 retract that completely. Well,
29 he's still well below that in
30 terms of -- he didn't tickle
31 that then. Thank you Virginia.
32
33 MEMBER DONATELLI: From an
34 architectural point of use then,
35 what we're really talking about
36 is, assuming that the applicant
37 would be able to maintain the
38 same roof height, we're talking
39 about more of a slope to make
40 the house comply with the eave
41 height, is that correct.
42
43 CHAIRMAN MAMMINA: Correct.
44 He's saying if he raised it up?
45
46 MEMBER DONATELLI: No, no.
47 I'm saying, in other words,
48 because the roof height is

117

118

1 5/19/21
2 compliant to make this house
3 compliant, if we were -- let's
4 say if we were to deny this
5 application and the applicant
6 had to make this house
7 compliant, the height is already
8 compliant, but to make the house
9 compliant for eave height, the
10 roofs would have to be more
11 sloped.
12
13 CHAIRMAN MAMMINA: Correct.
14
15 MEMBER DONATELLI: Okay.
16 So what we're really talking
17 about conceivably would be a
18 house the same height with more
19 of a slope. What is the slope
20 on the roof as built?
21
22 CHAIRMAN MAMMINA: He has

23 it on there. Virginia, you can
24 go back to the elevations, I
25 think he had it on this there.
26
27 MEMBER DONATELLI: I see
28 it. It's 12 to 5 and a half.
29
30 CHAIRMAN MAMMINA: That's a
31 relatively flat pitch.
32 Relatively. 4 and 12 is about
33 the lowest you should go with a
34 shingle roof.
35
36 MEMBER DONATELLI: As I
37 look at the elevation -- and I'm
38 looking now at the applicants
39 submission, front elevation, it
40 seems to me that the eave height
41 for the front gable is the same
42 as the eave height for the rear
43 portion of the house; is that
44 correct.
45
46 CHAIRMAN MAMMINA: That's
47 what his drawing shows, that
48 cross section A.

118

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1 5/19/21
2
3 MEMBER DONATELLI: Right.
4 So he would have to presumably,
5 if it's the eave height on both
6 that front portion as well as
7 the major rear portion, you
8 would have to redo the roof on
9 both of those.
10
11 CHAIRMAN MAMMINA: Yes.
12
13 CHAIRMAN MAMMINA:
14 Virginia, can we go back to that
15 front elevation for a second? I
16 want to see something Virginia
17 just give me a minute.
18
19 CHAIRMAN MAMMINA: Where
20 the grade is as opposed to where
21 the windows would be, is there
22 really that much space because
23 there it looks like he's at
24 least four and a half feet below
25 the finished floor of the first
26 floor. Yeah, they're up there.
27 I'm looking at those windows in
28 the front. I'm seeing how high
29 above the ground they are when

30 we're looking at that cross
31 section A. If you look to the
32 left on that front elevation,
33 Dan, you'll see that that one is
34 a 7 and 12 so you can see the
35 difference in the pitch.

36
37 MEMBER DONATELLI: On the
38 left side from the right side.

39
40 CHAIRMAN MAMMINA: If they
41 had pitched that at 7 and 12 and
42 left the ridge where it is now,
43 they would have been fine.

44
45 MEMBER DONATELLI: Right,
46 that's my point. So it's really
47 the pitch of the roof that's
48 getting this applicant into

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1 5/19/21
2 trouble.

3
4 MS. WAGNER: Well that
5 being said, how difficult would
6 it be to modify that.

7
8 CHAIRMAN MAMMINA: I think
9 you'd have to take the whole
10 roof off.

11
12 MEMBER GOODSELL: Yeah, I
13 think I have to agree with you
14 on that.

15
16 CHAIRMAN MAMMINA: Yeah, I
17 think you'd have to take that
18 whole roof off and take the sill
19 plates that are shown there that
20 Virginia was pointing to before
21 and those would have to be cut
22 down to approximately eight
23 feet, instead of ten.

24
25 VICE CHAIRMAN FRANCIS: You
26 would have to do something with
27 those windows too.

28
29 CHAIRMAN MAMMINA: Yes.
30 Right, because when you cut that
31 down two feet, those windows
32 would have to drop down as well.
33 Same thing in the back.

34
35 VICE CHAIRMAN FRANCIS:
36 It's definitely a significant

37 undertaking.
38
39 CHAIRMAN MAMMINA: It's
40 substantial. And who knows,
41 maybe this -- mistake. I don't
42 know. I'm going to have to
43 assume that Mr. Monostary has
44 looked at that. It certainly
45 wouldn't be the first time that
46 a surveyor made a mistake in
47 terms of my career. But again,
48 I thought he said that he had it

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1 5/19/21
2 resurveyed.
3

4 MS. ALGIOS: Were these
5 plans approved by the building
6 department.
7

8 CHAIRMAN MAMMINA: Yes, if
9 you go to the upper plan above
10 it, it's got the approved stamp
11 on it, on the cross section.
12

13 MEMBER DONATELLI: But at
14 22 feet, 2 and a half inches.
15

16 VICE CHAIRMAN FRANCIS:
17 Right.
18

19 CHAIRMAN MAMMINA: So it
20 was incorrect, but it was
21 incorrect by that much.
22

23 VICE CHAIRMAN FRANCIS:
24 Right.
25

26 MS. WAGNER: Well, it was
27 -- right. But that level --
28 that line showed the preexisting
29 grade was incorrect on the
30 approved plan.
31

32 CHAIRMAN MAMMINA: Correct.
33

34 VICE CHAIRMAN FRANCIS:
35 Tough one. This is a tough one.
36

37 CHAIRMAN MAMMINA: That was
38 the problem.
39

40 MEMBER GOODSELL: Okay.
41 This is the time when I'm really
42 sorry I'm a new Board member
43 because this was a really tough

44 decision. Even coming in as an
45 outsider, I couldn't even tell
46 you what --
47

48 CHAIRMAN MAMMINA: This one

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1 5/19/21
2 becomes a baptism by fire for
3 you.
4

5 MEMBER GOODSELL: Thank
6 you.
7

8 CHAIRMAN MAMMINA: And then
9 the other thing, speaking in the
10 opposite, is that his neighbor
11 did alert him to the fact that
12 the house looked very tall.
13

14 MEMBER GOODSELL: I didn't
15 hear the original presentation.
16 Did the architect give it and
17 the architect said you made a
18 mistake? Is that basically what
19 happened.
20

21 CHAIRMAN MAMMINA: I think
22 essentially, yes.
23

24 VICE CHAIRMAN FRANCIS:
25 Yeah.
26

27 CHAIRMAN MAMMINA: He was
28 pretty straight backward, years
29 ago.
30

31 MS. ALGIOS: I'm sorry
32 David. Why don't we just --
33 because you're saying it's
34 complicated. Why don't we go
35 through the factors. Maybe that
36 will help.
37

38 VICE CHAIRMAN FRANCIS:
39 Good idea.
40

41 MS. ALGIOS: So number one,
42 whether an undesirable change
43 will be produced in the
44 character of the neighborhood or
45 a detriment to nearby properties
46 will be created by the granting
47 of the area variance.
48

1 5/19/21

2 VICE CHAIRMAN FRANCIS: I
3 think to the extent that it sets
4 a precedent for future houses
5 being built this way, I think it
6 does present itself as an
7 undesirable change to the
8 neighborhood.
9

10 MEMBER DONATELLI: I would
11 also add to that that I think
12 the bulk itself does have a
13 greater visual impact than it
14 would if it had been compliant,
15 so the house presents itself as
16 larger precisely because the
17 roof is flatter and the eave
18 height is two and a half feet
19 higher than it should be.
20

21 MS. ALGIOS: But the height
22 of the house would stay the
23 same, correct Donatelli right.
24

25 CHAIRMAN MAMMINA: Correct.
26

27 MEMBER DONATELLI: But the
28 bulk of the house because the
29 eaves make it appear larger.
30

31 CHAIRMAN MAMMINA: Right.
32

33 VICE CHAIRMAN FRANCIS:
34 Yeah. Visually, it definitely
35 has an effect.
36

37 MS. ALGIOS: What about the
38 fact though that the properties
39 are large and the houses are not
40 that close together.
41

42 CHAIRMAN MAMMINA:
43 Consideration.
44

45 MEMBER GOODSSELL: I think
46 it's a mitigating factor. Not
47 that I'm wholeheartedly in favor
48 of this. I have to tell you,

1 5/19/21
2 I've only done two calendars and
3 I'm surprised at how many errors
4 there are in calculation and
5 that surprises me as a layman,
6 but there's a mitigating factor
7 that these properties are kind
8 of far apart. I do give the
9 adjoining homeowner credit for
10 saying something like it doesn't
11 look right. It's too big.
12

13 CHAIRMAN MAMMINA:
14 Virginia, could you bring up the
15 site plan, just so we can see
16 how big that piece of property.
17

18 MEMBER GOODSSELL: Yeah, the
19 survey. It must meet floor area
20 ratio.
21

22 CHAIRMAN MAMMINA: It's got
23 to be at least 80 by a hundred
24 if it's in A.
25

26 MEMBER GOODSSELL: It's a
27 corner property. It's a big
28 one. There we go. Yeah, it's a
29 big piece of property.
30

31 CHAIRMAN MAMMINA: He's
32 33 feet away from his neighbor.
33

34 MEMBER GOODSSELL: Yeah,
35 there it is. So even though it
36 might not visual -- it might not
37 negatively impact the
38 neighborhood. It's a negative
39 impact in the sense that now
40 everyone will want one; is that
41 what we're saying.
42

43 MEMBER DONATELLI: Yeah,
44 that's certainly the potential
45 with some counsel that we know.
46

47 MEMBER GOODSSELL: It is the
48 potential because this house is

1 5/19/21
2 going to be used as the
3 comparison now for the potential
4 future.
5

6 MEMBER DONATELLI: Which
7 really again gets the point
8 number one whether or not an
9 undesirable change will be
10 produced in the character of the
11 neighborhood.
12

13 VICE CHAIRMAN FRANCIS:
14 Yeah. To quote one of my favor
15 movies, if you build it, they
16 will come. If you allow one,
17 everyone would want a house this
18 big.
19

20 MS. ALGIOS: So now number
21 two is whether the benefits
22 sought by the applicant can be
23 achieved by some other method
24 feasible for the applicant to
25 pursue other than the area
26 variance.
27

28 MEMBER GOODSELL: And this
29 is what you're all talking
30 about, the cost of lowering the
31 eave which would bring it into
32 compliance means moving windows,
33 moving walls, moving a roof
34 line, moving a substantial
35 amount.
36

37 CHAIRMAN MAMMINA: I'm
38 guessing but I would think
39 that's at least a \$40,000 job.
40

41 MEMBER GOODSELL: Which
42 would bring us, I guess to
43 question number three, is the
44 requested variance substantial?
45 Well, there's a big variance
46 between two and a half inches
47 and two and a half feet and I --
48 I don't know. I guess anybody

