

TOWN OF NORTH HEMPSTEAD
BOARD OF ZONING APPEALS
PUBLIC HEARINGS

ZOOM VIRTUAL
PUBLIC HEARINGS
Wednesday, December 15, 2021
10:15 a.m.

P R E S E N T:

DAVID L. MAMMINA,	Chairman
LESLIE FRANCIS,	Vice Chairman
DANIEL DONATELLI,	Member
JAY HERNANDEZ,	Member
PATRICIA A. GOODSELL,	Member
DEBORAH ALGIOS,	Deputy Town Attorney
VIRGINIA WAGNER,	Secretary
BARBARA DANIELS,	Court Reporter

Proceedings

CHAIRMAN MAMMINA: Good morning, ladies and gentlemen. Welcome to the Town of North Hempstead Board of Zoning Appeals. Today's our December 15th calendar, 2021, and what I'd like to do before we get started is take a couple of minutes to go through the procedures that we follow in the town. In case you've never appeared before this municipality, if you've never appeared before a Board before, I'll say especially if you're a homeowner even though it applies to everyone, be calm and steady and don't get nervous to the best extent you can and just talk to us, okay? We try to keep it very cordial.

So the way that the hearing will take place is Ms. Wagner will call each one of the cases, and as she does, I will then ask if there is anyone who has interest in the case and that can mean in support or in opposition, and you would just raise your hand then in the chat so that we know that you're there. Because you've raised your hand doesn't mean that you have to speak. Anyone who would like the opportunity to speak, will be given that opportunity to speak. Again, it's not necessary, but, again, the record would record that you're present. Many times people come just to hear what's going on, and then they understand what it is and maybe they decide they don't want to speak then or maybe they weren't going to speak and decided that they do now.

Once the case is called, we'll ask for the applicant, who will then be promoted to a speaker, to step forward. They will give their name and address as everyone will as the hearing proceeds and anyone else comes up to speak, after that, they will put their case onto the record and the Board will ask whatever questions that we see fit. When that

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part is completed, we will then ask for anyone who wishes to speak either in opposition or in support of the Board would then be your opportunity to come forward. It would be one at a time, name and address, as I had said before. The only thing that we do ask is that people try not to repeat what someone else has already put onto the record. Sometimes, that's difficult, but it's not a question of how many times the same point is made. Once the point is made, and it's officially in the record and is not punctuated further in any way by having it there numerous times. So I might remind someone if something has already been put onto the record, but, generally, we try to give free rein to everyone to say exactly what they would like.

When that part is done, the applicant and, typically, only the applicant, will have the opportunity to speak a second time. What they will do in that period is they will then either support or respond to anything that may have been put on the record by anyone else. The Board will also then be able to ask questions of the applicant based on things that may have been raised by those people who did speak. At that point, the hearing is done.

The Board then would do one of four things. I used to say three. Now I say four. We will either approve the application. We will deny the application. We may reserve the application or continue the application. Now, if we reserve the application, that could be for any number of reasons, and usually the Board wants to go and see the site again. Maybe we would like to review the Building Department's folder. It could be any number of things. If we continue the application, we may offer some kind of a middle ground compromise

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to the applicant. We may want to keep the record open so that documents can be submitted from another group or a report submitted or some further investigations done on the parts of the applicants.

Did I state that adequately,
Ms. Algios?

ATTORNEY ALGIOS: Yes.

CHAIRMAN MAMMINA: So when that is done, the hearing is finished, and I'm not going to say never, but there have been very, very few times that we had a second hearing. Other municipalities, especially Villages from my own life experience as an architect, will have repeat hearings on things, but we, generally, don't do that, not to say it's impossible, but, generally, we do not.

Before we get started, what I will ask -- I don't think I left anything out. I'll apologize to everybody, because doing this in Zoom is a little different than doing this in person, and sometimes I lose my mental place on how we do the opening procedures.

VICE CHAIRMAN FRANCIS: Before we do anything, we should do the Pledge.

CHAIRMAN MAMMINA: Thank you. That's what I mean. If we could, Vice Chairman Francis, would you please lead us in the Pledge?

VICE CHAIRMAN FRANCIS: I certainly will.

(Whereupon, the Pledge of Allegiance was said by all.)

CHAIRMAN MAMMINA: My apologies, and thanks, Les.

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MEMBER FRANCIS: You're welcome.

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Appeal #21146

CHAIRMAN MAMMINA: With that portion of our business taken care of, Ms. Wagner do we have any adjournments or modifications to this morning's calendar.

