

TOWN OF NORTH HEMPSTEAD
BOARD OF ZONING APPEALS
PUBLIC HEARINGS

200 Plandome Road
Manhasset, New York

Wednesday, July 14, 2021
10:13 a.m.

BOARD MEMBERS PRESENT:

DAVID L. MAMMINA, A.I.A., Chairman

LESLIE FRANCIS, ESQ., Vice Chairman

DANIEL DONATELLI, ESQ., Member

JAY HERNANDEZ, Member

PATRICIA A. GOODSELL, ESQ., Member

ALSO PRESENT:

DEBORAH ALGIOS, ESQ., Deputy Town
Attorney

VIRGINIA WAGNER, Secretary

NICOLE WEXLER, Reporter

CHAIRMAN MAMMINA: Would everyone please rise and join Vice Chairman Francis in the Pledge of Allegiance?

(Whereupon, the Pledge of Allegiance was recited in a body.)

CHAIRMAN MAMMINA: Good morning, ladies and gentlemen. I guess all -- welcome to, I guess, our first in-person hearing in well over a year, so it's nice to see real people. So, again, good morning to the Town of North Hempstead Zoning Board of Appeals, and what I'd like to do before we get started is just take a minute or so to go through the way we conduct business in the Town of North Hempstead, in case you've never appeared before a zoning board. Or if you have, we may do things a little bit differently in North Hempstead than maybe in another village or another town.

So what we will do is have these cases called by Virginia. We'll ask for the applicant to come forward. I will ask if there is anyone in the room that's interested other than the applicant. So the applicant would come forward to the podium, and if there is someone else who wishes to speak, we'll just ask them to remain in their seat and we'll call them, then, after the applicant has spoken.

You may speak in favor of it; you may speak against it. You may say, "Okay. I'm satisfied." It's not necessary for you to speak, but we certainly welcome it.

The applicant at that point will give their name and address to our stenographer, as everyone will when they come up, whether they be the applicant or, you know, they be someone who wishes to speak about a case. And at that point, the podium will belong to the applicant and the applicant will put their case onto the record. The Board will ask whatever questions it feels it needs to ask giving the applicant the opportunity to reply to those. And when that -- when that is completed, if there is anyone else who wishes to speak, we'll ask the applicant just to take a seat anyplace and those people will then come up one at a time.

Now, if there are two of you, two people who wish to speak, you may do so. Everyone will give their name and address, even if it's the same

address, and we'll just ask that it's one at a time because the stenographer has to take an accurate record and, of course, she can't record two people talking simultaneously and so we have mercy on her that way.

When that is completed, typically, the applicant and only the applicant -- and I say "typically". It doesn't mean it's an absolute rule. But they will have an opportunity, then, to come back up to the podium and either support or refute what anyone else might say. And at that point, the hearing is done. We almost never have a second hearing so, you know, today is your day.

And the Board will then do one of three things: We will either approve the application, we will deny the application, or we may continue or reserve the application. If we continue, it might be because we're asking for another document from -- from the applicant. We may offer some kind of a compromise and, you know, we'd like to receive a drawing. We might ask for a file from the Building Department, whatever. If we reserve, it might just be that one of the board members or all of the Board wants to go and take a look at the property again and see what the testimony, you know, may have shown us that we didn't see when we went to look at the properties.

We do look at the properties. We look at the record, you know, carefully. Planning puts together a very nice memo for us, so we have a lot of information before we get started.

So with that said, then, Virginia, do we have any modifications to the calendar?

SECRETARY WAGNER: Yes. We have an adjournment of 21072, Heidi Davis, 10 Hampton Court in Port Washington, Section 5, Block 134, Lot 306 in the Residence-A Zoning District. That's adjourned until August 11th.

We also have an adjournment of 2103 Christopher and Rachel Cosolito, 12 Plymouth Road in Port Washington, Section 6, Block 45, Lot 113 in the Residence-B Zoning District, also adjourned until August 11th.

We also have an adjournment of Appeal #21079, Dos Toros New Hyde Park, LLC, 1624 Marcus Avenue, New Hyde Park, Section 8, Block 302, Lot 27

in the Business-A Zoning District. That is adjourned until August 11th.

And an adjournment on Appeal #20987, Vigliotti Enterprises, LLC, 100 Urban Avenue in Westbury, Section 11, Block 178, Lot 82 in the Industrial-B Zoning District. That's also adjourned until August 11th.

CHAIRMAN MAMMINA: Okay. So if anyone is here for any of those cases, you are, of course, welcome to stay and hear the way we do things here, if you choose to. Or at this point, you can -- you can leave so that you're not spending part of your -- part of your day here.

So with that said, Virginia, can we call the first case?

* * *

SECRETARY WAGNER: The first appeal is Appeal #21069, Debbie and Peter Giallilas, 138 Sussex Drive in Manhasset, Section 3, Block 184, Lot 167 in the Residence-A Zoning District. Variance from 70-30.A and 70.101.B, to construct an addition and a portico that are too close to the street.

CHAIRMAN MAMMINA: You've heard Appeal #21069, Debbie and Peter Giallilas. Is there anyone in the room who wishes to speak regarding the application other than the applicants?

Did you adjust your glasses or did you put your hand up? Okay. We just like to make sure.

So seeing no one, please give your name and address.

MS. LEIS: Good morning, Chairman, members of the Board. My name is Jessica Leis. I'm an attorney with --

CHAIRMAN MAMMINA: Jessica, maybe pull the mike up just a little bit.

MS. LEIS: Okay. I'm an attorney with Forchelli Deegan Terrana with offices at 333 Earle Ovington Boulevard in Uniondale, New York. And we're here today to represent the applicants, Debbie and Peter Giallilas. I also have the project architect, Harriet Nikakis, here with me as well.

So our request for today is for two area variances relating to a proposed one-story addition with a portico. This is to an existing dwelling located in the Residence-A Zoning District, and both variances pertain to the front yard setback and included within the setback.

So pursuant to Code Section 70-30.A, properties within the Residence-A district are required to have of minimum front yard setback of 35 feet from the front property line to the main building. So as the premises currently exists, there is a front yard setback ranging from 34.8 feet to 35.7 feet, so it is below the 35 feet as it is, the existing dwelling. The applicants are proposing a one-story addition with dimensions of 4.67 feet by 13.75 feet which will result in the new front yard depth of approximately 30.19 feet, so the variance is

being requested for the deficiency of less than five feet.

Additionally, pursuant to Code Section 70.101(B), one-story porches and terraces are permitted as long as they do not project more than 5 feet into the required front yard. So applicants are proposing a new portico that is attached to and covering the proposed one-story addition and that is set back 27 -- approximately 27.19 feet from the front property line and it extends 3 feet past the proposed addition. So as per the code, the portico must be set back 30 feet, and we are requesting a variance for the deficiency that's less than 3 feet.

The requested variances will not cause an undesirable characteristic change in the neighborhood nor cause a detriment to nearby properties. The proposed addition and portico are very tastefully designed and they're going to enhance the appearance of the existing dwelling as well as provide some dimension in the front facade of the dwelling.

Functionally, the applicants have no interior closet space right now, it's very minimal, so this is providing much-needed storage space for them. It's also going to provide some protection from the elements over the entranceway as there currently is no overhang. Further, the portico and/or one-story addition bump-out is in character with this neighborhood. It was submitted initially, the eight other dwellings in the neighborhood, but I also prepared a map just to give some perspective of where they are.

SECRETARY WAGNER: Do you want to submit this as an exhibit?

MS. LEIS: Sure. Thank you.

So our property is 138 Sussex Drive. The eight properties referenced on there all have -- are within less than a quarter of a mile and they all have some sort of either bump-out or portico on the front facade. The ones highlighted in yellow, which is 156 Sussex, 170 Sussex, and 181 Sussex and 208 Sussex Drive all have variances that were granted. Those were included in the original application packages. But the variances for 156 Sussex was to permit an addition with insufficient front yard

setback; for 170 Sussex was to permit an addition with insufficient front yard setback; for 181 Sussex was to permit an addition with insufficient -- sorry, to permit a porch within a required front yard setback; and 208 Sussex was to permit a porch within a required front yard setback.

So, additionally, the applicant has secured signed consents from three of the neighbors that would be impacted by the variance approval. I'll forward those to the Board. The originals, unfortunately, are still in the mail. I had forwarded those previously to the BZA. So that's 130 Sussex Drive which is adjacent to our property and immediately north; 137 Sussex Drive which is directly across the street from our property and would be most impacted, and visually, from the addition; and then 145 Sussex Drive which is diagonally across the street.

So regarding the other variance factors, the benefits sought cannot be achieved by another method. The existing front yard setback, as I mentioned, is less than what is required by the code as is, so any sort of addition would intrude and require a variance. And we are more -- the average front yard setback for the street is actually 34.18 feet, so we are more in line with that as it is right now because they require 35 feet and any addition would result in a need for a variance. The variance should not be deemed substantial because of the less than 5 feet encroachment for the addition and less than three feet for the portico.

It will not have an adverse effect on the physical environment or conditions of the neighborhood and last, given that the structure has existed with a setback of less than what is required as is, this really should not be deemed self-created. Any sort of changes to the property and as it is right now would require a variance. So accordingly, I would respectfully request that the Board grant the requested relief.

CHAIRMAN MAMMINA: Okay. I guess normally, when we see these kinds of porticos, they're open on their sides. You know, they don't have construction, you know, within them. And I guess what -- what I will say, and I think it's necessary, generally, we're used to seeing a floor

plan of the -- of the entire floor, you know, of the house, even if it's at a smaller scale just so we can see the way that this -- this fits in, not that I doubt that you need the extra closet space, you know, in there. But if you come back in the future, you know, that's something that's -- that's always helpful to the Board that we truly understand what your -- what your condition is.

I guess I'm going to -- I'm going to ask Mr. Hernandez who is our -- our board member from that part of the world. But I do have an affinity for Ditmars Boulevard. I lived in that area for quite some time. But I just have to ask you one thing, and it could be off the record.

(Whereupon, an off-the-record discussion was held.)

CHAIRMAN MAMMINA: Okay. So Mr. Hernandez.

MEMBER HERNANDEZ: Yeah. Mr. Chairman, I agree with you. It's the -- the porticos that we typically approve or have approved in the past have all been open-sided, open on three sides. I'm looking at the prospective drawing that we have here, and there seems to be like a vestibule that is -- looks like it's 4 feet, 8 inches of solid wall and then only 16 inches of the actual portico, what we would call the portico. So we have a vestibule, right -- am I looking at the right --

CHAIRMAN MAMMINA: Yes, you are (indicating).

MS. LEIS: So the addition is actually -- the portico comes over, right. So the sides that it's covered is actually the addition. The portico extends 3 feet over the addition into the -- encroached into the front yard past that.

MEMBER HERNANDEZ: The -- yes. The portico platform sticks out 3 feet.

MS. LEIS: Yes.