125

126

1 5/19/21
2 could make a mistake, but when
3 we were talking in the beginning
4 about the elevation and where
5 we're measuring from, that to me
6 is just oh, we'll bring it into
7 compliance, we'll just move the
8 goal post.
9

10 CHAIRMAN MAMMINA: No.
11

12 VICE CHAIRMAN FRANCIS: I

13 think it's substantial,
14 definitely.
15
16 MEMBER DONATELLI: Yeah, I
17 would agree.
18
19 MS. ALGIOS: Well, does the
20 Board think that it would be
21 helpful if we requested the
22 applicant to submit an estimate
23 of the cost to rectify it?
24
25 MEMBER GOODSSELL: Doesn't
26 that just kind of kick the can
27 down the street --
28
29 VICE CHAIRMAN FRANCIS:
30 Yeah, I agree pat. I don't
31 think that necessarily helps us
32 make a decision. I actually
33 thought that it would be a lot
34 more than what David quoted. I
35 thought it would be closer to
36 60, 70,000.
37
38 CHAIRMAN MAMMINA: Well, I
39 said at least.
40
41 MEMBER GOODSSELL: It's hard
42 to say what's going on inside.
43
44 CHAIRMAN MAMMINA: Yeah, I
45 don't know how finished is the
46 inside.
47
48 MEMBER GOODSSELL: Exactly,

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1 5/19/21
2 can you only see the outside and
3 we'll never see the inside.
4
5 CHAIRMAN MAMMINA: -- would
6 be thrown away. You're not
7 going to reuse -- maybe the
8 trusses you would reuse, but the
9 other dimensional lumbar, no.
10
11 VICE CHAIRMAN FRANCIS:
12 Right. In addition to the
13 things that we've mentioned,
14 there maybe plumbing issues,
15 there maybe electrical issues
16 that are affected by lowering
17 the roof, I don't know. I would
18 imagine that there would be
19 other issues that would be

affected.

CHAIRMAN MAMMINA: If I were they, they might not even know well enough. I would you take an article 78 first before I would start to change the house just in desperation. I don't think we're wrong.

VICE CHAIRMAN FRANCIS: No.

MS. WAGNER: No.

VICE CHAIRMAN FRANCIS: And that's why it's good that we go through the factors because we need to justify what we're doing. Certainly I don't think we're acting arbitrarily or capricious.

MEMBER GOODSELL: Well again, not from a layman's stand point you're not, but the fourth question that I have here is, will it have an adverse effect either on the physical or environmental conditions.

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5/19/21

Physical, yes. I don't see the environmental one. We're not taking down trees or mountains or landmarks to do this, but physical, it's going to be the tallest house in the neighborhood.

MS. ALGIOS: But remember, it's height compliant.

MEMBER GOODSELL: Yes, and I'm listening carefully to the discussion about where we measure height from and this is where I have to differ to the experience of the Board. To me you measure height from the ground to the speak, but that's not the architectural standard.

MS. WAGNER: Well, if the preexisting grade that's -- because basically, what the chairman alluded to was that,

27 for example, you could raise
28 your grade after -- during
29 construction, you could raise
30 the grade and that -- if you
31 made the grade up here.
32
33 MEMBER GOODSSELL: Yep, yep.
34
35 MS. WAGNER: And then you
36 took a height from here to here,
37 it's going to be lower than it's
38 from here to here.
39
40 MEMBER GOODSSELL: No, I
41 know, I see that on.
42
43 MS. WAGNER: That's the
44 importance of taking preexisting
45 grade elevation. It's really --
46 it's not an elevation that's
47 necessarily reflected in reality
48 because it's a calculation, but

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1 5/19/21
2 basically, what it does is it
3 evens out that preexisting grade
4 so that, when the house is
5 actually built, you can't mess
6 around with the grade after
7 construction or during
8 construction. And then when the
9 final --

10
11 MEMBER GOODSSELL: Getting
12 all views on Zillow of this
13 property looking at the grade,
14 there's already an elevation
15 going on on the formally shorter
16 now taller side of the property.
17 There's already a couple of dirt
18 elevation up, and I know from
19 experience that when you start
20 elevating above your neighbor's
21 property, they're like, "Woah,
22 woah woah, where's your run off
23 going?" It's going onto my
24 property. What are you doing
25 about that?

26
27 VICE CHAIRMAN FRANCIS:
28 Right, right.
29

30 MEMBER DONATELLI: Well
31 there's an environmental concern
32 then.
33

MEMBER GOODSELL: That
would be an environmental
concern. If you're going to
raise even two feet here, you
are at some point, you are going
to be higher than the adjoining
neighbor and you either have to
build yourself a retaining wall
or you have to create drainage,
or you have to take some other
steps, then this absolutely will
be the most imposing house in
this little neighborhood.

MEMBER DONATELLI: Getting

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5/19/21
back to your original point
though, your earlier point, if
you were to try and mitigate by
bringing soil in, then that
would have -- all homeowners are
exposed to do that right, you're
supposed today grade the soil at
an angle from your house away,
but if it's to such an extent
that it's draining at an angle,
first of all, you're going to
have subsidence, so you're going
to have to constantly fill
again, but also, you're going to
be draining water to the
adjacent properties or to the
street.

CHAIRMAN MAMMINA: That was
a grasping at straws suggestion
on my part.

MEMBER DONATELLI: Well, it
was a good idea because this
really is very consequential and
I appreciate you throwing it out
there.

CHAIRMAN MAMMINA: Well,
he's got 30 feet to grade which,
by Long Island standards, is a
good amount of space, but again,
where I wrestle with that is
that it flies in the face of the
modification that was made to
the building code. I don't know
how many years ago it was
substantial. This will turn
into a mess for really, let's

41 forget about the architect --
42
43 MEMBER GOODSSELL: Elevating
44 the grade -- I'm again on
45 Zillow. Elevating the grade is
46 also going to be a mess for the
47 neighbor who is going to be two
48 feet lower. There's a slope

130

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1 5/19/21
2 going on right now between the
3 next door neighbor and this
4 house and the slope is gently
5 downward, so by elevating the
6 grade on this house, it is going
7 to create, in my opinion, a
8 problem for the next door
9 neighbor. He doesn't deserve
10 that. I don't know. It's a
11 beautiful house. I'm sorry the
12 plans are incorrect. It's a
13 beautiful house, but we don't
14 really have a choice but to say
15 we've got to draw the line
16 somewhere.

17
18 VICE CHAIRMAN FRANCIS:
19 Even with dry wells, I don't
20 think dry wells would be able to
21 capture all of the run-off from
22 this house, from this property.

23
24 CHAIRMAN MAMMINA: If you
25 put enough, they can, but that
26 doesn't speak to the visual.

27
28 VICE CHAIRMAN FRANCIS: No.

29
30 MS. WAGNER: Back to your
31 point about the homeowner. I
32 think the applicant has
33 expressed a question about the
34 times of the decision because
35 they're not able to move into
36 the home until it's completed
37 either, so this has all been
38 stopped in order to resolve this
39 situation, so that's something
40 that they've expressed as a
41 hardship.

42
43 VICE CHAIRMAN FRANCIS: And
44 that's a substantial hardship.

45
46 MS. WAGNER: So doing the
47 modifications would obviously

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5/19/21

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CHAIRMAN MAMMINA: Plus, depending on how far along they are, we rip everything off, it rains, it drips down to the rest of the house.

MS. WAGNER: Well, they would also have to get the plans for the new framing approved by the building department.

CHAIRMAN MAMMINA: Right.

MS. ALGIOS: And also, I'm just wondering, and David, maybe you can answer this, but by changing that slope to bring down the eave height and maybe they may decide to even go up a little since they have room to go up, is that going to substantially change the look of the house?

CHAIRMAN MAMMINA: My feeling is no, but at some point in history on recommendation of I'm not sure who, I don't remember, but a limit was put on it. There are --

MS. ALGIOS: No, I realize that there was a limit put on it, but that's why they're here before you now.

CHAIRMAN MAMMINA: Yeah, of course and that's why we're here.

MS. ALGIOS: So I'm asking the question because, again, there is a cost involved here and I'm asking whether or not if they change it now and go through that expense of taking

132

1 5/19/21
2 the roof off and whatever other
3 changes they have to make and
4 change that and change that
5 slope, and again, they could
6 possibly go up, is that going to
7 substantially change the look of
8 the house, because that's what,
9 from your discussion, I can hear
10 the Board, you're looking at
11 that, the way the house looks
12 and its impact, so is it going
13 to be a big change. I guess,
14 just as a lay person looking at
15 the plans now, I'm just
16 wondering that.

17
18 CHAIRMAN MAMMINA: I think
19 if you were driving down the
20 street and you saw this house,
21 or you saw this house with the
22 eaves two and a half feet lower,
23 I still think you would say well
24 that's a monstrous house, so I
25 don't think it would really --
26 it's going to stand out one way
27 or another and do I really think
28 that someone would say "Gee, if
29 only those eaves were two and a
30 half feet lower, it wouldn't
31 look so bad." The only thing
32 that I put into this, and I know
33 it's not correct to put this in
34 and honestly I don't know him at
35 all. Probably even right now if
36 I had a car accident with him, I
37 wouldn't realize who he was, but
38 this guy has been coming before
39 our Board, the architect I'm
40 saying, for many years and he
41 does a nice job. He's a very
42 straight shooter and he screwed
43 up. I know that mercy and
44 sympathy are not one of the
45 tests, but I'm thinking more of
46 the homeowner too. That to me.

47
48 VICE CHAIRMAN FRANCIS:

1 5/19/21
2 Let's look at this from a

3 different direction. If we were
4 inclined to grant this
5 application, how would we go
6 about distinguishing this house
7 from any other application or
8 any future applications, because
9 if we could do that, then we'd
10 have a comfort level in terms of
11 granting it, but without that
12 sell he will agree.

13
14 VICE CHAIRMAN FRANCIS: I
15 don't see -- if we can
16 distinguish it somehow, then we
17 have some legs to stand on in
18 terms of granting something that
19 we normally would not grant.

20
21 MEMBER GOODSSELL: We're
22 already starting off with two
23 strikes because it's relatively
24 level playing field here and no
25 house has this extended roof
26 line. You're right, if we can
27 do this because again, I am
28 sympathetic to the homeowner who
29 doesn't review architectural
30 plans. The architect is the one
31 that says this is what we can do
32 and the homeowner says oh, my
33 God. That looks so gorge
34 justice.

35
36 VICE CHAIRMAN FRANCIS: Of
37 course. One distinguishing
38 factor is that it's a corner
39 property so that's one thing. I
40 don't know how many corner
41 properties we're going to get
42 that are going to look like
43 this.