BOARD SECRETARY: Yes, Chairman. We have an adjournment of **APPEAL #21146 - Andrew Simons; 38 Beachway, Port Washington; Section 5, Block C, Lot 414; Zoned: Residence-A Zoning District.** That's being adjourned due to a mailing -- noticing insufficiency and being adjourned to January 19th.

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Appeal #21126

SECRETARY WAGNER: We also have
**APPEAL #21126 - Olga Aylarov; 42 Elm
Dr., New Hyde park, Section 8, Block
211-09, Lot 107; in a Residence-C Zoning
District.** That application has been
withdrawn.

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Appeal #21154

SECRETARY WAGNER: We have an adjournment request by Greater Council of Manhasset and also agreed upon by the applicant's attorney, Bruce Migatz, of **APPEAL #21154 - JMP Orchard St. LLC; 25 Orchard Street, Manhasset; Section 3, Block 71, Lots 513-515; Zoned: Business-B Zoning District.** If agreed upon by the Board, that would be adjourned until January 19th.

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Appeal #21154

CHAIRMAN MAMMINA: So we have an adjournment request here that was agreed to by both parties, the applicant and the, I guess it's okay to call it the Civic Association. Is there any discussion from anyone on the Board regarding that? If not, I'm just going to ask Ms. Wagner to poll the Board, assuming that we are in agreement to the adjournment.

(Whereupon, there was no verbal response from the Board.)

CHAIRMAN MAMMINA: Okay. Seeing no one, so, Virginia, please poll the Board.

BOARD SECRETARY: Member Donatelli?

MEMBER DONATELLI: Aye.

BOARD SECRETARY: Member Goodsell?

MEMBER GOODSSELL: Aye.

BOARD SECRETARY: Member Hernandez?

MEMBER HERNANDEZ: Aye.

BOARD SECRETARY: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

BOARD SECRETARY: Chairman Mammina?

CHAIRMAN MAMMINA: Aye. So Appeal #21154 is adjourned to January 19th and what that means for anyone who is on the call, is that if you are here for any of the -- either of

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the two adjourned cases, those will not be heard today. They will be heard on the 19th, and if you're here for the withdrawn appeal, which is 21126, that has been withdrawn and, therefore, is no longer part of the calendar and will not be.

What I will ask everyone before we call the case is the court reporter that is with us today, this is her first time working with this Board, so we'll just ask everybody to please speak slowly and annunciate. She has a difficult enough job when she's doing it in-person, but even more so when we're doing it virtually. Did I just see a message pop up?

MEMBER GOODSELL: I see a message for a case that I don't see on the calendar.

VILLAGE ATTORNEY: It is on the calendar. Ginny, are you aware of this being adjourned?

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Appeal #21110

BOARD SECRETARY: Yes. That's correct. **APPEAL #21110 Adonay Pineda; 12 6th St., Westbury, Section 11, Block 109, Lot 393; Zoned Residence-C & New Cassel Urban Renewal Overlay District.**

That appeal is also being adjourned. I just want to confirm -- due to a mailing issue. I believe Michael Tomberaro (phonetic), can you confirm? Is that being adjourned until the 5th or until the 19th, or Steve Perrotta, can you confirm?

UNIDENTIFIED SPEAKER: I'm taking a look right now. Give me one second.

BOARD SECRETARY: Unfortunately, that was left off of the latest marked calendar.

UNIDENTIFIED SPEAKER: It is being adjourned to January 19th.

BOARD SECRETARY: Thank you.

CHAIRMAN MAMMINA: If anyone is on this Zoom meeting for Appeal #21110 which is the last case on the Residential portion of the calendar, that is adjourned until the 19th for an issue regarding their mailings of the notifications.

So with that said, Ms. Wagner, can you please call the first case.

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Appeal #21142

BOARD SECRETARY: **APPEAL #21142 - Temple Israel of Great Neck; 108 Old Mill Road, Great Neck; Section 2, Block 354, Lot 26; Zoned: Residence-A.**

Variance from §70-100.2(A)(4) to install fencing that is too tall.

CHAIRMAN MAMMINA: Okay. You've heard Appeal #21142, Temple Israel of Great Neck.

Is there anyone on the call who would wish to speak other than the applicant?

BOARD SECRETARY: We did have somebody registered to speak for this appeal. Mr. Zielenziger. Do you see him, Deborah?

ATTORNEY ALGIOS: Yes. I do see him on here. Once the applicant is done with the presentation, we can call upon him to speak.

CHAIRMAN MAMMINA: Okay. Please give your name and address, sir.