MEMBER HERNANDEZ: The platform doesn't bother me as much because you really can't see that from the street. It's ground level. It's not as obstructive. I'm more concerned about the side view of the house. As you look at the house in the drawing, you're going to see a 5-foot wall sticking out on the ground floor and then you're going to see two columns about 7 and a half away from that wall. And I think the Chairman was saying usually, we look at drawings on the -- by the way, my house -- this could almost be a photograph of my house. I did the same thing except that my portico does not stick out that way. What you see from the outside is all open. You don't see the closet. That's on the inside, not on the outside. So that's kind of a little bit different than what we have seen. And I know you have given us approvals in the past, one of which I approved one of them. But, unfortunately, I don't recall exactly what it looked like, but I could almost swear it didn't look like that. It doesn't have just the bump out.

MS. LEIS: Well I guess my -- the bump out, though, is -- you know, if we have the open space, then we wouldn't have the addition for the storage space. So I guess that's -- I'm not quite sure how -- if the Board has any questions of what --

MEMBER HERNANDEZ: I'm making the point that you gave us examples of other bump outs that were approved -- other porticos, and I agree with you, we have approved porticos. This is more than a portico because a portico is very small. This portico is 18 -- the height of the portico, the part that you see from the street, it's only 18 inches. What's really breaking into the front of the house is that 5-foot closet that's being built.

MS. LEIS: Sure.

MEMBER HERNANDEZ: I guess that's what it is: Two closets, one on each side.

CHAIRMAN MAMMINA: Maybe what we might want to do, if Mr. Hernandez is in agreement, is we always try -- we try to be fair always, you know, and whether it's a commercial application or a

residential application, I'd like to believe I look at the residential applications even, you know, a little bit more favorably because we all pay a lot of taxes to live in the town. And that doesn't mean that commercial person doesn't pay a lot of taxes, they probably pay more, but our objective is not to say "no", you know. It's to try to figure out a way that we can arrive at something.

So maybe what you might want to do, if the Board agrees, is come back with that -- with that drawing, you know, that shows that -- the whole ground floor. We're not looking for anything, you know, elaborate. It's simple-simple. We're not trying to cost your client any money. And the other thing that you might want to check regarding those other ones that we have approved or other ones that are in the neighborhood, you know, to see do we have enclosed porches so we're -- so that we're not -- I mean, our objective and goal here is to not change the character of the neighborhood, so that gives you a little bit of homework. But, again, unless any of the other Board members have a different opinion, I mean, that gives you another turn at bat.

You don't have to come back. You can submit that to us. If there are any questions, you know, we'll get those questions to -- to your attorney and, you know, we'll be able to make, you know, then, a more informed decision on it. So are we good with that?

MS. LEIS: That's fine, yes.

CHAIRMAN MAMMINA: Okay. So we will continue this case and, you know, the sooner you can get them back, the better. Usually, Virginia will send them to me or to the whole board at the same time and we'll all weigh in on it and we'll see what -- we'll see what we think.

Just give your name and address and then please...

MS. NIKAKIS: My name is Harriet Nikakis. I live on 264 Mill Spring Road, Manhasset. My office is on 36-03 Ditmars Boulevard, Astoria, HCN Architects.

So there are a few houses in the neighborhood that do have that addition and that's

not a fully-open portico and we're going to go back and do our due diligence and present that. Additionally, the full set plan was submitted to the Building Department. We will duplicate that on a smaller scale and submit it to you. I think what we've done is in keeping with what we've seen in the neighborhood as well and I appreciate it.

CHAIRMAN MAMMINA: Okay. Good.

MS. NIKAKIS: Thank you so much.

CHAIRMAN MAMMINA: Okay. Again, get that all over to the Zoning office, to Virginia or whoever is at the counter, and you may want to put a letter with it. No obligation to. Or Ms. Leis may want to draft a letter just explaining it. But we've been -- all of us have been doing this for a while so we understand the job.

MS. NIKAKIS: Understood.

CHAIRMAN MAMMINA: Okay. Thanks very much. So we'll continue.

MS. LEIS: Thank you.

CHAIRMAN MAMMINA: One of the things Mr. Donatelli had pointed out, and it's not anybody's -- I hate to use the word "fault". Just try to be conscious to talk directly into the microphone because I think all of the baffles and things around us, it's a little bit hard to hear. And the other thing that I will ask is, I was just guilty of it myself, please silence your phone because I just got an e-mail beep. So I usually do say that, and it's been a while since I've done the beginning speech. I'll forgive myself.

Virginia, please call the next case.

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SECRETARY WAGNER: Next appeal is Appeal #21070, Nick Maenhout, 22 Third Avenue in Port Washington, Section 5, Block 46, Lot 1519 in the Residence-C Zoning District. Variances from 70-50.C and 70-101.B, to construct a second-story addition and front porch that are too close to a street.

CHAIRMAN MAMMINA: You've heard Appeal #21070, Nick Maenhout. Is there anyone in the room interested in the application other than the applicant?

Seeing one hand, and you'll have the opportunity to speak after the presentation, if you wish. Okay. Thank you. Thanks for coming in.

Please give your name and address.

MR. KAPLAN: Andrew Kaplan, architect, representing the client and the architect, Oyster Bay Drafting, located at 68 West Main Street, Oyster Bay, New York 11771.

CHAIRMAN MAMMINA: Mr. Kaplan, what we like to do is just ask, because you represent yourself as an architect, are you a licensed architect?

MR. KAPLAN: Yes, sir, I am.

CHAIRMAN MAMMINA: Okay.

VICE CHAIRMAN FRANCIS: Mr. Kaplan, you might want to pull the microphone up a little bit.

MR. KAPLAN: Better? I'll hold it, whatever.

Good morning, Chairman, members of the Board.

CHAIRMAN MAMMINA: Sir, you can pull your mask down.

MR. KAPLAN: A lot of layers today. What we're looking here at this property at 22 Third Avenue is a preexisting nonconforming situation dealing with the front yard setback and specifically the average front yard setback. Concerning both the second-story addition and the

porch proposed, both of those are actually within the zoning of Zone C, which if not counting the average front yard setback would actually comply being that the front yard setback would be a minimum of 25 feet and having the allowable encroachment of 5 feet.

The average front yard setback of this property is 40.67 feet due to three properties within that 200-foot radius that are kind of breaking the norm, specifically Lot 513 at 67.4 feet, Lot 11 at 67.8 feet, and Lot 61 at 35.7 feet. Lots 153 -- 1513 and Lot 11 is east of that and Lot 161 is west of that. As well, the second-floor addition does not actually change the front yard of this property at all as the existing second floor is set back from the property and we're not changing, essentially, the street wall of the house with that addition.

If this house were to follow the average front yard setback zoning, you would have to do any kind of work 20 feet within this house. So essentially, the average front yard setback throws this entire block off kilter. Most of the houses on this block within the similar location of the subject property are within 3 feet of each other and they're all virtually lining up with each other.

Concerning the design of this project, it conforms to much of the neighborhood. The front porch gives the ability to give some curb appeal to this home that has nothing but a simple stoop there now, protection from rain further, other storms and such, and the additions on the second floor, I was able to expand the master bathroom and the master bedroom relatively small as the house itself is a very compact older home.

As far as the rest of the zoning, everything else does comply. And as far as anything else, I think that kind of covers it.

CHAIRMAN MAMMINA: Just so I understand the drawing correctly, the -- the first floor of the house is already built out to the line that you're proposing the second floor to --

MR. KAPLAN: Correct.

CHAIRMAN MAMMINA: So it's a straight-line vertical addition --

MR. KAPLAN: Correct.

CHAIRMAN MAMMINA: -- onto the house?

MR. KAPLAN: Yes.

CHAIRMAN MAMMINA: Okay.

MR. KAPLAN: Both existing and proposed are at 29.7.

MEMBER DONATELLI: So, Mr. Chairman, having reviewed the application and having --

CHAIRMAN MAMMINA: Oh, we have a young lady who wished to speak. I'm sorry. Our apologies. Take your time.

MS. CHOU: Okay. My name is Shan Chou. Address is 24 Third Avenue in Port Washington. The house is next to the address.

So I'm aware of the changes, and we received this letter. And I can -- I'm confused. I can show -- I have photo picture of my house. Very, very close, that house. Since this is very, very close, I'm concerned any changes of that house affect the view and our privacy. So if you don't mind, I can show my picture of the -- how close those two houses.

CHAIRMAN MAMMINA: Sure. We'll take a look at these pictures, and then I'd just like to explain something. The attorney to the Board would just like to add something else to that that we will make part of our suggestions.

ATTORNEY ALGIOS: So the Town doesn't accept electronic evidence, so you can e-mail -- you can e-mail a picture. If you'd like the Board to look at it, they will. But we'll have to continue, then, this appeal since you're going to be sending in the electronic -- the pictures you have.

MS. CHOU: Sorry.

ATTORNEY ALGIOS: That's okay.

MEMBER DONATELLI: So I do have a question for you, Madam. Perhaps, if you don't mind, you can go back to the podium and I can ask you a question.

ATTORNEY ALGIOS: And I'm just going to ask the applicant -- the architect if you could just have a seat.

MR. KAPLAN: Sure.

ATTORNEY ALGIOS: Thank you.

MS. CHOU: So the brown is my house. The white is 22nd. It's -- it's too close. You can see the distance.

MEMBER DONATELLI: So when you say that it is too close, are you referring to the distance on the side of the house between your house and this other house?

MS. CHOU: Yes, because that is and it changes -- any changes of the house may affect our houses. So right now, the distance, too close. We already, you know, can -- can change the privacy because sometimes, like, we can -- in the house we can hear the talk of the other house.

MEMBER DONATELLI: Okay.

CHAIRMAN MAMMINA: I think what might be important to understand is that that part of the house on the side complies with the zoning.

MS. CHOU: Yes.

CHAIRMAN MAMMINA: So that part is permitted.

MS. CHOU: Currently, it's okay because we set, the house as is, when we purchased.

CHAIRMAN MAMMINA: They're not making that part any closer to your house.

MS. CHOU: Okay.

CHAIRMAN MAMMINA: The only thing that they're doing in their -- their house in terms of that side yard, but it still complies, is they're pushing 2 feet in the front out. Now, your house, according to the -- the -- there's a drawing that I'm sure the -- the applicant would point to before you. But your house is set back 29.9 feet from Third Avenue. Their house is pointed -- is set back 29.7 feet. So we're talking about that much difference that their house will be closer to the street than yours, but it's only closer to the street. So we're talking about .2 feet, so it's a very, very small piece and it's only in the front. It's not in the side. The side is in conformance with what the law says.

MS. CHOU: How about the height?

CHAIRMAN MAMMINA: The height is fine.

MS. CHOU: If there's any changes because we --

CHAIRMAN MAMMINA: What they will be doing it in the front. But, again, my opinion is -- based on just my opinion -- we're not supposed to give opinions but for homeowners to understand, we don't -- I don't mind. Your house has the second floor coming out, as we call it, a cantilever. So they're pushing their house up to the similar line of your house. Okay. So their house is going to basically be in line with what your house is. It complies with the height that's required by the Town within the zone. Does that make sense? Is that clear? If it's not, please.