44
45 MEMBER GOODSSELL: I guess
46 number two is that it is not
47 absolutely flat level to begin
48 with. The side which has the

1 5/19/21
2 higher height has a slight grade
3 up and then a grade down, so
4 it's not a flat, level piece of
5 property. As I'm doing the 360
6 view. It's not -- I didn't
7 notice it driving by, but I'm
8 noticing it from the Zillow,
9 it's not a completely flat

10 property. It's not a hill,
11 that's not a hillside, but it is
12 a gentle slope up and then down,
13 so the house does sit on a hill,
14 a natural hill; a small one, but
15 I hill.

16
17 MS. WAGNER: Les, I think
18 you discussed the significant
19 side yard on this property
20 before so it would most likely
21 be different on the smaller
22 piece of property.

23
24 VICE CHAIRMAN FRANCIS:
25 Uh-huh.

26
27 MS. WAGNER: Although they
28 don't need to comply with the
29 sky exposure plane requirements.
30 I don't know whether they would
31 or not, but that's a factor as
32 well.

33
34 VICE CHAIRMAN FRANCIS:
35 Right.

36
37 MS. WAGNER: I believe they
38 probably would on that side
39 yard, certainly, but I don't
40 know about the rear.

41
42 CHAIRMAN MAMMINA: Does he
43 have --

44
45 VICE CHAIRMAN FRANCIS: Sky
46 plane --

47
48 CHAIRMAN MAMMINA: I kind

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1 5/19/21
2 of lake that as an idea. --
3 significantly moved away from
4 the sky plain. That's also for
5 the sky plane is to determine
6 that eave height in that way as
7 well.

8
9 VICE CHAIRMAN FRANCIS:
10 Right.

11
12 MS. ALGIOS: So that might
13 be a distinguishing factor.

14
15 CHAIRMAN MAMMINA: Right.
16

17 MS. ALGIOS: Because this
18 is a corner. They don't have
19 that sky plane where as other
20 homes that are mid-block in this
21 neighborhood eventually do the
22 same thing, they're going to end
23 up having -- they're going to
24 have more variance issues.

25
26 VICE CHAIRMAN FRANCIS:
27 Right. Does this direction make
28 sense to you?

29
30 MEMBER DONATELLI: I don't
31 see a sky plane.

32
33 MS. WAGNER: No, Dan. They
34 don't have to -- they don't need
35 to meet that criteria because
36 it's additions. They only need
37 to meet it when it's new
38 construction. No, I was saying
39 that that was something that the
40 Board would use as a --
41 artificial criteria to determine
42 whether an addition did have an
43 impact, even though it wasn't an
44 actual regulation that was
45 enforced.

46
47 CHAIRMAN MAMMINA: I don't
48 know. Without kicking the can

136

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1 5/19/21
2 down the road, we could ask him
3 for that. I think we lean one
4 way then we lean the other way.
5 Both valid.

6
7 MEMBER GOODSELL: About the
8 only question I have no
9 difficulty with was the alleged
10 difficulty self-created.

11
12 VICE CHAIRMAN FRANCIS:
13 Yeah, for sure.

14
15 MEMBER GOODSELL: Yeah, I
16 can answer that one.

17
18 MEMBER DONATELLI: David,
19 let me just ask you another
20 question. Getting back to the
21 point about the ridge of the
22 roof, if the applicant were to
23 make the roof higher, in other

24 words, the eave height is really
25 dictated by the distance from
26 the roof ridge to the side walls
27 of the house, so whatever that
28 relationship is between the
29 ridge of the roof and the side
30 wall, because obviously the roof
31 has to extend to the side wall
32 for -- and then you get your
33 grade of the pitch of the roof,
34 so if the applicant were to make
35 it higher, the ridge higher, but
36 then to slope it down more to
37 come up with a compliant eave
38 height and if he were to do that
39 again without the need for a
40 variance, so if he were to make
41 the house compliant, visually,
42 the impact would probably be
43 more or less the same. All
44 you're doing is removing bulk
45 from one portion and
46 transferring it to another
47 portion.
48

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1 5/19/21
2 CHAIRMAN MAMMINA: Yeah, I
3 think that's kind of where
4 Deborah was going before with
5 one of her thoughts regarding
6 this because yeah, now it's
7 going to be taller.
8
9 MEMBER DONATELLI: I have
10 to say, I'm very concerned about
11 the issue at precedent, but as I
12 go through the five factors, I'm
13 starting to lean the other way.
14 I acknowledge that this is
15 really quite onerous and even
16 though there maybe some
17 professionals who may in fact
18 have some exposure for the
19 errors that were made on the
20 plans, I think that this is
21 really going to be quite onerous
22 to take down the roof line and
23 to make this house compliant
24 because it's still going to have
25 more or less the same visual am
26 packet.
27
28 VICE CHAIRMAN FRANCIS:
29 Yeah.
30

31 CHAIRMAN MAMMINA: That I
32 agree with.

33
34 VICE CHAIRMAN FRANCIS: And
35 David said, when everything is
36 said and done, these homeowners
37 maybe out of this house for well
38 over a year before things get to
39 the point where alterations are
40 being made.

41
42 CHAIRMAN MAMMINA: I think
43 that's if they're lucky.
44 Everyone else is an attorney. I
45 know from a couple of few times
46 that I was sued when I was in
47 private practice, I mean, those
48 suits went on for three-year,

138

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1 5/19/21
2 4 years, 5 years and that was
3 not abnormal.

4
5 MEMBER DONATELLI: How do
6 we -- I'm not really convinced
7 as to how we can distinguish
8 this.

9
10 CHAIRMAN MAMMINA: Well,
11 that's why I'm thinking -- going
12 to Virginia's thought, even
13 though it's not required, how
14 would the sky plane fit in here
15 from his side property line and
16 his rear property line because
17 his site is over 9,000 square
18 feet and I think -- is 8500 the
19 size, Virginia, for the site in
20 A or is it 8,000.

21
22 MS. WAGNER: You need 8500.

23
24 CHAIRMAN MAMMINA: 8500. I
25 think he has like 93 or 94, I
26 think. It's at the bottom of
27 one of the charts.

28
29 MS. ALGIOS: It seems like
30 the fact that it's a corner lot
31 is making this unique because of
32 the way it's situated, the
33 impact is less than it would be
34 on any of the other homes that
35 have on either side of it
36 enclosed.

37

38 VICE CHAIRMAN FRANCIS:
39 Right.
40
41 CHAIRMAN MAMMINA: That
42 could be the distinction because
43 --
44
45 MS. WAGNER: I'm not sure
46 --
47
48 CHAIRMAN MAMMINA: Even

139

140

1 5/19/21
2 though that's a rear yard, based
3 on the building department --
4 well, if it was a rear yard it
5 could be 15 -- no, I don't know
6 if it would be 15 feet in that
7 zoning district, but the point
8 is, he's got a big chunk of land
9 there, which when you drive by
10 the house you wouldn't say, oh,
11 that's a rear yard, you'd say
12 oh, that's a side yard.

13
14 VICE CHAIRMAN FRANCIS:
15 Right.

16
17 CHAIRMAN MAMMINA: So when
18 we get to the conventional lots
19 that are going to move down the
20 block that, you know to make up
21 85 feet might be 85 times a
22 hundred, but there are going to
23 be substantially anywhere lower
24 than this lot would be. I think
25 it was well over a hundred feet,
26 I think from the site plan, so
27 it would almost be if you turn
28 the house side ways if you were
29 mid-block, so therefore the
30 proximity of this to a neighbor
31 -- I mean, it turns a block in
32 sunlight -- that's a bunch of
33 blah, blah, blah, because the
34 sun changes its angle every
35 single day of the year and this
36 being two feet higher, I can
37 guarantee you, his shadow is
38 never hitting this guys house.

39
40 MEMBER GOODSELL: I think I
41 would agree with that. I think,
42 again, the uniqueness, the fact
43 that it's a corner lot lessens
44 the impact on the neighborhood,

45 although there is an impact.
46 Again, I'm looking at the roof
47 just visually, the roof lines of
48 the other houses in the area.

140

141

1 5/19/21
2 The corner lot does lessen the
3 impact.
4
5 VICE CHAIRMAN FRANCIS:
6 Yeah. Yeah that definitely
7 seems to be the main mitigating
8 factor.
9
10 MEMBER DONATELLI: I'm
11 starting to agree.
12
13 VICE CHAIRMAN FRANCIS: I
14 certainly was on the other side
15 of this argument when we first
16 started, but the more I thought
17 about it, the more I think about
18 it.
19
20 MEMBER DONATELLI: And it
21 was helpful to go through the
22 five factors.
23
24 MEMBER GOODSELL: If
25 there's going to be a house
26 that's going to be two and a
27 half feet too high, this is the
28 type of neighborhood that it
29 should be in and not the 40 by a
30 hundred lots in the smaller
31 section of New Hyde Park. It
32 obviously meets floor area
33 ratio. It is going to be a very
34 spectacular house, and yes, I've
35 had clients that have been
36 homeless while this is being
37 constructed and we'll never know
38 if they went to the architect
39 and said we want this house that
40 was built somewhere else, we
41 design it for us or whether this
42 is truly a mistake. I'm just
43 amazed at how many mistakes get
44 made. Sorry.
45
46 MEMBER DONATELLI: Well,
47 that's what's maddening. We
48 still don't have a very clear

141

1 5/19/21
2 answer, even at this late stage.
3

4 VICE CHAIRMAN FRANCIS:
5 Yeah. That's where I had
6 trouble also.
7

8 CHAIRMAN MAMMINA: Yeah, I
9 thought that he would have
10 fought harder for himself even
11 in presenting. Yes, it was a
12 mistake. Here it was. I think
13 he -- my recollection is that he
14 basically admitted that there
15 was an error.
16

17 VICE CHAIRMAN FRANCIS:
18 Yeah I think you finally got to
19 that point, but I think he threw
20 a lot of smoke --
21

22 CHAIRMAN MAMMINA: It took
23 him a little while to come
24 around to it.
25

26 VICE CHAIRMAN FRANCIS:
27 Right so, I don't know. What do
28 you want to do.
29

30 CHAIRMAN MAMMINA: --
31 inclined to approve it. I mean,
32 everybody else is an attorney
33 who is on the screen now. I
34 think we would have to write
35 some kind of findings.
36

37 MS. WAGNER: Could you hold
38 on for just one second.
39

40 (Whereupon, an
41 off-the-record discussion was
42 held.)
43

44 MS. ALGIOS: Okay. Sorry
45 about that.
46

47 CHAIRMAN MAMMINA: It
48 sounded like we're leaning

1 5/19/21
2 toward trying to put together an
3 approval.

4
5 MS. ALGIOS: Okay.

6
7 MEMBER DONATELLI: Yeah.
8 So if you wanted to put together
9 some findings, one of the most
10 important issues for me would be
11 the fact that the house could
12 have been built -- the ridge of
13 the house could have been built
14 higher and that the eve height,
15 of course, should have been
16 built lower, but the same bulk
17 would have presented to the
18 street, so in other words, to
19 require compliance to lower the
20 eave height would probably only
21 result in a greater height of
22 the overall height of the house,
23 which is almost
24 counterproductive. That's one
25 of the things that I think
26 really is the distinguishing
27 factor for me. In addition to
28 what is undoubtedly a large cost
29 for requiring compliance, I
30 think we've heard that it's
31 because it's on the corner that
32 it is probably the visual impact
33 is mitigated by the size of the
34 lot and the distance from the
35 street. Those are the things
36 that I would really want in some
37 sort of findings.