MR. FILIPAZZI: Good morning, Chairman and members of the Board. Andrew Filipazzi, Harris, Bloom & Archer, 445 Broadhollow Road, Melville, New York 11747, attorney for the applicant, Temple Israel of Great Neck. Also in the Zoom -- I think he posted a note -- Jamey Kohn, the Executive Director of Temple Israel is here to answer any specific questions that I might be unable to that the Board might have.

ATTORNEY ALGIOS: Mr. Filipazzi, would you like me to promote him to panelist?

MR. FILIPAZZI: Yes. That would be great. Thank you.

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Applicant is seeking a variance from this Board from code section 70-100.2(A)(4) to install fencing that is too tall. Applicant is seeking to install a 6-foot fence with gates in the side yard between the property line and the one-story building in the southeastern portion of the property which has been used at the Temple's youth building and a 7-foot fence in the rear yard behind the youth building.

As you can see on the survey, it is in this area over here to the right of your screen (indicating). The proposed fence is based on a recommendation from the Department of Homeland Security. The purpose of the fence is to protect the children at the temple from potential intruders by blocking outside intruders from entering the property and also providing an area to shelter children if there were an intruder to enter the property through the parking lot as there presently isn't a sufficient shelter area on the property.

The gates that will be installed for the fencing will include panic hardware and will be up to fire marshal code. The fence, as I think I mentioned, is a security fence made with cross beams at the top and middle portions of the fence for stability, and will be anchored into concrete at the footing as is common with security fencing. The fence will either be black or green in color and covered with a fake green hedge to obscure the sight of any outside intruder and to also minimize any impact on the neighboring properties so that they're not looking at an ugly fence.

This request by Homeland Security is not uncommon as there have been numerous recommendations by DHS about additional security and safety measures

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to other houses of worship on Long Island, specifically, in the Great Neck area. Our office is handling a similar request of Department of Homeland Security for another house of worship in the Village of Kings Point.

And the proposed fence will be installed, as you can see on the survey, inside of the existing stockade fence. That stockade fence will be remaining, and there will be sufficient area between the two fences to allow the owner to maintain the grass and vegetation in between the two fences.

I'll conclude with a quick summary of Town Law 267-B, that this requested variance does not create -- there would be no undesirable change produced by the Board granting this variance. The relief sought by the applicant cannot be achieved by any other means other than an area variance requested.

The variance requested is not substantial and is fairly minimal. The proposed variance will not have an adverse impact on the physical or environmental conditions in the neighborhood, and the fifth factor of self creation, I would submit that this request is not self-created as it comes at the direct request of the Department of Homeland Security to install this as a necessary safety and security measure.

If the Board has any questions of me or of Jamey Kohn who is on the call, we'd be happy to answer those.

MEMBER FRANCIS: Counsel, not that I don't believe you, but do you have a copy of any correspondence from Homeland indicating the recommendation?

MR. FILIPAZZI: All of the correspondence has been directly between Officer Steven Krukowski of the Nassau

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County Police Department Homeland Security Bureau. All of it has been verbal with the applicant through Jamey Kohn. I have some e-mails from Jamey describing what has been requested, but we don't have a formal letter from them that I could submit.

MEMBER FRANCIS: I think for purposes of just keeping the record corrected, that would be helpful if you could provide with whatever evidence you have that this recommendation came from Homeland.

MR. FILIPAZZI: I can submit that e-mail from the applicant detailing his conversations to the Board to be included with the record following today's hearing.

CHAIRMAN MAMMINA: Do you have any actual document, though? I think that's the question.

MR. FILIPAZZI: I had asked the applicant if there was any written report from Homeland Security, and they had advised me that it was all verbal communication between this Officer Steven Krukowski. I have his business card with his contact information and the e-mail that the applicant had sent to me describing what had been requested, but no formal letter that I've been able to obtain or has been provided to the applicant.

CHAIRMAN MAMMINA: I would just be of the opinion as one Board member, and I'm not saying that it's not a good idea, and I'm not saying that I don't believe anybody, but I do think that having an e-mail from Homeland Security to a police department or some sort of a document. I don't know, Ms. Algios,

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what your opinion is or any of the other Board members?

ATTORNEY ALGIOS: I certainly think it would be wise if the applicant (inaudible) to obtain a written recommendation. At least, you know, make that effort. If you can't obtain it, the Board will move forward making its determination. Has an effort been made to get something in writing?