MS. CHOU: I'm still interested in more detail. Thank you.

CHAIRMAN MAMMINA: So it might change your opinion in that they have a right to have the house there. But it is -- it's -- it's -- I mean, essentially, the required setback is -- is 25 feet. But because the average set back is greater -- I don't see the calculation here. Oh, here it is. So the average setback for the block is 40.7 -- 67 feet, but that's because of the two houses that are at the

end of -- of Third Avenue that are set back. One is set back almost 68 feet, and the other one is set back a little over 67 feet.

Other than that, the house that's to the right of the subject house is set back 27 feet, so it's even closer to the street than what this proposed addition is. So their setback and your setback are virtually identical, but they're asking to build a little portico in front of their house.

MS. CHOU: Okay. So -- okay.

CHAIRMAN MAMMINA: And the second floor.

MS. CHOU: So the second floor change any height of the house?

CHAIRMAN MAMMINA: That conforms and that is shown on -- why don't we do this? That's an excellent idea. Thank you both. Why don't we have the architect explain the plan to you? The two of you can step outside, there's a table out there, and that way he'll have an opportunity to explain it to you and hopefully that will help you understand a hundred percent what we're trying to say in words.

MS. CHOU: Okay. I appreciate it.

CHAIRMAN MAMMINA: And then you'll come back up then after the next -- whatever that next case would be.

MS. CHOU: Okay.

ATTORNEY ALGIOS: Also, Miss, just so we don't have to hold up the appeal, Mr. Perrotta is going to show you how to e-mail the photo to the board members. Okay?

MS. CHOU: Okay.

SECRETARY WAGNER: Are you okay with explaining the --

MR. KAPLAN: Absolutely.

SECRETARY WAGNER: -- the design?

MEMBER DONATELLI: So we'll second call,
then.

SECRETARY WAGNER: So we're going to do
a second call for this application so that the
architect has an opportunity to explain the design to
the constituent.

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SECRETARY WAGNER: The next appeal is Appeal #21071, Glen Bruno, 11 Kennworth Road in Port Washington, Section 5, Block 104, Lot 152 in the Residence-B Zoning District. Variance from 70-100.2(K), to install a gas generator in the front yard.

CHAIRMAN MAMMINA: You've heard Appeal #21071, Glen Bruno. Is there anyone in the room interested in the application other than the applicant?

Seeing no one, please give your name and address.

MR. KOUTSOUMBIS: My name is Dean Koutsoumbis. My address is 121 Newbridge Road, Hicksville, New York 11810. I'm here this morning with Mr. Glen Bruno, the owner of the property located at 11 Kennworth Road in Port Washington. And before I begin, I would like to submit just some photos of the property just indicating the landscaping and then I'll make my presentation (handing).

SECRETARY WAGNER: Photographs will be Exhibit 1. Photographs of the subject property, correct?

MR. KOUTSOUMBIS: Correct.

CHAIRMAN MAMMINA: Okay. You may continue.

MR. KOUTSOUMBIS: Once again, the property is located at the northwest corner of Kennworth Road and Pine Avenue in Port Washington. We're seeking a variance to install a generator in the front yard of the property which does not comply with the zoning ordinance. This will be a 22kW natural gas-powered generator capable of providing power to the entire house in the event of a power outage.

I would like to provide the following information for the Board's consideration for this variance: Being located in Port Washington, power outages are common with the many large trees in the area. Response time from PSE&G to restore the power

typically is delayed as many of the surrounding areas have utility poles located in the rear yards which are more time consuming to repair.

This is a corner property, and the generator to be proposed is to be located in the front yard facing Pine Avenue. The front of the house and front door and garage and driveway are all facing Kennworth Road, so the generator will be on the south side of the property. It is essentially the side yard even though it's considered a front yard per zoning standards.

The generator will be screened and not visible to the street, as seen in the photos that I provided. There's trees surrounding that whole yard and it won't be visible from the street at all. The generator will be set to run test runs weekly Friday at noon, a time most neighbors will be at work.

Before applying for a variance, Mr. Bruno and his electrician considered alternative locations on the property and it was determined that this was the most feasible location. If it were to be installed on the west side of the house, there are existing windows, landscaping, a walkway, air conditioner, and basement windows which would have interfered. If it were to be installed on the north side of the property, it would have been much further away from the gas and electric connections, and the garage is also on the north side with no direct access to the basement for connection for utilities. The gas piping and electrical would have to be run up to the attic and back down to the general location. This is a much further distance for gas and electric connections. It will create an unsafe condition to have an excess gas line through the house to get it to the north property -- to the north side of the property.

Furthermore, any of these locations would bring the generator to adjacent residences. Having it where we proposed, it is farther enough away from the adjacent residence, not visible, and, you know, the variance we're requesting is non-substantial. We kindly request the Board's approval.

MEMBER DONATELLI: Sir, I do have a question, and I've listened to your presentation. You're showing the generator on the south side.

Unfortunately, we don't have any elevations showing the window and the doors we just referred to. Can you describe to me what is on the west side around the corner from where you proposed to put the generator? Is there a reason why the generator could not be located on the west side?

MR. KOUTSOUMBIS: Okay. The west side, there's existing landscaping, there's existing basement windows, air conditioners, and a walkway and -- and a masonry walkway that's in that area. Even though the survey shows 14.95 feet, we'd have to place the generator a minimum 5 feet from any windows so it would be 5 feet off the house. The generator is 2 feet wide. It would have landed right on this walkway that's there. Beyond the walkway is a small garden wall with more landscaping before we -- before we get to the fence.

I do have -- I do have -- I didn't present the photo of that area, but I can submit -- if necessary, can submit photos of that area.

MEMBER DONATELLI: I did drop by yesterday in preparation for today's hearing, and to the homeowner's credit, it is extremely well-screened and so I wasn't really able to get a view from the street. But I would like to know with specificity what obstacles there are. Because, surely, you must realize that while you may think that this is the best place in this particular instance, we're presented with these kinds of cases throughout the town and we need to really -- if we approve one in the front yard, whether it's the secondary front yard or a primary front yard, we better be prepared to approve all of them, and I don't think we're prepared to do that.

So I, as one board member, would like to know exactly -- would like to see the photographs of that west side and I would like to know with specificity as to the reason the generator can't be made compliant. So if you do have those photographs, I would welcome them.

MR. KOUTSOUMBIS: I would have to -- I would have to e-mail them, then. I did not make prints of the other areas of the property.

CHAIRMAN MAMMINA: I think we can do that. And then, also, if you -- if you'd like to put in a narrative why, in your opinion, you know, it can't be moved around the corner for technical reasons, I would encourage you to -- to do that, because most everybody presents why they can't do it for technical reasons and sometimes we agree, most times we don't. But that doesn't mean we've made any pre-decision on this. We just don't have the information.

MEMBER GOODSELL: If I can add a comment to that, I also looked at the property. It is very secluded. It is nicely landscaped, but you cannot see -- we cannot see from the street the yard so we can't see what obstacles are there. If there was no landscaping whatsoever, we could, but it's a very private corner and I agree, the homeowner would like to put it in a particular place. But since I can't see what the obstacles are, I also would like to look at the pictures of the back of the house, the west side of the house, to see what the obstacles are.

CHAIRMAN MAMMINA: And also, there's this landscaping there now and it is lovely and certainly, from my perspective, if I own the house, I want to keep the landscaping. But I do know in my own house, evergreens that I had ended up being blighted, you know, a few years back and they all died. So I replanted them, but it took several years before those came back, you know, to that -- to that same level. And also at the same time, I had my next-door neighbor who cut down all of his trees. I will not -- I just complimented Queens because I lived in Queens for many years, and he was from Queens and he wanted everything nude, you know. So any one of my trees that was even slightly to his side were taken down. I don't know if those trees were in a right of way. I had a lot of planting in the right of way because I had no sidewalks.

So, you know -- but the point is some of that planting was damaged by a snowplow and the Town has no responsibility at all and I lost a good amount of planting that was in the front yard. So those are things that we'll weigh, but we do want to have all of the information so that we can be completely fair.

MR. KOUTSOUMBIS: That concludes my presentation, if the owner would like to say a few words.

CHAIRMAN MAMMINA: Sure. Of course.

MR. KOUTSOUMBIS: And we'll continue -- I'll submit the requested information.

CHAIRMAN MAMMINA: Great.
Please give your name and address.

MR. BRUNO: Yes. Good morning. My name is Glen Anthony Bruno. I live on 11 Kennworth Road, Port Washington, New York. I'm originally from Staten Island, and I appreciate Long Island because the zoning laws in Staten Island, everything is like they take one house and they put three houses there. I'm Italian, too.

(Laughter.)

MR. BRUNO: The landscaping --

CHAIRMAN MAMMINA: I don't know if that's appropriate.

MR. BRUNO: The landscaping is nineteen years old. When I originally bought the house, I didn't actually realize how deep my backyard was until I had to knock down all the bird feeders and ivy and the trees that were back there. It's approximately 12 to 15 feet. So when I redid the house, I put a walkway through the backyard. So the back of my house -- my backyard's very narrow. We use the side yard as our backyard. And to have privacy in our backyard, I put trees around, because I did come here twice for a variance. One was for a fence that I was granted but I couldn't extend the fence all the way out to the street. I had to plant, which I did. And then the other one was the portico over my front door, which I was granted which I appreciate. But the reason why the -- the generator is not feasible to put in the backyard is because I have a stone walkway going around my house so -- and then close to my house is two basement windows, my bathroom window, and my living room windows. So --

and I have a retaining wall because my neighbor behind me, his property is higher than mine. So they built, like, a wall. When I bought the house with drainage in it so if the water would come to my house, it would go into a drain and then into the -- the -- I can't think of the name.

MEMBER DONATELLI: Drywall.

MR. BRUNO: Drywall. Thank you.

The other thing, when I had two people come to my house, they could have put it on garage side, which I think I didn't want to do because I thought it was dangerous because they would have to run almost 90 feet of gas line. It would have to go, the gas line, up the side of my house, through my attic, and down the other side of my house. And the -- the generator people wouldn't recommend it and they wouldn't even do it. So that's why I'm here to ask for the variance. I know it's very difficult when you have a corner piece of property because you have two side yards --

CHAIRMAN MAMMINA: Two front yards.

MR. BRUNO: Two front yards. Sorry. If I would have known that when I came to Long Island, I would have thought maybe twice about buying the house, but it was too late when they started to close the property, even though I'm glad I actually bought it.

MEMBER DONATELLI: It's still better than Staten Island.

(Laughter.)

MR. BRUNO: Much, much. But that's the reason why I'm asking for the variance today, because I'm actually stuck because the -- believe me, this is the only place to put it that's -- that is convenient for me, safe for my family, and it's a way for all the other houses in the -- of my neighbors -- my neighbors know I'm here today. A couple of them called me because they were confused when they got the card, what it is for. I told them it was for a generator, and they were happy I was getting a

generator because when their power goes out, I'll take their food. But as you can tell, no one came to challenge the generator, so that's why I'm giving you my say.