38
39 MS. ALGIOS: Yeah.

40
41 VICE CHAIRMAN FRANCIS:
42 Yeah.

43
44 MS. ALGIOS: Agreed.

45
46 MEMBER GOODSELL: I am
47 sympathetic. I really am
48 sympathetic with the homeowner.

143

144

1 5/19/21

2
3 VICE CHAIRMAN FRANCIS: I
4 think we all are.

5
6 CHAIRMAN MAMMINA: Yeah.

7 This is a tough one.

8
9 MS. ALGIOS: Is somebody
10 ready to move this.

11
12 MS. WAGNER: Is that your
13 neighborhood, right Patricia.

14
15 MEMBER GOODSSELL: Yes. All
16 right, I would make a motion
17 with reluctance that we do
18 approve the variance requested
19 for the reasons that we've
20 stated.

21
22 CHAIRMAN MAMMINA: Do we
23 have a second.

24
25 MEMBER DONATELLI: I'll
26 second.

27
28 CHAIRMAN MAMMINA: Seconded
29 by Mr. Donatelli. Please poll
30 the Board.

31
32 MS. WAGNER: Member
33 Goodsell.

34
35 MEMBER GOODSSELL: In favor.

36
37 MS. WAGNER: Member
38 Donatelli.

39
40 MEMBER DONATELLI: Aye.

41
42 MS. WAGNER: Vice chairman
43 Francis.

44
45 VICE CHAIRMAN FRANCIS:
46 Aye.

47
48 CHAIRMAN MAMMINA: Aye.

144

145

1 5/19/21

2
3 MS. WAGNER: Granted.

4
5 MS. WAGNER: That was
6 Appeal #21030, Xing Xang 288
7 Continental Drive, New Hyde
8 Park; Section 8, Lot 269, Lot 14
9 in the Residence-A Zoning
10 District. Variances from 73-27
11 to legalize an additional eave
12 height that is too high. And it
13 was granted 40 grant.

14 MS. WAGNER: So the next
15 one to discuss is Appeal #21051
16 when Deborah returns. Ping
17 Chong, 1010 North 3rd Street,
18 New Hyde Park, Section 8, Block
19 4, Lot 38 in the Residence-C
20 Zoning District.

21 Variances from
22 7100.2(A)(4)(B), 70-49, 72-08(F)
23 and 72-29(A) and special
24 exception from 72-31 to legalize
25 fencing that is too tall and
26 legalize a garage addition and
27 roofed over patio on a detached
28 garage that is too wide and
29 larger than the overall
30 permitted size in a
31 nonconforming property which
32 does not comply with the former
33 BZA decision, Appeal #20763.

34
35 MEMBER GOODSELL: This is
36 down here near my office and I
37 drove past this again just to
38 take a look, and I have to
39 say, I like the homeowners very
40 much. I know exactly how this
41 happened that they wound up
42 buying this because I recognized
43 who represented them and they
44 really did want to comply. They
45 took out a perfectly decent pool
46 and a little deck. I would
47 normally tell the Board it's not
48

145

146

1 5/19/21
2 out of compliance with the
3 neighborhood, there's nothing
4 wrong, but there's this whole
5 area ratio issue, which again,
6 is a little beyond me at this
7 point and if this was not a
8 floor area ratio case, I would
9 say, I would grant the variance,
10 so I would like to hear
11 everybody's opinion on that, and
12 I think we've figured out where
13 the excess floor area ratio is.
14 That's that bump out on the
15 garage.

16
17 VICE CHAIRMAN FRANCIS:
18 Right.

19
20 CHAIRMAN MAMMINA: Right.

21 I know we had a lot of back and
22 forth as to was that there
23 originally. That would have
24 predated that. Did it have a
25 permit.
26
27 MS. ALGIOS: Well Patricia,
28 I printed that up, that property
29 card. I was curious as to why
30 you thought that that was
31 referring to something else
32 because it looks like it is
33 referring to that bump out.
34
35 MEMBER GOODSELL: I am
36 pulling it up myself.
37
38 MS. ALGIOS: Yeah, take a
39 look again. It looks to me.
40
41 MEMBER GOODSELL: The
42 reason that that's on the tax
43 diagram, if you look at the card
44 itself, the garage is 24-foot by
45 24, or 21 by 21. I Box.period.
46 A box. Period. That's the
47 permit from the 1960s. There
48 was other stuff done in the 70s

146

147

1 5/19/21
2 and I'm going to bet you that
3 the bump out in the garage was
4 added in the 70s.
5
6 MS. ALGIOS: Yeah, it was
7 Patricia. 75. If you look up
8 at the top, it says tool shed
9 attached to back and it's the
10 same secretary length as the
11 garage and it was done in 1975.
12
13 VICE CHAIRMAN FRANCIS:
14 Right. It's in the code.
15
16 CHAIRMAN MAMMINA: They did
17 have a permit though. I think
18 that was what came up because
19 lots of times, the property card
20 will show something, but it
21 doesn't necessarily mean it was
22 filed for. It didn't bother me.
23 It was this little bump on
24 there.
25
26 VICE CHAIRMAN FRANCIS:
27 Yeah.

28
29 MEMBER GOODSSELL: It's a
30 ten-foot by ten-foot bump and if
31 it does not bother the Board, I
32 have to say, it does not bother
33 me at all.
34

35 MEMBER DONATELLI: Well,
36 let me approach it from the
37 other side. I mean, when this
38 application came before us, what
39 was it a year or two years ago
40 and we were asked to approve the
41 front and rear yard enclosures,
42 I personally, that application
43 for me was a little bit easier
44 knowing that it was not going to
45 be over the gross floor area
46 because the applicant had
47 proposed to take down this bump
48 out on the garage and now the

147

148

1 5/19/21
2 applicant is back to us saying
3 no, I want to leave the bump out
4 on the garage, which now puts it
5 over the area again.
6

7 MS. WAGNER: Dan, I think
8 the prior application did
9 include a GFA variance.
10

11 MEMBER DONATELLI: I don't
12 --
13

14 MS. WAGNER: Yeah, I think
15 what happened was the prior
16 application was for GFA -- I
17 think there were some other
18 things that were also being
19 asked for. An enclosed porch
20 possibly?
21

22 MEMBER DONATELLI: Well, it
23 was the two porches, the front
24 and the rear porch.
25

26 MS. WAGNER: Right, button
27 that prior application, it said
28 -- the plans said that this
29 little piece would be removed.
30

31 MEMBER DONATELLI: Right.
32

33 MS. WAGNER: So in other
34 words, the Board granted a GFA

35 variance, it was just for less
36 than what it would be now just
37 with that little piece on there.
38

39 MEMBER DONATELLI: Yes,
40 okay. Thank you. I misstated.
41

42 MS. WAGNER: No in other
43 words it was -- I forget what
44 the prior number was, but now.
45

46 MEMBER DONATELLI: Now
47 they're look for a hundred --
48 no, I'm sorry, they're looking

148

149

1 5/19/21
2 for two -- 367, I think, they
3 are now over.
4

5 MS. WAGNER: Yeah, 3167.
6 But I'll also note, I recall
7 from the prior applications,
8 this is an oversized property
9 for the zone. They don't
10 qualify for a bump up, but they
11 are -- they need 5,000 square
12 feet for an RC zone and -- let
13 me just bring up the plans.
14

15 MEMBER DONATELLI: It looks
16 like 8,000.
17

18 MS. WAGNER: 8,000. Okay,
19 thank you.
20

21 MEMBER DONATELLI: Well,
22 it's larger than required, but
23 they do have a gross -- do we
24 recall that the variance was
25 that we granted, s the gross
26 floor area variance that we
27 granted on the first
28 application?
29

30 MS. WAGNER: You mean what
31 the numbers were.
32

33 MEMBER DONATELLI: Yeah.
34

35 MS. WAGNER: Hold on just a
36 sec. Let me get someone to look
37 that up for us.
38

39 MEMBER DONATELLI: And also
40 while ginny is looking that up,
41 is the garage now so large that

42 the square footage is being
43 added to the GFA, is that the
44 deal? Is it over 300 square
45 feet.

46
47 CHAIRMAN MAMMINA: I think
48 that's what put it over, was

149

150

1 5/19/21
2 300.

3
4 MEMBER DONATELLI: So
5 that's what's putting it over.

6
7 VICE CHAIRMAN FRANCIS:
8 Right.

9
10 CHAIRMAN MAMMINA: Then I
11 said, if I wanted to be a wise
12 guy, is it a garage or is it a
13 shed. It's not like you can
14 park your car in it.

15
16 MS. WAGNER: Okay, just
17 trying to get those numbers.

18
19 CHAIRMAN MAMMINA: I guess
20 the question is, if that was a
21 shed that was just sitting on a
22 concrete pad out there, would
23 that make it okay?

24
25 MEMBER DONATELLI: You mean
26 if that bump out were detached
27 from the garage.

28
29 CHAIRMAN MAMMINA: Yeah, it
30 was just sitting detached from
31 the garage.

32
33 MS. WAGNER: So Dan, the
34 total would be 3,280 square
35 feet, including that little
36 piece and right now, not
37 including that it's the 3167, so
38 it's adding that hundred and
39 10 square feet --

40
41 MEMBER DONATELLI: Yeah,
42 because the garage itself is
43 oversized and it's adding to the
44 square footage, right? Isn't
45 there a limit of 300 square
46 feet.

47
48 MS. WAGNER: Right. That's

1 5/19/21
2 the thing. It's over 300 square
3 feet, so it's added to the gross
4 floor area, and also the garage,
5 because of that little piece in
6 the back is considered to, I
7 think too wide.

8
9 MEMBER DONATELLI: Right.

10
11 CHAIRMAN MAMMINA: It
12 wasn't the full length of the
13 garage though?

14
15 MS. WAGNER: No, it was
16 just that little piece in the
17 back.

18
19 MEMBER DONATELLI: The
20 fence -- I can actually even
21 justify the fence because even
22 though this is the applicants
23 fence, it is the rear -- it is
24 along the rear yard of the
25 adjoining neighbor, so an
26 argument can be made for at
27 least the fence, but I think to
28 nudge this property toward
29 compliance, I think I'm -- as I
30 go through the five factors, I
31 think we should require the
32 removal of that rear yard. GFA
33 for me really is very important.

34
35 CHAIRMAN MAMMINA: They
36 said they were going to renew it
37 initially and the thing is, he
38 could put a little storage shed
39 someplace else on the property
40 where it would be compliant,
41 right, because he he'd have to
42 be three feet from the property
43 line on the two sides with that.