MEMBER DONATELLI: I've listened to you very carefully. We're not trying to make your life more difficult. I've heard the obstacles. I think what we're asking for as a board is to just see photographs, if we can, so we can get a better understanding. We're bound by the code, just as you are. We're -- we're empowered to make certain variances, but we're going to need to be able to see the proof so that's what we're asking for.

MR. BRUNO: I appreciate that. But I -- when you see the pictures, I described it perfectly to you.

CHAIRMAN MAMMINA: That's also the reason why I said to your engineer or architect, generator installer, whatever he may be, put in a narrative as well that describes, "Here's the reasons why." Because without being repetitious, as Mr. Donatelli said earlier, when we grant yours and somebody comes back with another one in the front yard, we have to be able to differentiate that because the Town Board writing the zoning, we don't. And if yours has three, four, two, you know, one significant road block to it, when they come in, they say, "Well, you gave it to Mr. Bruno at whatever address. Why not me?" We have to be able to satisfy that in order to protect the Town, in order to protect your right to it, and that's not to say we want to disapprove somebody's generator.

MR. BRUNO: I understand, but there is a couple generators on the sidewalk but I don't know how they got there.

CHAIRMAN MAMMINA: They probably didn't take a permit. You can point those out as well. I mean, not to say we're a little less interested in those but we can't control those. 311, you know, can control them. That's something that's going to make a problem from your neighbors.

MR. BRUNO: No. I'm just a little confused, then.

VICE CHAIRMAN FRANCIS: I would just point out that, you know, with regard to taking the pictures and giving us a narrative, it's only going to benefit you because, as Ms. Goodsell pointed out, all of us visited your house and the planting -- you did such a good job with the planting.

MR. BRUNO: Thank you.

VICE CHAIRMAN FRANCIS: You can't even see beyond the plants. This is only going to benefit your application.

MR. BRUNO: Stop by around Christmas time. I really decorate.

(Laughter.)

VICE CHAIRMAN FRANCIS: Okay. I'll do that.

MR. BRUNO: Thank you for your time.

CHAIRMAN MAMMINA: Thank you. We'll continue.

MR. KOUTSOUMBIS: I'll get the photos and request a positive outcome. Thank you all.

CHAIRMAN MAMMINA: Thank you.

* * *

SECRETARY WAGNER: Okay. We're going to do a second call for Appeal #21070, Nick Maenhout, 22 Third Avenue in Port Washington, Section 5, Block 46, Lot 1519 in the Residence-C Zoning District. Variances from 70-50.C and 70-101.B, to construct a second-story addition and front porch that are too close to the street.

MR. KAPLAN: Hello again. I think I've explained --

SECRETARY WAGNER: Could you just state your name and address for us again?

MR. KAPLAN: Sure. Andrew Kaplan, architect, Oyster Bay Drafting, 68 West Main Street, Oyster Bay, New York 11771.

I believe we have come to an understanding of what is going on with the project. However, I will allow her to --

CHAIRMAN MAMMINA: Why don't we have your neighbor come forward, then?

SECRETARY WAGNER: If you could also just state your name again.

MS CHOU: Shan Chou, 24 Third Avenue, Port Washington.

CHAIRMAN MAMMINA: Thank you. So based upon your suggestion with the architect, what is your feeling toward the application? No pressure.

MS. CHOU: Okay. He explained how it changes. I understand the changes more clearly, and I was concerned of the -- any change of the distance and the height of the house change -- effect my house. That's my major concern. Now it's -- I understand more clearly.

CHAIRMAN MAMMINA: We're always happy when neighbors speak to each other and can work things through.

MEMBER DONATELLI: And I've said this before on the record: I believe in dialogue, so I

thank you both for speaking to each other and for coming to some understanding.

MS. CHOU: Thank you.

MEMBER DONATELLI: Thank you, and thank you for coming. I see you're walking with some difficulty. Thank you for coming down.

CHAIRMAN MAMMINA: Virginia, did we get the pictures?

SECRETARY WAGNER: I sent it.

CHAIRMAN MAMMINA: Okay. Good.

MEMBER DONATELLI: So, Mr. Chairman, we reviewed the photograph that was submitted by the neighbor, and I am well familiar with Third Avenue. I don't live very far from there. But in a point of fact, I'm also familiar with the street. I know that it takes a jag as it goes down to the water, and I'm also very cognizant of the fact that the applicant is proposing to build -- they're not changing the footprint of the house. They're building up on the existing footprint. And finally, I would note that the averages on Third Avenue are skewed because this particular house is more or less in keeping with houses on either side of Third Avenue that have excessively large front yard setbacks.

So having said all of that, I make a motion that we grant the application.

CHAIRMAN MAMMINA: Okay. We have a motion. Do we have a second?

MEMBER GOODSSELL: Second.

VICE CHAIRMAN FRANCIS: Second.

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: We have a tie on that one.

MEMBER HERNANDEZ: Give to the Vice Chairman.

CHAIRMAN MAMMINA: Sorry. Seconded by
Mr. Francis. Please poll the board.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman
Francis.

VICE CHAIRMAN FRANCIS: Aye.

CHAIRMAN MAMMINA: Aye.

The application is granted. Thank you
for coming down. We always appreciate it.

* * *

SECRETARY WAGNER: Next appeal is Appeal #21074, Anu Samuel, 40 Deepdale Parkway in Albertson, Section 7, Block 98, Lot 135 in the Residence-B Zoning District. Variance from 70-100.2(A), to erect fencing within a front yard.

CHAIRMAN MAMMINA: You've heard Appeal #21074, Anu Samuel. Is there anybody in the room interested in the application other than the applicant?

Seeing no one. Please come on forward and give your name and address. You can remove your mask and pull that down because I'm -- I'm also very tall like you are.

MS. SAMUEL: Hi. My name is Anu Samuel. I live on 40 Deepdale Parkway, Albertson, 11507.

MEMBER DONATELLI: Ma'am, if we can just ask you to keep your voice up. We want to be able to hear what you say.

MS. SAMUEL: Okay. Good morning, Chairman and the board members. I'm here to request a fence. I live on a corner property -- to go around the front and the side of the home, primarily because I have a child with severe autism and he goes into the streets before and I'm trying to find a way to enclose him so he doesn't run out or there's a chance I can keep him in the house rather than in the street. So I'd like to request a variance for a fence to go around our property.

MEMBER GOODSSELL: Ms. Samuel, how high a fence are you asking?

MS. SAMUEL: I kept it at 4 feet. Whatever the code was, we just kept it at that.

CHAIRMAN MAMMINA: Now, you're allowed to have a 4-foot fence around -- you're on Netherwood Drive, so you're allowed to have a 4-foot fence in line facing Deepdale Parkway and you're allowed to have a 4-foot fence in line with the face of your garage.

MS. SAMUEL: Okay.

CHAIRMAN MAMMINA: But the 4-foot fence beyond that and going out to the two streets and returning is -- is a place where, quite honestly, we never permit a fence, you know, in that front yard.

MEMBER HERNANDEZ: Can I see where they're proposing?

CHAIRMAN MAMMINA: (Indicating.)

MEMBER DONATELLI: How old is your son?

MS. SAMUEL: He is ten.

MEMBER DONATELLI: Ten years old.

MS. SAMUEL: We bought the house when he was five.

MEMBER DONATELLI: I'm sorry?

MS. SAMUEL: We bought the house when he was five years old.

MEMBER DONATELLI: Okay.

MS. SAMUEL: Now as he's getting older, his behaviors are challenging and he's bigger and older. It's getting harder for us.

MEMBER DONATELLI: And I believe your application says that he had an incident in the past?

MS. SAMUEL: Yes.

MEMBER DONATELLI: Can you tell us about that incident?

MS. SAMUEL: So it's usually when we're going into the car or when the school bus comes, when you hold him, he pulls off and he could take off so that's what's happening. I've been trying to get him to hold -- hold his wrist, hold his arms. But the problem is he could still take off because I don't know -- we don't know when it's going to happen.

MEMBER DONATELLI: Okay. And I guess my question is how would a fence help that?

MS. SAMUEL: Okay. So I felt like at least to contain him, if he's running, catch him. He won't be in the street. He'll be in the vicinity of the property so at least I can grab him before he gets into the road.

MEMBER GOODSELL: Ms. Samuel, I will give you a compliment, and that is that right now, you could play croquet on your side yard. You keep it beautifully. The grass is mowed. I understand there's nothing there to even replace that there. So I, for one, appreciate the fact that you did not just put a fence up and then ask us for permission to maintain. I do see there are other fences on your street. I'm not quite sure how they got there because there are some one or two front yard fences. But I appreciate the fact that you are asking us for permission, and I believe the Chairman is trying to give you the guidance on what you can legally do.

MS. SAMUEL: Okay.

MEMBER DONATELLI: So, ma'am, we're very sympathetic to your problem and we -- we understand how difficult this must be. We want to try and help you.

MS. SAMUEL: Okay.

MEMBER DONATELLI: So the Chairman is actually drawing on the survey that you submitted what we propose. I think that we're inclined to grant a 4-foot fence -

MS. SAMUEL: Thank you.

MEMBER DONATELLI: -- in the area that is delineated by the yellow marker. What we are going to ask is that you plant shrubbery --

MS. SAMUEL: Okay.

MEMBER DONATELLI: -- in front of the fence so as to limit the visual impact, that being an

estate fence, an estate-type fence. Do you know what an estate --

MS. SAMUEL: No.

MEMBER DONATELLI: If you ask your fence installer, they will be able to tell you what it is.

MS. SAMUEL: Face?

MEMBER DONATELLI: Estate. So Mr. Perrotta will show you what it looks like, but it's a fence that will actually enable you.

MS. SAMUEL: It has to be aluminum?

MEMBER DONATELLI: You can speak to your fence installer about that. We're just trying to advise as to the type of fence that will help you deal with your problem while not having a huge visual impact.

MS. SAMUEL: Okay.

MEMBER DONATELLI: And I would just like to say a few things as well: We're very mindful. We consider this a safety issue.

MS. SAMUEL: Yes.

MEMBER DONATELLI: So we're very mindful of your situation and we're trying to help you with this. We believe that an estate-type fence will help you deal with your situation while, at the same time, lessen the visual impact on the neighbors and on the area in general.

MS. SAMUEL: Okay.

MEMBER DONATELLI: The Americans with Disabilities Act is a federal law which we are bound by which says we have to help you make reasonable accommodations for the disability of your son. I would suggest Deborah and -- is Town Counsel.

Perhaps you can assist me on this, that we condition any sort of approval on -- for so long as this young man is living in the house.

ATTORNEY ALGIOS: Residing permit, yes.

MEMBER DONATELLI: So I would ask that that be a condition of this grant.

May I have the name of your son?

MS. SAMUEL: Aaron George. Aaron, A-A-R-O-N, last name George, G-E-O-R-G-E.

MEMBER DONATELLI: Okay. And he is currently ten years old. So you understand that if we act favorably on this application as it has been amended that this will pertain to you and the house as long as your son lives there. But should you sell the house, should you relocate, the permit will no longer be appropriate because Aaron is no longer living in the house.

MS. SAMUEL: Okay. Got it.

MEMBER DONATELLI: So having said that, Mr. Chairman, I make a motion that we grant the application as amended subject to the condition that it be valid so long as Aaron is residing at the premises.

CHAIRMAN MAMMINA: Okay. We have a motion by Mr. Donatelli with those additions. Do we have a second?

MEMBER GOODSSELL: I'll second it.

CHAIRMAN MAMMINA: Seconded by Mrs. Goodsell.

Please poll the board.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman
Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.
The application is granted as
conditional. Thank you.

MS. SAMUEL: Thank you very much,
everyone.

CHAIRMAN MAMMINA: Thank you. Good
luck.

ATTORNEY ALGIOS: Excuse me. Chairman,
do we also want to --

CHAIRMAN MAMMINA: Yes.

ATTORNEY ALGIOS: She has the plantings
there.

CHAIRMAN MAMMINA: As shown on the
drawing give to me.

SECRETARY WAGNER: We're going to take a
five-minute recess before we reconvene, about 11:36.

(Whereupon, a brief recess was taken.)

* * *

SECRETARY WAGNER: The next appeal is Appeal #21067, Jia Ying Li, 32 Dail Street in New Hyde Park, Section 9, Block 81, Lot 32 in the Residence-C Zoning District. Variance from 70-101(B), legalize a raised terrace too close to a street.

CHAIRMAN MAMMINA: You've heard Appeal #21067, Jia Ying Li. Is there anyone in the room interested in the application other than the applicant?

Seeing no one, please give your name and address.

MR. TIRONE: Scott Tirone, 75 Albertson Avenue, Albertson, New York 11507.

I would like to hand up -- I don't know if they were included in the packet or -- the County Assessor's -- I have one for everybody.

CHAIRMAN MAMMINA: If you have one for everyone, maybe that's easier.

SECRETARY WAGNER: So this will be Exhibit 1?

MR. TIRONE: Yes.

SECRETARY WAGNER: It's a copy of the --

MR. TIRONE: The Nassau County Tax Assessor's card, yes.

MEMBER DONATELLI: So were these part of the submission?

VICE CHAIRMAN FRANCIS: Yes. It's attached.

MR. TIRONE: It was part of it? I didn't know if it was or wasn't. It's been a while since I submitted. I didn't know if I submitted it or not. I think I did because I knew that we were possibly on Zoom and I wasn't going to be able to do an exhibit through that.

Again, Scott Tirone and I'm here on behalf of the owner, Jia Ying Li at 32 Dail Street,

New Hyde Park. We are here to maintain a front raised masonry terrace. As the cards that were submitted show, the County went out on November 19th, 1969 and they did write "add terrace, 8 by 24". And if you look at the survey that was submitted with the application, the terrace is approximately 7-foot-6 by 24-foot wide, so it is the same terrace. It has been there since 1969, so a little more than forty-eight years after the Lis purchased the house.

They purchased the home in June of 2018. They were unaware that the concrete terrace did not have a permit. If you've been to the house, you'll notice it is a dead end. You're not going down that street unless you have business on that street. There are some plantings in front of it. They would be inclined, if you want to put conditions there -- they have no plans of enclosing it or doing any further projection. They just would like to keep it because it has been there for a long time and it was pre-owned before the purchase of the home.

VICE CHAIRMAN FRANCIS: Having visited the property, I was -- I did not immediately see the terrace.

MR. TIRONE: I didn't see it either.

VICE CHAIRMAN FRANCIS: I really had to look to see it, so it is well --

MR. TIRONE: Yeah, the screen.

VICE CHAIRMAN FRANCIS: The vegetation. And you can definitely tell by the look of the concrete that it's an old structure.

MR. TIRONE: It's been there quite a while, yes.

MEMBER GOODSELL: Can I ask a question? Because I know we're having a sidebar here. If this terrace has been there for the last fifty some odd years, what's the impetus for coming before the Board today?

MR. TIRONE: I don't know if they -- I didn't do the permit filing on this one. Normally, I

do. I was just asked to do the presentation. So I don't know if they filed for another permit that triggered a review when the Town got a copy of the survey. That, I don't know. But if the Board is inclined to approve it, I mean, we're more than willing to accept the condition that it -- that it currently is screened. We'll keep it screened. They won't do any further enclosures, no more encroachments into the front.

MEMBER GOODSELL: Well, that kind of begs the question if they're planning on doing home improvement, which I have absolutely no objection to, and if this is a nonconforming, does this nonconforming terrace -- is it now going to be upgraded and included in another new building plan?

MR. TIRONE: There is no plans to do that as of now, and as the drawings show, they're just maintaining what they have.

VICE CHAIRMAN FRANCIS: One thing we would not want to see is that terrace enclosed in any way.

MR. TIRONE: Yeah. That's why I said -- I brought it up it would not be further enclosed. We will keep it screened. All those are reasonable conditions.

CHAIRMAN MAMMINA: And it's 1 foot, 9 inches high?

MR. TIRONE: I believe so. I have the drawings, and I believe that's the height.

MEMBER GOODSELL: And by "screened", we don't mean enclosed screening.

MR. TIRONE: Bushes.

MEMBER GOODSELL: Vegetation.

MR. TIRONE: Green-type plantings.
That's fine.

MEMBER GOODSSELL: Well, Mr. Chairman, after listening to the presentation and after having questions answered and being satisfied, I would make a motion that we approve the application with the minimal condition that it just remained screened with some greenery, which it is currently.

CHAIRMAN MAMMINA: Okay. So we have a motion with the provision that it be screened with greenery. Do we have a second?

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Seconded by Member Hernandez.
Please poll the Board.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Before I vote, I would just add one more condition to the application that terrace never been enclosed. That's all.

MR. TIRONE: Absolutely.

VICE CHAIRMAN FRANCIS: If that's fine.

MEMBER DONATELLI: That's fine.

VICE CHAIRMAN FRANCIS: With that said, I would vote "aye".

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye as well, with the conditions that have been given by Ms. Goodsell and by Vice Chairman Francis.

MR. TIRONE: Thank you.

CHAIRMAN MAMMINA: The application is approved.

MR. TIRONE: Thank you.

* * *

SECRETARY WAGNER: The next appeal is Appeal #21076, Mohammed Quaizar, 47 Oxford Street in New Hyde Park, Section 9, Block 482, Lot 117 in the Residence-C Zoning District. Variance from 70-50.B, to construct an addition that is too close to the street.

CHAIRMAN MAMMINA: You're heard Appeal #21076, Mohammed Quaizar. Is here anyone in the room interested in the application other than the applicant?

Seeing no one, please give your name and address.

MR. DiPROPERZIO: Anthony DiProperzio, architect. I'm with the firm DiProperzio & Mallia, 499 Jericho Turnpike, Mineola, New York.

Mr. Chairman, I have some cards I would like to present (handing).

First, I'd like to congratulate the Town's staff on recreating the Nuremberg trials.

(Laughter.)

VICE CHAIRMAN FRANCIS: I said the same thing.

MR. DiPROPERZIO: As long as the results are a lot better, I appreciate it.

I'm here representing the owner, Mr. Quaizar, the owner of 47 Oxford Street, New Hyde Park, known as Section 9, Block 482, Lot 117. This application is in regard to a notice of disapproval dated May 6th, 2021 regarding Section 70-50.B of the Town Code whereas the front yard setback for a corner lot on the narrow street is a minimum of 25 feet and the other front yard setback minimum of 20 feet. Our proposal, the scope of work involved in the application is to construct a new second-story addition over the existing first floor and a new rear two-story addition.

The house was constructed in 1943 as a one-and-a-half-story kind of Cape Cod-type of house which has a nonconforming front yard setback on what I am referring to as the secondary street front, the street front that does not face the front entrance of the house but the side elevation of the house. The

existing front yard setbacks along Oxford Street, which I'm calling the primary front yard, that's where the main entrance of the house is located. It's 27.1 feet set back from the street where 26.19 feet is required.

So the primary front yard setback is in compliance with the zoning regulations. The side or secondary front yard setback along Norman Street is a combination of 11.4 and 13.8 feet because of the difference in the perimeter setbacks of the house where a 20-foot setback is required on that side. So I think the 11.4 as being the controlling setback, that is the variance that is being requested as this application.

I submitted a set of photographs to the Board. On the first page is a copy of photographs of the existing house showing the sides and configuration of the house. And then on pages 2 and 3, there are photographs of eight other houses within the immediate vicinity of a half a block or so with a very similar second-story addition over the existing house, with the exception of the house located directly next door on Norman Street which is a new home with a front yard setback of 20 feet.

I also have a diagram I'd like to show the Board that I think graphically explains the case. Should I bring it over? This is the Oxford Street front and the primary setback. The area outlined in blue marker is the perimeter of the existing home. The area on our end in the back is the proposed two-story addition, and that two-story addition has proper setbacks, side yard and front yard setbacks. And in compliance with the code and with the area and open space regulations, the new addition is totally as of right within compliance with the code.

The area shaded yellow is that portion of the second-story addition that we would like to construct directly over the existing first floor. There's no expansion of the perimeter of the existing first floor, no change in dimension. It's a mirror image.

Do you want me to leave this as part of the presentation?

MEMBER GOODSELL: I would, yes.

MR. PERROTTA: We'll mark this as Exhibit A.

MEMBER GOODSELL: Exhibit 1. I think that's very helpful. I just want to see the deck part.

MR. DiPROPERZIO: So we're requesting the variance on the basis that according to Section 267-b of the Town Law, the five findings of whether an undesirable trait can be produced in the character of the neighbor or detriment to nearby properties will be created by granting the area variance, the proposed second-story addition is in keeping with the existing homes which have been altered and new homes recently constructed, based on the photographs of the homes we submitted as part of our packet.

The second, whether the benefit sought can be achieved by some method feasible for the applicant to pursue other than an area variance. In order to comply with a required 20-foot setback, a new second-story addition will have to be set back 8.6 feet at the north end and 6.2 feet at the south. A setback of that nature would require extensive structural modification and an undesirable effect which we find aesthetically unpleasing as well as the fact that the existing cape-style house is under-designed for the current use of the owner in terms of providing four bedrooms for his wife, child, and grandchildren.

The third, whether the requested area variance is substantial. The variance is not substantial since the proposal did not result in any increase in the nonconformance of the existing setback.

Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district. As per the attached photo, the size and bulk of the proposed house is in keeping with the homes in the immediate vicinity.

And whether the alleged difficulty was self-created. Obviously, the nonconforming front yard setback not created by the owner.

I'd be happy to address any questions.