44
45 MEMBER DONATELLI: And he's
46 got plenty of room since the
47 pool has been removed.

48

1 5/19/21
2 CHAIRMAN MAMMINA: Right.

3
4 VICE CHAIRMAN FRANCIS:
5 Yep.

6
7 MEMBER GOODSELL: Yes, but
8 we have to remember that the
9 little hundred and 10-square
10 foot shed or garage addition is
11 brick and it appears to be built
12 onto the garage and removal
13 isn't just taking a couple of
14 stakes up. It's a removal.

15
16 CHAIRMAN MAMMINA: Yeah. I
17 do remember that in my opinion,
18 that piece was built when the
19 garage was built. I mean that
20 brick and the mortgage arrest
21 and everything look identical.
22 I don't know if it had a permit.
23 I don't think that they
24 presented anything because if it
25 did, then it predates the floor
26 area ratio.

27
28 MS. ALGIOS: It looks like
29 it was built about 11 years
30 later.

31
32 CHAIRMAN MAMMINA: After
33 the house.

34
35 MS. ALGIOS: Yeah, after
36 the garage.

37
38 CHAIRMAN MAMMINA: So it
39 was built afterward.

40
41 MS. ALGIOS: They added on
42 that porch area and shed.

43
44 MEMBER DONATELLI: If you
45 take a look the front elevation
46 that's part of the application,
47 you'll see that the garage is
48 perfectly symmetrical as you

1 5/19/21
2 look at it from straight on, but
3 then in the rear is to the left

4 side is that in addition that
5 makes it not symmetrical.
6

7 CHAIRMAN MAMMINA: What's
8 the number of that one so I can
9 --

10
11 MEMBER DONATELLI: 21051.
12 It's page A3.
13

14 CHAIRMAN MAMMINA: Yeah.
15 They had the electrical line
16 going across there.
17

18 MEMBER DONATELLI: By the
19 way, if you take a look at page
20 A four at the very bottom,
21 there's detached garage plan,
22 and it's showing the square
23 footage, the gross floor area
24 for the garage itself at
25 568 square feet, plus then the
26 additional enclosure of another
27 hundred and 10 square feet, so
28 that brings the detached garage
29 total to 648 square feet and it
30 puts the entire house and garage
31 at 3280 at ginny said, that
32 appears at the very bottom right
33 of page A four.
34

35 CHAIRMAN MAMMINA: Yeah, I
36 see it.
37

38 MEMBER GOODSSELL: I see it
39 also.
40

41 MS. WAGNER: I'm sorry.
42 What's the question?
43

44 MEMBER DONATELLI: I was
45 just pointing out where you got
46 the numbers from. They appear
47 on the bottom of page 84.
48

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1 5/19/21

2 MS. WAGNER: Okay. I was
3 just clarifying with the plans
4 examiner because I think we
5 realized the last meeting that
6 the roofed over piece on the
7 garage I don't believe requires
8 a variance. I think that was
9 part of what they need to
10 legalize, but I don't believe it

11 needs a variance, so I'm waiting
12 for a call back from the plans
13 --
14
15 CHAIRMAN MAMMINA: I think
16 that I would agree with you
17 because it would be open on two
18 sides so it wouldn't contribute
19 to the floor area --
20
21 MS. WAGNER: No, I know it
22 doesn't contribute to the floor
23 area, but I didn't know if they
24 needed any type of variance. I
25 don't think they do. I looked
26 in the -- and I don't see it. I
27 think it was just included in
28 our caption because it was part
29 of what's included on the
30 definition -- the description of
31 the disapproval.
32
33 MEMBER DONATELLI: It may
34 have been included or failure to
35 comply with the prior BZA
36 decision --
37
38 MS. WAGNER: Right,
39 exactly. That was -- I think it
40 was on the plan, you're right,
41 Dan. So what is everybody
42 thinking?
43
44 MEMBER GOODSELL: Again, I
45 have to defer to the Board on
46 GFA because if that is really a
47 strong consideration, then
48 they've got to lose 370 or

154

155

1 5/19/21
2 367 square feet somewhere to
3 comply and they can't do it with
4 the house and if the roof over
5 does not count, then I do not
6 see any other way for them to
7 comply. They did originally
8 agree. They apparently did
9 change their mind. I read the
10 other decision and they're
11 asking to keep it, so I would
12 have to defer to what everybody
13 else thinks because if this
14 clearly does exceed GFA, then
15 there's something that can be
16 done about that.
17

18 CHAIRMAN MAMMINA: Well, I
19 guess I can argue it either way.
20 If I were to argue it pro, I
21 would say that, in the instances
22 where we have approved the GFA,
23 there typically areas that just
24 fill in the back of a house
25 where no one would see them. I
26 mean, clearly no one sees this.
27 It doesn't increase the visual
28 impact of the house. It
29 definitely predates the zoning
30 based on the card, but more than
31 that, the 300-square foot
32 limitation was brought into the
33 zoning so that people could not
34 take a garage that otherwise
35 would be built into their house
36 and say, hey, I know what I'll
37 do. I'll take that 300 square
38 feet because the garage did not
39 count as floor area and I'm
40 going to take it out of the
41 house, put it in the back corner
42 and now the whole thing doesn't
43 count as floor area and I got a
44 bigger house, so the Board felt
45 it was reasonable to have a one
46 car garage and that 300 square
47 feet is a reasonable size
48 garage, and I would agree that

155

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1 5/19/21
2 300 square feet is a reasonably
3 sized garage, but you can't
4 build a two-car garage then and
5 it basically prevented you on an
6 addition or on a new house from
7 taking that ability of
8 increasing the house and had
9 your cake and eat it too, so if
10 we wanted to separate it, we
11 could separate it in that way
12 that it does not -- I don't know
13 what the word is that I want.
14 It does not comport with the
15 reasons why the town Board
16 instituted the 300-square foot
17 limitation. It was there,
18 permit or no permit. It shows
19 up on the property card from
20 something that was 11 years
21 after the house was built, so it
22 predates the zoning, and then
23 also, nobody else sees it. They
24 got a six-foot sense in their

backyard and it's not visible,
so I think we could distinguish
it in that way, and I don't
think we're going to get 20
other applications like this
that are going to come in.

MS. WAGNER: The other
thing is as I mentioned before
that it is an oversized
property. If they -- the
residence B zoning district,
which is the next higher
classification, has a
3400-square foot maximum GFA.
They would still be under that.
They weren't allowed to bump up
probably because they -- side
yard setbacks.

CHAIRMAN MAMMINA: Because
there is a way that you can get
an increase in floor area.
Let's say you have an oversized

156

157

5/19/21
lot in let's say a residence B,
but if you want to move to a
residence A and you have an
8500-square foot lot, you have
to have the required side yard
that the residence A has, which
I think is 15 feet, in that
instance, so it does recognize a
larger parcel of property in a
lower zone.

MEMBER DONATELLI: David,
do we know if this area was ever
rezoned.

CHAIRMAN MAMMINA: I don't
know. I don't know. Let me
just --

MS. WAGNER: This is New
Hyde Park.

CHAIRMAN MAMMINA: There
was that section.

MS. WAGNER: Yeah, I don't
know if it's in section --

CHAIRMAN MAMMINA: --
Clinton G. Martin District, he

32 didn't want to live in a
33 Residence-C Zone, so he had the
34 zone changed to B and that's why
35 we get so many applications in
36 that one part of New Hyde Park
37 because they were all built with
38 setbacks of the C and B is not
39 really what the character of the
40 neighborhood is.

41
42 MS. WAGNER: So that area
43 is south of mark us avenue, east
44 of New Hyde Park Road and north
45 of Hillside Avenue. It was
46 zoned Residence-C until 1945 and
47 then it was up zoned today
48 Residence-B.

157

158

1 5/19/21
2

3 MEMBER GOODSSELL: This is
4 south of Hillside Avenue. This
5 is not the north of Hillside
6 Avenue. I don't think it's in
7 the Clinton G. Martin section.
8 It's between Jericho and
9 Hillside. It's bordered on the
10 other side by maybe Lakeview
11 Road and possibly Hillside
12 Boulevard, so it's not there.
13 What they have does not seem out
14 of character with the
15 neighborhood. If I were
16 visually looking at it, again,
17 I'm not as familiar with GFA,
18 but I wouldn't be able to tell
19 you. I wouldn't be able to look
20 at this and tell you this is
21 overbuilt.

22
23 CHAIRMAN MAMMINA: I think
24 we can distinguish this, and the
25 major reason for the GFA was to.
26

27 MEMBER GOODSSELL: Yeah, and
28 I've had clients who have done
29 that. They absolutely -- they
30 took the garage and they
31 cannibalized it into a dining
32 room or bedroom or something
33 like that and put a garage in
34 the back because the garage
35 didn't count, so yes, I have
36 seen that. I know this couple
37 didn't do this, but they could
38 sell to somebody who wouldn't

39 care about the GFA and would try
40 to improve it , but again, it
41 doesn't offend me because it's
42 not out of character with the
43 neighborhood, it doesn't
44 visually impact and it does not,
45 in my opinion, create an adverse
46 effect. This is a developing
47 neighborhood, you're beginning
48 to see different style houses,

158

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1 5/19/21
2 you're beginning to see second
3 story additions, so the houses
4 have two full stories, first and
5 second. This is a little bit
6 older. I, again, don't -- if
7 there was a way to grant this, I
8 would be in favor of granting
9 it, but again, I defer to the
10 Board if there's really
11 something here that offends the
12 Board.

13
14 VICE CHAIRMAN FRANCIS: No,
15 I'm fine with --

16
17 CHAIRMAN MAMMINA: And
18 again, I think the fact that it
19 can be documented by the
20 property card that it predates
21 the zoning and somebody could
22 come in and ask for that same
23 amount of square footage, but
24 they would have to be able to
25 meet those same standards and
26 basically have a little storage
27 shed that's part of an existing
28 garage --

29
30 MEMBER GOODSELL:
31 Interestingly enough, if this
32 addition to the garage was taken
33 out and they went out and
34 brought a ten by ten rubber-made
35 shed and put it in the corner of
36 the garage, it would not be a
37 problem.

38
39 CHAIRMAN MAMMINA: Right.

40
41 MEMBER DONATELLI: Speaking
42 for myself, but I'm convinced by
43 the fact that it predates the
44 zoning code and that for me is a
45 key factor since they have

46 proven that it was added
47 11 years after the construction,
48 so I'm also okay with this.

159

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1 5/19/21

2

3 CHAIRMAN MAMMINA: Is that
4 a motion and a second?

5

6 VICE CHAIRMAN FRANCIS: Can
7 we talk about the fence --

8

9 MEMBER GOODSELL: We do
10 have to talk about the fence.

11

12 VICE CHAIRMAN FRANCIS: Is
13 there a six-foot fence in the
14 side yard as well as the rear
15 yard.

16

17 CHAIRMAN MAMMINA: Yes,
18 because they had a pool.

19

20 MS. WAGNER: They had a
21 pool.

22

23 VICE CHAIRMAN FRANCIS: The
24 side yard fence, I thought I
25 heard Dan say that that was the
26 backyard of the adjoining house,
27 is that what I heard? Is that
28 correct.