CHAIRMAN MAMMINA: I think just for myself, you know, I mean, it is self-created because they're opting to build that other piece. And it does -- it does increase the degree of nonconformity because now they're adding that other piece. But recognizing the fact that it's building straight up on it, I guess -- now what I guess they -- the only thing that -- that troubled me with these kinds of additions is when we end up with a gable end facing that street because that adds like another 7 feet, you know, to the height of the building. I understand why -- you know, why it's there. But I'm not saying that that is the key that unlocks the magic door. But if that -- if that gutter line, that eave came straight across and that roof hit the back, you know, into that other higher roof, I don't know how the -- the two are working there. I mean, that could come up to a point, that could have a little vent on it, and it wouldn't be an odd -- it wouldn't be odd architecturally, you know. It's just that it faces that street and it makes a very tall wall on there that --

MR. DiPROPERZIO: Mr. Chairman, are you referring to the gable roof that projects outside towards the secondary window setback?

CHAIRMAN MAMMINA: Right, the one that fronts on Norman Street.

MR. DiPROPERZIO: The comment is would we consider changing that to a hip roof? We could do it.

CHAIRMAN MAMMINA: To hip it back so that it takes that height --

MR. DiPROPERZIO: Yes.

CHAIRMAN MAMMINA: -- and it produces that hip.

MR. DiPROPERZIO: But the gable and the front elevation, we're okay with?

CHAIRMAN MAMMINA: Yeah.

MR. DiPROPERZIO: Okay.

CHAIRMAN MAMMINA: So that line would be brought down to the height of the gutter. That gable end -- the other gable from the backyard side is already flipped down and doesn't present itself to the street, and that would take approximately 7 feet or so off that center area.

MEMBER DONATELLI: I agree. It would make it much -- it will lessen the visual impact.

MR. DiPROPERZIO: I'm looking at drawing A3, the proposed side east elevation, and I'm -- just for clarity, the large -- the main gable section and the smaller gable section adjacent to it will now become hip roofs. That would also affect the front elevation directly and maybe the gable roof of the house will be a hip roof because the other side is hipped as well.

CHAIRMAN MAMMINA: Right. It's moving away from you. I'm trying not to destroy it.

MR. DiPROPERZIO: Yeah.

CHAIRMAN MAMMINA: You'll take it as I mean it because Mr. DiProperzio knows --

I know you're a very good architect. But we both know it's not going to win any awards, you know, and if it was -- Ms. Goodsell is in agreement.

MR. DiPROPERZIO: Mr. Chairman, if it helps, I have a smaller reduced version. It might be easier to copy it.

SECRETARY WAGNER: He already marked it.

CHAIRMAN MAMMINA: Okay. Ms. Goodsell, would you like to make the motion?

MEMBER GOODSSELL: Well, then, before I make a motion, I just want to comment that it's a nice area. The improvement is going to add to the area. It's an older home that I think could use an update. But the area's well maintained and I'm sure

that the plans, as modified, will fit the neighborhood. Therefore, I'm going to propose a motion that we grant your application, subject to the Chairman's suggestions with respect to the roof line and the hip in the roof.

CHAIRMAN MAMMINA: Good. We have a motion. Do we have a second?

MEMBER DONATELLI: Second.

VICE CHAIRMAN FRANCIS: Second.

CHAIRMAN MAMMINA: It's a tie here.

MEMBER DONATELLI: Go for it, Les.

CHAIRMAN MAMMINA: Seconded by Mr. Francis.

MR. DiPROPERZIO: Okay. Thank you.

CHAIRMAN MAMMINA: We didn't vote yet so you don't have it yet.
Please poll the Board.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Before I vote, I would just comment for the record that the applicant is merely building up over the existing footprint of the house. Having said that, I vote "aye".

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.
The application is granted as per the modifications in the sketch.

SECRETARY WAGNER: The next appeal is Appeal #21077, Juliebeth Devlin, 3 Foxcroft Road in Albertson, Section 9, Block 553, Lot 46 in the Residence-C Zoning District. Variances from 70-50.C, 70.101.B, 70-52.5, and 70-202.1(C), to construct a second-story addition and roofed-over porch that are too close to the street and to construct a roofed-over porch.

CHAIRMAN MAMMINA: Okay. You heard Appeal #21077, Juliebeth Devlin. Is there anyone in the room interested in the application other than the applicant?

SECRETARY WAGNER: I'm sorry, Chairman. I didn't read the rest: Stoop and driveway expansion (impervious surfaces) which cover more than 55% of the front yard and to erect a retaining wall that is taller than permitted.

CHAIRMAN MAMMINA: You always do an excellent job, Virginia, and that did sound a little wrong.

Okay. Please give your name and address.

MR. O'CONNELL: Thank you. For the record, my name is Todd O'Connell, architect doing business at 1200 Veterans Highway, Hauppauge, New York.

All right. Thank you, Chairman, members of the Board. As stated, we're here for several reliefs, and I'll just kind of talk about them one by one: The first one that was listed was the minimum front yard depth would be the same as the average yard depth or the 25, whichever is greater. In this case the average is greater. The average is 28.9, and the existing house sits at 25.5. Within the average there are several homes that are actually, you know, at 25 feet as well. But there's a few homes that, you know, are set back quite far which use the average a bit.

Nonetheless, we're looking to build a second-floor addition on this home, and so to do so and to remain flush with the -- with the front of the house, we have to request certain reliefs from this board. This property is actually on a curve, so it's

not the entire front of the house that doesn't comply. It's really just the southern portion of the front yard because there's a very, very large curve. It's on a cul-de-sac. So, you know, much of the -- or, say, half of the front actually does comply with the front, just the left portion of the home.

The second portion of this is the front porch encroachment. Obviously, since the average doesn't comply, we have to use the average. Any porch on this house would need to go before the Board. We are requesting a 5-and-a-half-foot porch. Just from talking to my clients, you know, with the railings and the columns, they were looking to get a porch that would be 5-foot clear. And it's -- you know, it's -- again, part of the southern portion of the home is where it's tight. But then on the northern part of the front yard, we have plenty of property available, which it would actually meet the code requirements.

The next relief that we're looking for is the amount of impervious material paving, the front yard. We'll talk a little bit about the property. If you haven't seen any pictures of this parcel, the -- the -- the property is very steep. It's up on a hill, you know. The driveway is on the ground level. There's an existing retaining wall that's already there, but you can fit only one car in this driveway. They have kids, you know. They have multiple cars. They're looking to keep the cars off the street, put them in the driveway. So they're looking to make this driveway a little bit wider.

What makes it a little bit difficult where we need ever so slightly -- I think only 25 square feet of space more than what the -- than what's permitted. But the retaining wall itself is being counted in that impervious coverage. And being that there's retaining walls on the left and right side, it's not like you can open the front door and it's over grass where you could get out and have a little bit more room to get in and out of the car. So we've set it up where their cars could actually -- they could open their doors and be able to get out without smashing against the retaining walls on both sides of the home and. We felt that, you know, it's -- that very minimal relief was something they would be looking to ask for.

The last relief that we're here for is the retraining wall height. There is a retaining wall now that's already above the height. We're just taking that retaining wall and building a new one further over so I could fit two cars. But the grade is actually flat. We're not making it any higher than what's already there, and we're just kind of taking the retaining wall and building a new one a little further over.

So we're not requesting anything additional from what's currently there, and that would conclude, you know, the discussion about all the points on the agenda. And I'd love to answer any questions that the Board may have. Thank you.

MEMBER GOODSSELL: I'll ask one while they're going over the plans: Did you receive any comments from the surrounding neighbors? It's a very short street.

MR. O'CONNELL: Yes.

MEMBER GOODSSELL: There's only, what, eight houses, ten houses?

MR. O'CONNELL: Correct.

MEMBER GOODSSELL: And I am told by someone who lives at the entrance to the street that when a car goes down there, it raises an eyebrow because it's a very private street, because either someone is really lost or they live there. But there were no comments from surrounding neighbors?

MR. O'CONNELL: No comments. I typically get calls in my office, and I have not received any calls.

CHAIRMAN MAMMINA: Mr. O'Connell, what Mr. Hernandez has pointed to is, you know, the fact that there appears to be, you know, approximately a 5-and-a-half-foot difference in elevation between the property and, you know, I guess north to the right and your northern neighbor, and the drawing doesn't show any protection of that wall. That would be considered a fence by the Building Department, I believe -- you know, I don't want to speak for the

Building Department -- extending beyond the front of the house. But that would be quite a fall down, 5 and a half feet.

MR. O'CONNELL: Understood. We would have no issue with that. There's no fence on the wall that's on there today, but I understand --

CHAIRMAN MAMMINA: The wall --

MEMBER HERNANDEZ: The wall that's there today is only 15, 20 feet away.

MR. O'CONNELL: I see it.

MEMBER HERNANDEZ: You're now having your driveway -- it looks like -- I don't have dimensions but it looks like 5 feet away from the neighbor's property.

MR. O'CONNELL: Correct.

MEMBER HERNANDEZ: That's a danger if there's kids running around the neighbor's property. We don't know if they have kids or not.

MR. O'CONNELL: Absolutely, Mr. Hernandez. I totally understand.

MEMBER HERNANDEZ: At least some shrubbery, something has to go on top of that wall on your property.

MR. O'CONNELL: Right. I think we would like that. Absolutely.

CHAIRMAN MAMMINA: Mr. O'Connell, that will not prevent you from getting sued when somebody goes off the edge of that wall. Take that from experience.

MR. O'CONNELL: Okay.

CHAIRMAN MAMMINA: I didn't even build the wall in that case.

MR. O'CONNELL: As Mr. Hernandez said, we'll be happy to put any kind of landscaping buffer on there.

MEMBER HERNANDEZ: I'm having difficulty reading it, but it looks like there's a flight of stairs on the side of the house and then next to it outside, is that a garbage can?

MR. O'CONNELL: Yes, that's correct.

MEMBER HERNANDEZ: And that's going out to the backyard, I guess?

MR. O'CONNELL: Correct. It goes from the lower part back to the backyard, correct.

MEMBER DONATELLI: Mr. O'Connell, just for the sake of completeness, for the sake of the record, let me just ask you to address the five factors, and I'll just kind of take you through them.

MR. O'CONNELL: Absolutely.

MEMBER DONATELLI: Whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties would be granted.

MR. O'CONNELL: Yes, absolutely none. I mean, this is going to be an improvement to the area so it's not going to be any detriment to the surrounding area. We're maintaining what's already there. It's a private block, so I don't feel we're going to cause any detriment to the surrounding area. There's no negative environmental impact of what we're doing here.

As far as self-created, yes, as the Chairman said in the previous case, we're requesting this. Could we have held the structure back to conform? Sure, we could have, but it's not -- it's not practical. The house is there already. It would force more in structure, the certain style of architecture we're going for. There's a whole slew of reasons why it made sense to move it forward to the front of the home.

MEMBER DONATELLI: And once again, you're not planning on building larger than the existing footprint.

MR. O'CONNELL: That's correct.

MEMBER DONATELLI: Okay. Can you address whether or not, in your opinion, the requested area variance is substantial?

MR. O'CONNELL: No. I think it's quite de minimis, specifically because we're already over what's there. Also because the majority of the properties being on a cul-de-sac on the curve, it actually does conform and on the impervious surfaces, literally only 25 feet, it's essentially the width of the wall of 25-foot that's encroaching. So we don't feel that any variance we're requesting is a large request.