29

30 MEMBER GOODSELL: No, this
31 is not -- this is a mid-block
32 house. This is not.

33

34 VICE CHAIRMAN FRANCIS:
35 Okay.

36

37 MEMBER DONATELLI: Hold on
38 because I did say that --

39

40 MEMBER GOODSELL: No, what
41 it lacks like is the fence, the
42 six-foot part is running along
43 the back, running along the side
44 and then there's a short piece
45 from the property line, it look
46 to be about three feet from the
47 property line to the back of the
48 house. The small part of the

160

1 5/19/21
2 fencing that comes to the front
3 of the house and is level with
4 the front of the house is four
5 feet. 3 or 4. It's very short.
6

7 MEMBER DONATELLI: Can we
8 share the screen. Can we take a
9 look at that.

10
11 MS. WAGNER: I read your
12 mind Dan, I'm doing that right
13 now.
14

15 MEMBER GOODSELL: Okay.
16 There you go.
17

18 MS. WAGNER: That's the
19 prior. It still shows the pool.
20 Let me get the plan up.
21

22 VICE CHAIRMAN FRANCIS: The
23 six-foot fence in the side yards
24 got to go.
25

26 MEMBER DONATELLI: Well,
27 where are we referring to now.
28

29 CHAIRMAN MAMMINA: Could
30 you scoot that up one little
31 bit, ginny.
32

33 MS. WAGNER: Yeah.
34

35 CHAIRMAN MAMMINA: It's a
36 hundred feet from the corner, so
37 that's got to be --
38

39 MEMBER GOODSELL: That's
40 two houses away. That's a 50
41 and a 50.
42

43 CHAIRMAN MAMMINA: Oh, a 50
44 and a 50. Okay. Yep, you're
45 correct. And that's a side
46 yard.
47

48 MEMBER GOODSELL: It is

5/19/21

clearly a side yard. It is,
until you get to the back of the
house, and you can see the short
line there, that appears to be
visually a six-foot fence.

CHAIRMAN MAMMINA: Yeah, it
says "to be removed," TBM.
Wait, TBM? To be -- what is
TBM?

MEMBER GOODSELL: TBM is
one story addition, see
September application.

MS. WAGNER: Yeah, but you
know what, this is not --

CHAIRMAN MAMMINA: I've
never heard TBM as an acronym.
That's a new one.

MS. WAGNER: Because that
is obviously incorrect because
they're saying that the roofed
over patio is being moved and
it's not, which I confirmed --
actually, did not confirm, but I
spoke with the plans examiner.
He said that the roofed over
patio is part of 208 F because
they're expanding the
nonconforming part of the
garage.

MEMBER GOODSELL: Yeah,
there it is. TBM, the bump out
on the garage.

CHAIRMAN MAMMINA: What is
TBM.

MS. WAGNER: TBM is to be
maintained.

CHAIRMAN MAMMINA: They've
got that on both sides.

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5/19/21

MS. WAGNER: So they want a
six-foot fence on the side
property line.

MEMBER DONATELLI: Okay,

8 and again, that is not the
9 adjoining neighbors rear yard?
10 No?

11
12 VICE CHAIRMAN FRANCIS: So
13 that's going to come down to
14 five feet.

15
16 CHAIRMAN MAMMINA: That's
17 going to come down to five feet
18 and he's got four-foot fences in
19 the front that are okay.

20
21 MEMBER GOODSELL: Right.

22
23 MEMBER DONATELLI: So
24 what's the application TBM
25 six-foot PVC fence on the rear
26 yard lot line.

27
28 CHAIRMAN MAMMINA: He's
29 allowed to --

30
31 MS. WAGNER: Well, he's
32 allowed to have it, but he
33 doesn't need a variance for it.

34
35 VICE CHAIRMAN FRANCIS:
36 Right.

37
38 CHAIRMAN MAMMINA: --
39 separate application, because he
40 probably applied because he says
41 the same thing on the four-foot
42 fence.

43
44 MS. WAGNER: Yeah, I don't
45 know why he needs to even
46 maintain that six-foot because
47 he got a permit to put it up.

48
163

164

1 5/19/21

2 MEMBER DONATELLI: If you
3 take a look though, he's got TBM
4 on both sides of his side yard
5 lot line on the south side as
6 opposed to north side.

7
8 MS. WAGNER: Correct.
9 Let's go to the disapproval and
10 see what the disapproval
11 specifically says. Six-foot
12 fencing along the north and
13 south property lines.
14

15 MEMBER GOODSELL: Not
16 passing the effective building
17 line. That's what it's showing
18 in the picture.
19
20 MS. WAGNER: So that's what
21 he's trying to get variances
22 for.
23
24 CHAIRMAN MAMMINA: Right,
25 so that's no.
26
27 MEMBER DONATELLI: Yeah,
28 those should be five feet.
29
30 VICE CHAIRMAN FRANCIS:
31 Right.
32
33 CHAIRMAN MAMMINA: Right,
34 and it says that up above. It
35 says fencing within residence
36 district shall, a five-foot
37 fence.
38
39 VICE CHAIRMAN FRANCIS: So
40 we can grant in part and deny in
41 part.
42
43 MS. WAGNER: Is everybody
44 ready.
45
46 MEMBER GOODSELL: If I can
47 make one more comment. It looks
48 as if the fence in fact is a

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1 5/19/21
2 five-foot PVC fence with the PVC
3 grating on the top that would
4 not be that difficult to remove.
5
6 VICE CHAIRMAN FRANCIS:
7 That's correct.
8
9 MEMBER GOODSELL: I think
10 that would easily be -- and I
11 think that's minimal cost to a
12 homeowner.
13
14 VICE CHAIRMAN FRANCIS:
15 Yeah, that's an electric saw.
16 Just cut it right off.
17
18 CHAIRMAN MAMMINA: They can
19 do that themselves.
20
21 MS. WAGNER: Patricia, this

is your area.

MEMBER GOODSELL: Let's see if I can phrase this correctly. I make a motion that we grant a variance with respect to the maintenance of the garage bump out, but deny the variance with respect to the six-foot fence on the north and south side yards of this property, and if I can go further, but to make no expression about whether a five-foot fence would require or not require a variance. Did I do that right?

CHAIRMAN MAMMINA: I think that sounded okay.

MS. WAGNER: I don't think so. So you're basically granting the variance -- denying the variance of 7000.2 A four B and granting 7049, 7208 F and 7229 A and 7231.

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VICE CHAIRMAN FRANCIS:
Sounds right.

MS. WAGNER: Which all relate to the garage and the roofed over patio.

CHAIRMAN MAMMINA: So we have a motion.

VICE CHAIRMAN FRANCIS:
I'll second it.

CHAIRMAN MAMMINA: Seconded by Mr. Francis. Please Board the Board.

MS. WAGNER: Member Goodsell.

MEMBER GOODSELL: Aye.

MS. WAGNER: Member Donatelli.

MEMBER GOODSELL: In favor.

29 MEMBER DONATELLI: Aye.
30
31 MS. WAGNER: Vice chairman
32 Francis.
33
34 VICE CHAIRMAN FRANCIS:
35 Aye.
36
37 MS. WAGNER: Chairman
38 Mammina.
39
40 CHAIRMAN MAMMINA: Aye. So
41 the application is granted as
42 modified offer partially
43 granted, partially denied.
44
45
46
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1 5/19/21
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28
29 MS. WAGNER: The next
30 appeal to be decided is the
31 three hunting ton coach appeals.
32 Dan, that would be your
33 territory.
34
35 MEMBER DONATELLI: Yeah I'm

36 actually ready for that if the
37 other Board members are.

38
39 VICE CHAIRMAN FRANCIS:
40 Yep.

41
42 CHAIRMAN MAMMINA: Yep.

43
44 MS. WAGNER: I just have a
45 question for Deborah.

46
47 MS. ALGIOS: Yeah?
48

167

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1 5/19/21

2 MS. WAGNER: The town Board
3 put some conditions on the site
4 plan approval -- I'm sorry, not
5 the site plan approval.

6
7 MS. ALGIOS: At the
8 exemption --
9

10 MS. WAGNER: -- grant of
11 immunity, right. Where there
12 was a certain percentage of the
13 parking lot that could be used.
14 Do we want to just reenforce --
15 I mean, depending on if the
16 Board did grant it that they
17 would reenforce those conditions
18 or do we need to do something
19 separate? I don't know how we
20 would address that.

21
22 MS. ALGIOS: I don't think
23 you have to reiterate the
24 conditions. I think you can
25 just say subject to the
26 conditions imposed in the town
27 Board decision.

28
29 MEMBER DONATELLI: And in
30 fact, that was my thinking that
31 those conditions should be
32 incorporated into any decision
33 that we make.

34
35 MS. WAGNER: Except they
36 did have a time limit which I
37 don't think we can do on a
38 variance.

39
40 CHAIRMAN MAMMINA: No.

41
42 MS. WAGNER: So it would be

43 limited by the town board's
44 resolution, but we wouldn't be
45 able to impose that as part of
46 our variances.

47
48 MS. ALGIOS: Right, so not

168

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1 5/19/21

2 on the variances, button the
3 use, so the use has a time limit
4 so in five years they have to go
5 back to the town Board to
6 continue the exemption for the
7 use.

8
9 MS. WAGNER: I thought we
10 weren't deciding on the use
11 though.

12
13 MS. ALGIOS: We're not.
14 That's not what I'm saying. I'm
15 saying that that five years only
16 applies to the use which is
17 the --

18
19 MS. WAGNER: Right, which
20 is the exemption. Let me just
21 read these appeals into the
22 record which will take about a
23 half and hour.

24
25 MS. WAGNER: Appeal #20968,
26 Huntington Coach, LLC; 13
27 Harvard Park Drive, Fort
28 Washington, Block 86, Lot 7 in
29 the planned industrial park.
30 Appeal for determination or in
31 the alternative variance from
32 71-50 to legalize the outdoor
33 storage of school buses and an
34 indoor vehicle maintenance
35 facility which are not permitted
36 uses in the PIP district with
37 variances from 71-03(1),
38 71-03(B), 71-03(G) 72-12(A) and
39 special exemption from 70-229(A)
40 to legalize the storage of
41 school buses within a required
42 parking area when parking is
43 less than required, parking
44 spaces that are too small and a
45 landscaped area that is smaller
46 than what was approved under
47 Appeal #12417. A variance for
48 71-50 is no longer applicable

1 5/19/21
2 for a town Board resolution
3 number 132-2021 granting
4 immunity. We also have Appeal
5 #20884, hunting ton coach
6 license plate LC -- do we want
7 to do it individually Deborah?