MEMBER DONATELLI: I think we're now trying to examine what the Building Department may require with respect to the elevation of that retaining wall as a safety feature. The last issue that I have in the five factors that I would like to address is whether or not the benefit sought by the applicant can be achieved by some other method.

MR. O'CONNELL: Yes, but not a realistic method in terms of their goals. I could have held -- as stated before, I could have held the addition back. I could have made the impervious surface smaller. But it wasn't practical to do that with my client's needs and what they were looking to accomplish, so we felt that the benefit achieved by them definitely outweighs, you know, any detriment or any request put before the Board today.

MEMBER DONATELLI: And I would just add to that that, in fact, if you're widening the driveway to add an additional parking spot off street, that is certainly a benefit to the cul-de-sac.

MR. O'CONNELL: Absolutely, as well as even a need because we're keeping an existing curb cut and in weighing into that second spot, we need

every inch of space that we can so we're not hitting the wall. So it's actually very important to have as much space as we can there.

MEMBER DONATELLI: Okay.

VICE CHAIRMAN FRANCIS: Mr. O'Connell, I see that you have one dry well indicated in your plans with regard to the proposed -- well, one in the front with regard to proposed driveway.

MR. O'CONNELL: Yes.

VICE CHAIRMAN FRANCIS: Do you believe that's going to be enough in terms of the runoff?

MR. O'CONNELL: Yeah. We actually designed accordingly. We did the calculations and designed the depth of the pool to the accommodate all the runoff.

VICE CHAIRMAN FRANCIS: Good.

MR. O'CONNELL: In fact, at the end of the driveway, we put a trench drain to accept any water going towards to street to still go into that dry well.

VICE CHAIRMAN FRANCIS: Okay. And that second parking area is going to be level with the --

MR. O'CONNELL: Yes, with the existing.

VICE CHAIRMAN FRANCIS: With the existing.

MR. O'CONNELL: And the curb, correct.

CHAIRMAN MAMMINA: Mr. O'Connell, there are no elevations -- point elevations on the survey.

MR. O'CONNELL: I have a topography, if you would like.

CHAIRMAN MAMMINA: That 5-foot-6 wall I don't think goes the entire length out to the street, you know, and at some point it's going to meet the

building code, that wall, as I understand the building code, what's the permitted difference in a residential case. We want to see that fence coming all the way out to the street and the curvature of the street if it's not necessary.

MR. O'CONNELL: I can show you the point. I have a topography survey here, if you would like.

CHAIRMAN MAMMINA: If we may see that, sure.

MR. O'CONNELL: As you look at the topography survey, just take note that the garage elevation is 91.9.

CHAIRMAN MAMMINA: This topography can't be right. It's not even close.

MEMBER HERNANDEZ: The visuals does not match the topography.

MEMBER DONATELLI: So, Mr. Chairman, having reviewed the application, having heard the testimony of the applicant here today, I make a motion that we grant the application subject to the condition that the applicant place a 30 -- place a 4-foot high estate fence on any changes of elevation that are greater than 30 inches. So as I look at this survey, that requires -- that accompanies the application -- just give me a moment. I'm just getting there.

Okay. The -- the areas that I am looking at where the estate fence would be appropriate would be along the retaining wall that is proposed on the side.

So, Mr. Chairman, I was in the middle of making a motion. But upon further reflection, I think the issue that has come up in my mind is the issue of the safety of the 5-and-a-half-foot difference in elevation and the fact that the -- the proposed retaining wall will now be closer to the adjoining residence.

So, Mr. O'Connell, I would ask you this: We tend to do things -- well, hopefully, we do things the right way. And I would -- I think that you've

heard that the Board is looking favorably upon this application. However, we want to make sure that this matter is noticed to the surrounding properties so that if we place a condition, for example, of an estate fence in an area where there's a great drop that the neighbors have an opportunity to be heard on that issue because that was not part of the original notice. So -- and I think that Mr. Chairman would -- would probably say this more eloquently than I could. But I think I would withdraw the motion that I started making, and the Chairman will tell you where we go from there.

CHAIRMAN MAMMINA: I think what we should do, Mr. O'Connell, and as was said by Mr. Donatelli, we would prefer to be able to approve this now but we are concerned about the lack of notice to the -- you know, to the neighbor and, you know, then having this fence appear, you know, across this very nice green lawn that connects two pieces of property. At the same time we are concerned about -- about doing the right thing, you know, from a safety perspective and not have this backfire on you and then be something that the Board would have to end up undoing by having the Building Department -- excuse me, having the neighbor come to the Town Attorney's Office and say, "Hey, wait a minute. I was never noticed." You'd probably get a stop-work order on your -- on your rebuild of the house. So I think it's in your best interest, or your client's best interest to handle this, I'll say, "properly". And I don't know if you filed the whole application all as one application.

MR. O'CONNELL: We did, yes.

CHAIRMAN MAMMINA: I don't file in the Town of North Hempstead so I don't know how difficult it would be to split out that from -- you know, from the rest of --

MR. O'CONNELL: It's very difficult.

CHAIRMAN MAMMINA: All right. I think otherwise, we're going to have to hold it, you know, until August.

MR. O'CONNELL: Understood.

ATTORNEY ALGIOS: Mr. O'Connell, what I would suggest is contacting the Building Department and you can just let them know what happened today, that the Board heard the application and it's concerned about the safety issue and would like to see a fence there but that was not part of your application so you want to submit revised drawings and could you just do that by an amended application and just submit the revised drawing.

MR. O'CONNELL: Yes.

ATTORNEY ALGIOS: And once that's done, you'll notice again and we'll have another hearing, but now the Board will be deciding on the full application including the fence variance.

MR. O'CONNELL: I have to resubmit the whole application or just the fence portion?

ATTORNEY ALGIOS: You can incorporate this part of your testimony into the record so you don't have to go through that again. And just -- it will really just be the fence that you can discuss. And in all honesty, it's really in your client's best interest to do it that way and do it properly with regard to fencing.

MR. O'CONNELL: It was just brought to my attention that the fence permit is a separate permit. So that's -- they cannot be incorporated.

SECRETARY WAGNER: Well, when you say "incorporated", you would submit a separate plan to the Building Department and you would have to make a fence permit application to them and then they would give a disapproval to that application and then you would incorporate that variance into this variance.

MR. O'CONNELL: Okay.

SECRETARY WAGNER: So in terms of the Board of Zoning Appeals, it would not be separate. But yes, it would be separate, the building permit.

MR. O'CONNELL: Okay. In the interest of just my client and just in the timing, as this probably could take easily another three months, is there another option for a landscape buffer?

ATTORNEY ALGIOS: You mean in lieu of the fence?

MR. O'CONNELL: Yeah. And if they're going to go for a fence, it would be a separate application and a separate, you know, presentation to this Board. Because, again, I've been working with the Village for a long time. I know this will be another three months, and we're in prime building season.

MEMBER HERNANDEZ: I don't see -- do you know the distance between your retaining wall and the end of your property? Because I'm looking at one of your drawings that shows -- like I'm going up the stairs, like there's an upper deck in that back -- on the side of the house.

MR. O'CONNELL: On the side of the house, that was the steps going back up to the ground level.

MEMBER HERNANDEZ: At least in the elevation, it shows a deck with some kind of fence which appears to protrude past that wall.

MR. O'CONNELL: You're looking at the front elevation?

MEMBER HERNANDEZ: Yes. It looks like it's going at least 5 feet out.

MR. O'CONNELL: There's a protective fence right there and there's a -- there's a garbage enclosure there.

MEMBER HERNANDEZ: Underneath it?

MR. O'CONNELL: Underneath it, right, not just a protective fence for the wall.

MEMBER HERNANDEZ: That fence goes past the retaining wall. Do you know how --

MR. O'CONNELL: To the property line.

MEMBER HERNANDEZ: All the way to the property line?

MR. O'CONNELL: Correct. That's just a 36-inch high guardrail.

MEMBER HERNANDEZ: Going all the way to the property line?

MR. O'CONNELL: Correct.

MEMBER HERNANDEZ: So that's how much room you have from the neighbors?

MR. O'CONNELL: That is correct.

MEMBER HERNANDEZ: It's probably no more than 4-foot.

MR. O'CONNELL: No. It's actually about 6 feet from the edge of the wall to the property line.

CHAIRMAN MAMMINA: Okay. So what I think, ultimately, what we're going to do is we'll continue the case and we'll see what we can do about expediting it across the street in the Building Department so that we can make that move along for you. But, you know, we have concern about taking something out of an order that we would normally look for and that it might bite back really on -- on you and, you know, we don't -- we don't want that to happen.

MR. O'CONNELL: Just, you know, kind of -- what the code actually allows for is a guardrail, not a fence. I understand the fence being 4-foot. The guardrail that's required here is only 36 inches high which then would be a guardrail and no permit required.

CHAIRMAN MAMMINA: If they'll accept the guardrail and you choose to put the guardrail, then you're done. You hold the fence at the back of the house, you know, as a compliant fence and you put a guardrail, or you put a guardrail down the whole thing. I can't tell you what to do. That's certainly your client's option.

MR. O'CONNELL: So you're suggesting that we just hold it over and speak to the Building Department for what you're suggesting about for a guardrail?

CHAIRMAN MAMMINA: For something more aesthetic.

ATTORNEY ALGIOS: With respect to the fence, to see what the Building Department says, if there's some way we can expedite it. If we let the Building Department know that the Board would like to see a fence there and is there a way we can get that expedited, and it would be incorporated into the --

MR. O'CONNELL: But if it's a guardrail, no permit required.

ATTORNEY ALGIOS: The guardrail doesn't have to go through the Building Department. The guardrail, you're entitled to. You don't need the Board's approval.

MR. O'CONNELL: That's my point. So then it would just be amended plans showing the guardrail.

ATTORNEY ALGIOS: Well, do you want to speak to your client about that, though? If they're happy to put a guardrail --

MR. O'CONNELL: It's not necessary. I could speak for them on that point and just put guardrailing.

ATTORNEY ALGIOS: We don't want to hold you up. If you want to take a seat, we'll do a second call and we're going to run over and confirm with the Building Department that the guardrail is

acceptable because there's some question as to whether you need sizes there or not, so we just want to confirm that. Assuming that that's fine, if you can just put a guardrail there as of right, they're ready to move on the application.

MR. O'CONNELL: Not so sure they define a walking surface. A walking surface is a matter of discretion. A flat piece of lawn is a walking surface. I don't really...

CHAIRMAN MAMMINA: I think we're digging a little too deep.

MEMBER HERNANDEZ: Just don't want to do something that could potentially be a problem for you after you started the work.

MR. O'CONNELL: That's the point. I want it to be a guardrail there just to protect myself.

CHAIRMAN MAMMINA: I think if we just put in the provision that the retaining wall has to have a guardrail on it, that it's going to comply with the building code in terms of the height of the wall.

MEMBER HERNANDEZ: A safety barrier.

CHAIRMAN MAMMINA: They call it a "guardrail".

MEMBER HERNANDEZ: If you decide to put a fence to make it more aesthetically pleasing, then you can file for a -- you can --

MR. O'CONNELL: Then it would have to be a fence permit and we would be before you.

MEMBER HERNANDEZ: To replace the permit, if you decide to do that.

CHAIRMAN MAMMINA: You can always come become for a fence, if you want.

MR. O'CONNELL: Right. At least it doesn't hold up my client.

ATTORNEY ALGIOS: All right. So I think the Board can vote, and they'll put in their condition that it has to be conditioned on the applicant installing a complying guardrail.

MR. O'CONNELL: Thank you.

CHAIRMAN MAMMINA: Good.

MEMBER DONATELLI: I'll take this. So, Mr. Chairman, I make a motion that we grant the application subject to whatever safety guardrail is determined to be necessary by the Building Department.

CHAIRMAN MAMMINA: Okay. So do we have a second yet?

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Mr. Hernandez second. Please poll the Board.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: After battling with myself in terms of whether I should vote "yea" or "nay", I have convinced myself to vote "yea". So I'll vote in agreement with the rest of the Board.

MR. O'CONNELL: Thank you.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: I may want to filibuster now.

(Laughter.)

CHAIRMAN MAMMINA: I vote "aye".

ATTORNEY ALGIOS: I just want to clarify, it's not the guardrail that would be determined by the Building Department. This board has determined that a guardrail is required, and it's a guardrail that's in compliance with the requirements of the --

CHAIRMAN MAMMINA: Of the Building Department.

MEMBER DONATELLI: Thank you for that clarification.

MR. O'CONNELL: Thank you all. Have a great afternoon.

* * *

SECRETARY WAGNER: The next appeal is Appeal #21078, Sheridan Street New Property, LLC, south side of Park Avenue, 50 feet east of Sheridan Street, Westbury, Section 11, Block 103, Lot 3 in the Residence-C Zoning District. Variances from 70-50.C, to construct a new home and portico that are located too close to the street.

CHAIRMAN MAMMINA: You've heard Appeal #21078, Sheridan Street New Property, LLC. Is there anyone in the room interested in application other than the applicant?

Seeing no one, please give your name and address.

MR. TIRONE: Scott Tirone, 75 Albertson Avenue, 11507.

I'm submitting the green cards that we received back (handing).

Again, I'm here to represent Sheridan Street New Property, LLC for the proposed new dwelling located on a vacant lot situated on the south side of Park Avenue, 50 feet east of Sheridan Street. Currently, it doesn't have an assigned address right now.

The property is a 50 by 100 vacant lot which is a compliant lot in the Zoning Residence District C, and we are proposing to do a new dwelling. The dwelling does meet all codes for the Residence-C District, sky plan, floor area, lot coverage. The only thing it does not meet is the average front yard. It should be in your packet. It is an actual average front yard survey that was done by Pettito and O'Connor, licensed surveyor.

The average only encompasses two houses. One house is situated at 19.7 feet. The other one is at 54.3. So that 54.3 being on our average kind of hurts us tremendously and puts the average at 37 feet where the minimum building lot in Residence-C would allow a 25-foot front yard. Further, the house on Sheridan with the 54.3 setback, they could come in today, apply for a permit, and push that house all the way out to 25 feet as of right because within their 200 footage, there's only one house at 19.7. So they would have a compliant house at 25. And if they did that, my house, the new house here, would also be compliant.

The house that we're proposing to build is not going to have the minimum front yard. We are proposing 28-foot, 2 inches for the front yard and 24 feet, 8 inches to the portico. It's a modest portico. We're not asking for a 5-foot depth. We're just literally covering the front landing, which is 3-and-a-half-foot in depth.

So the reason for the 28-foot -- 28-foot, 2-inch front yard, I had asked the architect. He was trying get the tandem parking spaces, two 10 by 20s. Where he runs into the landing on the side of the house is the reason why the house is 28-foot, 2 inches. The other reason is if we were to push the house to the -- to the average front yard of 37 feet, we would be left with an 18-foot rear yard. Fifteen-foot is the minimum in the area, but nowadays everyone is looking for pools and they're looking for outdoor living. Eighteen-foot kind of doesn't give you enough space, especially if you want to do a swimming pool.

So the way we're proposing to do the house is going to give us a 26-foot, 10-inch rear yard, which is nice. It's usable. You can do a swimming pool and patio and be able to use the rear yard. Again, the -- the house at -- I believe it's 800 Sheridan Street was the one that really hurts. It's a 54.3 front yard. I mean, it's just an anomaly in that area. Most of the houses in the area are set close to the street. They're within the 25-foot, you know, minimum and, you know, we're just proposing, again, to not be the minimum but we want to try to get as big of a rear yard as possible.

VICE CHAIRMAN FRANCIS: When I went to look at this property, I was confused by it, to be honest, because of the dimension of the shed. The only shed that I saw was the shed behind a house.

MR. TIRONE: That's --

VICE CHAIRMAN FRANCIS: Facing Sheridan.

MR. TIRONE: The house on Sheridan Street and this vacant lot, they don't run together. They are deeded separately and have been deeded separately. It goes back. I had a discussion with Scott Cole in the Building Department. It goes back

years. They're sold on separate lots but they've always been owned by the same people.

So, yes, the house at 800 Sheridan has a shed located on this vacant lot. So the house on Sheridan is on Lots 1 and 2. This vacant portion is on Lots 3 and 4. And you're hundred percent right, the shed for the house on 800 Sheridan is located on Lots 3 and 4. So that shed will be coming down when we build the house.

VICE CHAIRMAN FRANCIS: All right. So the lot that we're talking about is an irregular shape?

MR. TIRONE: No, no. It's a 50 by 100. But the corner house on the corner of Sheridan and Park, the -- it doesn't run from Sheridan Street going back 100 feet. They're 100-foot in the lawn, Park Avenue.

VICE CHAIRMAN FRANCIS: Okay. All right.

MR. TIRONE: Again, the only reason for the variance is for a greater rear yard. Yes, we can push the house back to comply but it's going to give us a very narrow rear yard. Again, that one house -- we're only taking two houses into consideration. When you look at the average, you know, we are going to be considerably set back from the house immediately -- I believe that's north of us. We're going to be set back from that house more than 8 foot, 5 inches. They're at 19.7. We're going to be at 28-foot, 2 inches. So we're going to be set back considering basically from them. It's just that house on Park Avenue at 54 feet.

VICE CHAIRMAN FRANCIS: Definitely.

MR. TIRONE: Park Avenue is hurting us.

MEMBER DONATELLI: Just to be clear, there is no swimming pool that's contemplated?

MR. TIRONE: They haven't proposed anything yet, no. They're just looking in the

future. I mean, I get calls every day. Everyone wants a pool now.

CHAIRMAN MAMMINA: It has closets in it already. You should put in a master bath and a walk-in closet. That's my just opinion. That's a giant room.

VICE CHAIRMAN FRANCIS: Okay.
Mr. Chairman, I am very familiar with this particular area. It's actually probably a quarter mile from where I live. Having visited the site twice because I was confused by the shed and having that explained now by Mr. Tirone --

Thank you for that.

MR. TIRONE: No problem.

VICE CHAIRMAN FRANCIS: -- I would move that we grant the application.

CHAIRMAN MAMMINA: We have a motion. Do we have a second?

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Virginia, please poll the Board.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Francis.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.
So the application is granted.

MR. TIRONE: Thank you. Thank you again
for having this meeting in person. I like it much
better.

* * *

SECRETARY WAGNER: The next appeal is Appeal #21080, RPAI US Management, LLC, 1618 Marcus Avenue, New Hyde Park, Section 8, Block 302, Lot 27 in the Business-A Zoning District. Variance from 70-196J(1)(f), to erect a wall sign higher than permitted.

CHAIRMAN MAMMINA: You've heard Appeal #21080, RPAI US Management, LLC. Is there anyone in the room interested in the application?

Seeing no one else in the room --

(Laughter.)

MS. HILLENBERG: Okay. Good evening, Mr. Chairman, members of the Board. My name is Sherri Hillenberg, Building Permits Plus, 19 Stillwood Road, Brookhaven, New York 11719.

We're here today proposing a wall sign of 22 feet, 5 and a half inches where -- from the ground where 18 feet is required. The sign will be for StretchLab which recently took over what was once Papa Ciro's at the location at 1618 Marcus Boulevard (sic) in New Hyde Park.

The sign will be in line with all the other signs in the shopping center. If you notice from the pictures I submitted, there were four other variances granted for similar signs.

SECRETARY WAGNER: Are you submitting these as an exhibit?

MS. HILLENBERG: Yes. I sent in one set of pictures when I sent in the mailings so there's a couple more.

SECRETARY WAGNER: These photographs of the property will be considered Exhibit 1.

MS. HILLENBERG: Yes. Thank you.

So a sign will be illuminated from the hours of seven a.m. to eleven p.m. which are the hours that the location will be open, I believe. And basically, it blends in with all the other signs along this strip center. Are there any questions?

MEMBER GOODSSELL: Are there any other signs in that develop-- in that shopping center that are illuminated?

MS. HILLENBERG: Yes. I think most of them are, actually.

MEMBER GOODSSELL: The business is already open, is it not?

MS. HILLENBERG: I believe it is. I think they just opened, but I know they're interested in the sign so that people know they're there.

MEMBER GOODSSELL: They have a banner up already thumbtacked to the wall or to the facade.

But, Mr. Chairman, I don't have any objection to this.

CHAIRMAN MAMMINA: Okay. So we'll consider that a motion. Do we have a second?

MEMBER GOODSSELL: I would make a motion that we accept the application as submitted as it conforms with all the other signs in that particular shopping center, and I have no objection.

MEMBER DONATELLI: I'll second.

CHAIRMAN MAMMINA: Seconded, then, by Mr. Donatelli.

Please poll the Board.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Before I vote, I would just make the comment that, in fact, the facade of the shopping center pretty much dictates the height of the sign. And as Member Goodsell said, it is similar to other signs that have been approved by the Board and the Town and, in fact, it's in conformity with the other signs in the shopping center. Having said that, I vote "aye".

MS. HILLENBERG: Thank you very much.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

Francis.
SECRETARY WAGNER: Vice Chairman

VICE CHAIRMAN FRANCIS: Aye.

CHAIRMAN MAMMINA: Aye.
The application is granted. Thank you.

day.
MS. HILLENBERG: Thank you. Have a good

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MEMBER DONATELLI: I make a motion that we adopt SEQRA.

CHAIRMAN MAMMINA: We have a motion. Do we have a second?

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Seconded by Mr. Hernandez, moved by Mr. Donatelli.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

(Time noted: 1:06 p.m.)

C E R T I F I C A T I O N

I, NICOLE WEXLER, do hereby
certify that the within transcript is
a true, accurate and complete transcript
of the proceedings which took place in
the above Matter.

signature
NICOLE WEXLER