8
9 MS. ALGIOS: I guess that's
10 really up to the Board. I don't
11 know if the Board is treating
12 any of these differently. If
13 they are, then they should be --
14 then we should treat them
15 separately. If not, if the
16 decision is going to be the same
17 for all of them, then I think we
18 can address them all as one.

19
20 CHAIRMAN MAMMINA: Make
21 them companion.

22
23 VICE CHAIRMAN FRANCIS:
24 Yeah.

25
26 MEMBER DONATELLI: Speaking
27 for myself, I have no problem
28 dealing with them all as one.

29
30 VICE CHAIRMAN FRANCIS:
31 Yeah.

32
33 MS. ALGIOS: So why don't
34 we deal with them all as one and
35 if there's a problem, we'll
36 separate it.

37
38 MS. WAGNER: So Appeal
39 #20884, Huntington Coach LLC.
40 21 Harvard Park Drive Realty,
41 LLC. 41 Harvard Park Drive,
42 Fort Washington Section 6, Block
43 86, Lot 10 in the planned
44 industrial park zoning district.
45 Appeal for determination or in
46 the alternative variance from
47 70-150 and variances from
48 71-03(A)(1), 71-03(G), and

1 5/19/21
2 70-212(A) to legalize the
3 storage of school buses, which
4 is not permitted use in the PIP
5 district with parking that is
6 less than required. The use of
7 a required parking area for
8 school bus storage, the variance
9 for 71-50 is no longer
10 applicable per town Board
11 resolution number 132-2021 which
12 granted immunity.
13

14 CHAIRMAN MAMMINA: So do we
15 have a motion?
16

17 MS. WAGNER: Wait, wait, we
18 have one more. Appeal #20869,
19 Huntington Coach LLC, 15 Harvard
20 Park Drive Realty LLC; 15
21 Harvard Park Drive, Fort
22 Washington; Section 6, Block 86,
23 Lot 11 in the planned industrial
24 park zone. Appeal for
25 determination or in the
26 alternative variance from 71-50
27 and variances 71-93(A)(1),
28 71-03(G), 72-12(A) and 72-29(A)
29 to legalize the storage of
30 school buses which is not a
31 permitted use in the PIP
32 district. Parking that is less
33 than required, the use of
34 required parking here for school
35 bus storage and noncompliance
36 with the prior BZA decision.
37 17499, the variance for 71-50 is
38 no longer applicable per town
39 Board resolution number 132-2021
40 granting immunity.
41

42 CHAIRMAN MAMMINA: Now, do
43 we have a motion?
44

45 MEMBER DONATELLI: So
46 Mr. Chairman, I make a motion
47 that we grant the application
48 and that any such grant be

171

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1 5/19/21
2 subject to the terms and
3 conditions as set forth in the
4 town Board resolution. I

5 believe it's number 132-2021. I
6 make a motion that we grant the
7 application, subject to those
8 conditions.
9

10 CHAIRMAN MAMMINA: We have
11 a motion by Mr. Donatelli. Do
12 we have a second.
13

14 VICE CHAIRMAN FRANCIS:
15 Second.
16

17 CHAIRMAN MAMMINA: Seconded
18 by Mr. Francis. Please poll the
19 Board.
20

21 MS. WAGNER: Member
22 Goodsell.
23

24 MEMBER GOODSELL: I'm
25 abstaining again. I was not
26 part of any of this until two
27 weeks ago, so I would prefer not
28 to vote.
29

30 MS. WAGNER: Member
31 Donatelli.
32

33 MEMBER DONATELLI: Aye.
34

35 MS. WAGNER: Vice chairman
36 Francis.
37

38 VICE CHAIRMAN FRANCIS:
39 Aye.
40

41 MS. WAGNER: Chairman
42 Mammina.
43

44 CHAIRMAN MAMMINA: Aye.
45 The applications are granted.
46

47 MS. WAGNER: All three
48 applications, Appeal #20968,

172

173

1 5/19/21
2 Appeal #20884 and Appeal #20869
3 are granted. 30 grant, motion
4 by Daniel Donatelli, seconded by
5 Vice Chairman Leslie Francis.
6

7 MS. WAGNER: That was
8 subject to the conditions in the
9 town Board.
10

11 MEMBER DONATELLI: That's

12 correct.
13
14 MS. WAGNER: The next
15 appeal, Appeal #21056. The
16 Habbad of Roslyn Incorporated,
17 75 Powerhouse Road, Roslyn
18 Heights; Section 7, Block 47,
19 Lot 30 in the Business-A and
20 Residential-C Zoning District.
21 Variances from 70-48, 70-49(B),
22 70-51(C), 70-52, 70-52.3(A),
23 70-52.3(B), 71-03(A) to
24 construct a second story
25 addition to a religious
26 structure that is larger and
27 taller than permitted, covering
28 more of the lot than permitted
29 is too close to the side and
30 rear property lines and does not
31 comply with the sky exposure
32 plane requirements and does not
33 have enough parking.
34
35 CHAIRMAN MAMMINA: I think
36 we're going to put it into the
37 same category that we've put
38 everything that these guys have
39 ever come before us for. It
40 kind of goes in that we can't
41 say no category and we'll give
42 them another extension and on it
43 goes.
44
45 MS. WAGNER: Do we have
46 conditions? I believe there
47 were some conditions of the
48 prior appeal.

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1 5/19/21
2
3 CHAIRMAN MAMMINA: I'm
4 rereading also. We also had
5 that neighbor in back at that
6 objective, but I think we -- at
7 least I think I basically put
8 that aside.
9
10 VICE CHAIRMAN FRANCIS:
11 Yeah.
12
13 MEMBER GOODSELL: The
14 neighbor's objections really go
15 to the original granting and not
16 the renewal, so I think the
17 objection was heard when the
18 original application came in and

19 this is just a restatement of
20 his objection.

21
22 CHAIRMAN MAMMINA: And not
23 that it -- but the man doesn't
24 live there anymore. He moved to
25 a better neighborhood. Plus he
26 got the Long Island expressway
27 in his backyard there. I don't
28 think that anything changed,
29 right, Virginia? I don't -- I'm
30 looking because this has been
31 here so many times.

32
33 MS. WAGNER: I think there
34 might have been some minor
35 changes to the inside of the
36 building.

37
38 MEMBER GOODSELL: It
39 says --

40
41 MS. WAGNER: The prior
42 grant of Appeal #19994 had a
43 condition that the temporary
44 trailers now present on the
45 property be removed by the
46 property owner.

47
48 VICE CHAIRMAN FRANCIS:

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175

1 5/19/21
2 Right.

3
4 CHAIRMAN MAMMINA: If we
5 can carry that -- they had a
6 tent now too, I think.

7
8 MS. WAGNER: On a different
9 property, yes.

10
11 CHAIRMAN MAMMINA: On a
12 different property, but I guess
13 --

14
15 MS. ALGIOS: But they said
16 they removed it.

17
18 MS. WAGNER: They said they
19 removed that.

20
21 CHAIRMAN MAMMINA: They've
22 said things leak that in the
23 past too. So it goes, so I
24 think we would just give them
25 another -- how many years did we

-- another year, I guess --

MS. WAGNER: No, this is not like a regular renewal. It's a new variance application. We can't put a time limit on it.

CHAIRMAN MAMMINA: I see. Right.

MS. WAGNER: They had come for three extensions that were granted and that was it. That's all you were entitled to get so then they had to come back for the new --

CHAIRMAN MAMMINA: So does that start the clock again? I'm just curious.

MS. WAGNER: Well, it starts the clock, but it's a

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5/19/21
three-year clock now. Variances are good for three years now.

MEMBER DONATELLI: Again, no major changes since the last time this was before us.

CHAIRMAN MAMMINA: I don't think so.

VICE CHAIRMAN FRANCIS: No.

CHAIRMAN MAMMINA: Just goes again. We're not going to tell them no. They did say no, this time we're serious. Does anybody want to make a motion done deny yeah, I'll make a motion that we grant the applications.

CHAIRMAN MAMMINA: We have a motion by Mr. Donatelli.

MS. WAGNER: With that same condition Dan or with no condition.

MEMBER DONATELLI: Same condition about the removal of the trailer?

33 MS. WAGNER: Yes.

34
35 MEMBER DONATELLI: Yes,
36 same condition.
37

38
39 CHAIRMAN MAMMINA: Do we
40 tell them that they have to
41 remove them in X time or I don't
42 know if we did that before. I
43 don't know if we care.
44

45 MEMBER DONATELLI: I don't
46 recall what we did previously.
47 Shall we say --
48

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1 5/19/21
2 VICE CHAIRMAN FRANCIS:
3 60 days? 30 days?
4

5 MEMBER DONATELLI: Shall we
6 say 60 days.
7

8 CHAIRMAN MAMMINA: Either
9 60 or 90.
10

11 MS. WAGNER: What, that the
12 trailers be removed within
13 90 days of this, what.
14

15 CHAIRMAN MAMMINA: Of this
16 approval.
17

18 VICE CHAIRMAN FRANCIS:
19 Yeah.
20

21 MEMBER DONATELLI: I think
22 that's reasonable.
23

24 CHAIRMAN MAMMINA: It
25 probably won't do it though.
26

27 VICE CHAIRMAN FRANCIS: I
28 think that's more than
29 reasonable.
30

31 CHAIRMAN MAMMINA: I don't
32 think they're going to do that
33 until they have this addition
34 built.
35

36 MS. WAGNER: You want them
37 to remove it within 50 days of
38 this decision or 60 days of when
39 they receive their building

40 permit?

41
42 MEMBER GOODSSELL:
43 Reasonable to say 60 days within
44 receiving their building permit.
45

46 MEMBER DONATELLI: Right,
47 because if they're using it for
48 their services, then their --

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1 5/19/21
2 then I think it's reasonable to
3 peg that to the issuance to the
4 building permit. Map ma'am
5 okay, so we have a motion.
6 Second?
7

8 VICE CHAIRMAN FRANCIS:
9 I'll second.

10
11 CHAIRMAN MAMMINA: Seconded
12 by Mr. Francis. Please poll the
13 Board.
14

15 MS. WAGNER: Member
16 Goodsell.

17
18 MEMBER GOODSSELL: I'll vote
19 aye on this one.
20

21 MS. WAGNER: Member
22 Donatelli.

23
24 MEMBER DONATELLI: Aye.

25
26 MS. WAGNER: Vice chairman
27 Francis.
28

29 VICE CHAIRMAN FRANCIS:
30 Aye.
31

32 MS. WAGNER: Chairman
33 Mammina.
34

35 CHAIRMAN MAMMINA: Aye.
36 The application is granted for
37 the extension.
38

39 MS. WAGNER: And now we
40 have the request to reopen a
41 prior appeal. The prior appeal
42 was Appeal #18634, which is
43 dated June 10th of 2009 for
44 Mutesh Patel, 12 Old Homestead
45 Way in Searingtown.
46

47 VICE CHAIRMAN FRANCIS: Is
48 this his third request, ginny.

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1 5/19/21

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MS. WAGNER: Oh, this is
not an extension time. This is
a request to reopen.

MEMBER DONATELLI: I
believe that the applicant did
not present any new evidence.
First of all, if memory serves,
this was the one that was done
in 2008 was it?

MEMBER GOODSELL: No, 2009.

MEMBER DONATELLI: Nine.
And that there was no real
evidence that was produced that
would warrant any kind of a
reopening. I know that counsel
argued in his request that it
was infective assistance of
counsel and perhaps that was the
reason why the application had
been denied. I would note that
this is not a criminal
proceeding. I would note that
that is, I would argue, the
wrong standard to utilize in
this effect, and I personally am
against the motion, the request
that has been made by the
applicant to reopen the hearing.

VICE CHAIRMAN FRANCIS: I
agree.

MEMBER GOODSELL: I was
very interested in the argument
to reopen because hearing it for
the first time at the last
meeting, I was struck by the
fact that it's 12 years
afterwards. To me,
procedurally, this is far more
compelling if the application to
reopen took place within a much
shorter period of time and

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1 5/19/21
2 perhaps within the time for an
3 application to bring an article
4 78 proceeding. 12 years later,
5 I don't find it particularly
6 compelling. I know Deborah, you
7 were very good, you got us some
8 cases on this and I -- so that
9 was issue number one for me.
10 Issue number two was reading the
11 transcript, I found that there
12 was reasonable basis to make the
13 decision that was made and issue
14 number three, the alleged new
15 evidence, the new evidence
16 presented in counsel's letter is
17 number one, the homeowner tried
18 to buy additional land in order
19 to solve this. Well, he was
20 unsuccessful. He didn't own the
21 land in 2009, he doesn't own the
22 land now. That's not a change
23 in circumstance.

24
25 VICE CHAIRMAN FRANCIS:
26 Right.

27
28 MEMBER GOODSELL: The
29 second thing he tried to say was
30 that there has been a long time
31 neighbor who has lived next to
32 this house for many years who
33 has never objected. I don't
34 find that particularly
35 compelling because I have been
36 out measuring my neighbors
37 houses with a tape measure
38 either, so I didn't find any
39 compelling evidence to reopen
40 this either based upon procedure
41 or based upon new evidence, so
42 in my opinion, this is not --
43 this should not be granted much
44 that's my opinion.

45
46 MS. ALGIOS: Patricia, I
47 think what he was saying that
48 neighbor not necessarily long

2 term but that the neighbor moved
3 in after the first appeal with
4 the knowledge that the house was
5 how the house is.
6

7 MEMBER GOODSSELL: I don't
8 see anything in his letter that
9 says that it was no, you are
10 correct that a neighbor moved in
11 after this appeal was lost, but
12 again, I don't know that when
13 you move into a neighborhood
14 that you're aware of these types
15 of details. To me, this is the
16 same size house on a smaller lot
17 which required it to be a
18 smaller house and the fact that
19 it was the same size house,
20 which apparently was an argument
21 that was made in the transcript,
22 the same size house, so
23 therefore it shouldn't have an
24 impact on the neighborhood,
25 doesn't get around the fact that
26 this is eleven percent over
27 floor area ratio, so again don't
28 -- I find the letter extremely
29 interesting, I find the issue
30 interesting, but I don't see the
31 compelling reason to reopen
32 this. Anybody else?
33

34 VICE CHAIRMAN FRANCIS: No,
35 I'm in agreement.
36

37 CHAIRMAN MAMMINA: I'm with
38 you on that. I had questioned
39 that just from the perspective
40 that I thought they had to go
41 back to the building department
42 on that anyway just to see if
43 anything substantial had
44 changed. Ginny was correct, as
45 usual.
46

47 MEMBER DONATELLI: Yeah, I
48 thought Deborah -- I thought you

1 5/19/21
2 were providing us with some
3 cases on point was very
4 instructive, so I appreciate
5 that. All right so, how about
6 if I make a motion that we deny
7 the application, deny the
8 request.

9
10 CHAIRMAN MAMMINA: We have
11 a motion, do we have a second.
12
13 MEMBER GOODSSELL: I'll
14 second that.
15
16 CHAIRMAN MAMMINA: Seconded
17 by Ms. Goodsell. Please poll
18 the Board.
19
20 MS. WAGNER: Member
21 Goodsell.
22
23 MEMBER GOODSSELL: I am in
24 favor of the motion to deny.
25
26 MS. WAGNER: Member
27 Donatelli.
28
29 MEMBER DONATELLI: Aye.
30
31 MS. WAGNER: Vice chairman
32 Francis.
33
34 VICE CHAIRMAN FRANCIS:
35 Aye.
36
37 MS. WAGNER: Chairman
38 Mammina.
39
40 CHAIRMAN MAMMINA: Aye. So
41 the application is denied to
42 reopen.
43
44 MS. ALGIOS: So that was a
45 first by Dan and a second by
46 Patricia.
47
48 MS. WAGNER: Yes.

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1 5/19/21
2
3 CHAIRMAN MAMMINA: Deborah
4 or Virginia, just for my own
5 brain, if they reapply to the
6 building department and show the
7 building department a
8 substantial change to the
9 satisfaction of the building
10 department.
11
12 MS. ALGIOS: That would be
13 a whole new application.
14
15 CHAIRMAN MAMMINA: Right,

16 it would be a whole new
17 application, but they do have
18 that as an option and that's
19 just for my brain.
20

21 MS. ALGIOS: Yeah.
22

23 MEMBER GOODSSELL: And just
24 for my own information, is it
25 possible that they've been
26 living in this house for
27 12 years without a certificate
28 of occupancy?
29

30 CHAIRMAN MAMMINA: Yes.
31

32 VICE CHAIRMAN FRANCIS:
33 That's definitely possible.
34

35 MEMBER GOODSSELL: And this
36 can't be sold without a
37 certificate of occupancy.
38

39 CHAIRMAN MAMMINA: Going
40 back to the fun and games of
41 2006, 07. Whatever those very
42 difficult years were.
43

44 MEMBER DONATELLI: The gift
45 that keeps on giving.
46

47 MEMBER GOODSSELL: I had a
48 client that lived in a house for

183

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1 5/19/21
2 a long time without a
3 certificate of occupancy.
4

5 CHAIRMAN MAMMINA: Every
6 time I think we're done with all
7 of those, another one pops up.
8

9 VICE CHAIRMAN FRANCIS:
10 We'll never be done.
11

12 CHAIRMAN MAMMINA: It's
13 like the mafia.
14

15 VICE CHAIRMAN FRANCIS: It
16 is.
17

18 MS. WAGNER: Deborah is
19 anything else that we have to
20 do?
21

22 VICE CHAIRMAN FRANCIS: We

23 did SECRA, right?
24
25 MS. WAGNER: We did SECRA.
26 We were -- are we going to --
27
28 MS. ALGIOS: The --
29
30 MS. WAGNER: -- that other
31 appeal, the tutor center.
32
33 MEMBER DONATELLI: Oh, the
34 mayor.
35
36 MEMBER GOODSSELL: Oh, that
37 was this morning the. We had
38 four cases on this morning and
39 we had two before Mr. Mammina
40 came back and I think that we
41 had tabled the first two and is
42 it permissible that we go back
43 and discuss them or do we mark
44 these for discussion next
45 meeting?
46
47 MS. ALGIOS: These will be
48 discussed the next meeting.

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1 5/19/21
2
3 VICE CHAIRMAN FRANCIS:
4 Okay.
5
6 MEMBER GOODSSELL: I'll save
7 all my notes because --
8
9 MS. ALGIOS: Accept for
10 Vorhora. We gave until the
11 sixteenth of June.
12
13 VICE CHAIRMAN FRANCIS:
14 Right. So the two residentials
15 we'll deal with next meeting.
16
17 MEMBER GOODSSELL: So that
18 would be June 2nd then.
19
20 MS. ALGIOS: Yes.
21
22 MS. WAGNER: Okay.
23
24 MS. ALGIOS: And then we
25 had some discussions about maybe
26 adding a night meeting to the
27 calendar, one of the summer
28 meetings either July 14th or
29 August 11th.

30
31 VICE CHAIRMAN FRANCIS: I'm
32 fine with either date.
33

34 MS. WAGNER: We would
35 probably do like a three start
36 and maybe a break and then we
37 convene again possibly at
38 6:00 p.m.
39

40 CHAIRMAN MAMMINA: Deborah,
41 what dates were you suggesting
42 for that just so I put them in
43 my calendar.
44

45 MS. ALGIOS: Either July
46 14th or August 11th.
47

48 MEMBER GOODSELL: I'm

185

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1 5/19/21
2 available both days, depending
3 on what we decide. Is that
4 because this type of application
5 generally goes on for quite some
6 time?
7

8 MS. ALGIOS: Yeah, we have
9 some larger applications coming
10 up and we've talked about having
11 a night meeting. We try to have
12 1 or 2 during the year.
13

14 MEMBER GOODSELL: So we
15 don't have a morning calendar?
16

17 MS. WAGNER: No, we would
18 start probably around 3 or 4,
19 something and then it would go
20 -- so it gives people an
21 opportunity, you know, people
22 that work to come to the
23 hearing.
24

25 CHAIRMAN MAMMINA:
26 Something the supervisor had
27 spoken about in the last
28 election and we said sure, we'll
29 mix in some evening meetings.
30 You end up getting the same
31 complaints you get with the day
32 meeting. I have to get home, I
33 have kids at home. So who
34 knows. We can't please
35 everybody, but we can try.
36

37 MS. ALGIOS: Would we do a
38 break though ginny? Last time
39 -- I'm just wondering there was
40 leak an issue where we were
41 trying to continue it and we
42 still had the hearing on.

43
44 MS. WAGNER: Right. Well,
45 we'll talk about it, how we're
46 going to set it up.

47
48 MEMBER GOODSSELL: I for one

186

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1 5/19/21
2 need to eat like for 15 minutes
3 and I hate eating on camera, so
4 if we did take a short break
5 around 6 or 630, that would be
6 very helpful for me and then I
7 can just keep going for so long
8 as it goes.

9
10 MS. WAGNER: We'll talk
11 about it Deborah.

12
13 MS. ALGIOS: All right.

14
15 MS. WAGNER: All right,
16 have a good rest of the week
17 everyone.

18
19 (Whereupon, at: 3:37 P.M.,
20 the proceedings concluded.)
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5/19/21
C E R T I F I C A T E
: SS.:
COUNTY OF RICHMOND)
I, RYAN ASENCIO, a Notary Public
for and within the State of New York,
do hereby certify:
That the witness whose
examination is hereinbefore set forth
was duly sworn and that such
examination is a true record of the
testimony given by that witness.
I further certify that I am not
related to any of the parties to this
action by blood or by marriage and
that I am in no way interested in the
outcome of this matter.
IN WITNESS WHEREOF, I have
hereunto set my hand this 19th day of
May 2021.

RYAN ASENCIO