MR. FILIPAZZI: I'll relay that to Jamey Kohn. He's had all the contact between the temple and Officer Kurkowski. Jamey, if you want to expand on that. I know you had mentioned there were a number of verbal communications, and most of your interactions with Officer Kurkowski were verbal, but I'll let you give any further detail that you might have.

ATTORNEY ALGIOS: Mr. Kohn, if you could just begin by putting your name and address on the record.

MR. KOHN: Sure. Thank you so much, by the way. My name is Jamey Kohn, J-A-M-E-Y K-O-H-N. I guess it's the business address, 108 Old Mill Road, Great Neck, New York 11023. With respect to the security fence, I know -- the necessity is obviously there. I think everyone realizes that. You know, we're a Jewish institution. It's a time of lots of random anti-semitism and there's a stress. Regarding the particular piece of fence, if it's helpful, I mean, a lot of the conversations that involved us to go forward to create the fence began verbally. We then solicited the Department of Homeland Security for permission to create this fence, and I do actually -- I mean, I have their

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authorization directly from Homeland Security. We're using federal funds to actually build the fence. I could share an e-mail from the Department -- our representative with the authorization to create the fence if that's helpful, and if we needed to, I could also ask Officer Kurkowski, who's been incredible, to produce something in writing if that's helpful. Anything that's necessary. Our goal here is to just help protect the kids.

Currently, when they go outside they can easily be seen from the parking lot. Seven feet as opposed to the regular 6 feet or, technically, 5 feet because it's facing forward, is just too low. People could still see them. This would be able to protect their sight.

I can proceed in any which way. The e-mail for authorization from Homeland Security for the fence, that I could forward to you within minutes. The additional materials from Officer Kurkowski would, obviously, take a little bit longer. I'd have to get in touch with him. He could be on shift, and things of that nature.

ATTORNEY ALGIOS: Why don't you begin by forwarding the e-mail that you have, and that way, the Board could take a look at that, and that may be sufficient.

MR. KOHN: Sure.

VICE CHAIRMAN FRANCIS: I'm a little confused by the distinction between the authorization from Homeland Security and a recommendation from Homeland Security that you put this fence up. Was it a recommendation from Homeland, or was -- I'm confused.

MR. KOHN: The fence itself -- we

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make requests to Homeland Security of facility hardening to help keep the children, all guests and visitors to the campus safer. Homeland Security does their due diligence to determine what is the best means -- whether they approve or not approve or feel whether it would be helpful.

In terms of what a secure fence is, I mean, I've also seen -- gotten documentation. What is the definition of a secure fence? They would actually prefer 8 feet chain link and whatnot with obscuring material and things like that. The problem with 8 feet -- I mean, there's a whole back story to why we went down to 7 feet from 8 feet. I'm not sure if the panel needs to hear that, but -- and then speaking with Officer Kurkowski, he has his recommendations based on placement.

The goal to box the backyard in? Currently, it's pretty much open. Somebody could go into multiple layers to get in there. This piece of fence also obscures side entry. One of the things terrorists or cells might do is they might even try to get people to come out of the building where they could be waiting for them. This fence will, at least the side entrances, if the kids exit that way, they'll be safely inside.

Homeland Security doesn't come to us directly to make recommendations. We have to -- we request of them to get their advice and opinion on how to best keep the children, guests, visitors and whatnot, safe.

VICE CHAIRMAN FRANCIS: It certainly wasn't clear when Counsel made his presentation that the request actually came from the temple and not from Homeland to the temple.

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MEMBER GOODSELL: Can I ask a question, Mr. Kohn, on a slightly different area? What age children are we talking about, and, approximately, how many children?

MR. KOHN: Ages using this facility vary from age 4 to seniors in high school. It's called our youth house. During the day, there's a day school with everything from lower age to higher. In the evening, we use it for teenagers from 7th grade through seniors in high school.

MEMBER GOODSELL: And, approximately, how many children do you have enrolled in these programs?

MR. KOHN: During the day, there are about 100 some-odd children. In the evening, it could be a couple of days a week. Depending on the program, it could be anywhere between 60, 70, 80. It all varies depending the night of the week, date. The building is actively used. It's a prominent structure. It's a great hangout spot for the kids for when we have them there.

MEMBER GOODSELL: Thank you. That was my question. Thank you.

MEMBER DONATELLI: The question that I have is, you're requesting, in places, a 7 foot high fence and in other places a 6 foot high fence, but you're showing a 4 foot high gate. I guess my question is if there were somebody who had some mal-intent, wouldn't they go to the 4 foot gate to perpetrate whatever it was that they were contemplating? I guess I would ask you to just indicate why we have a 4 foot gate in the middle of a 7 foot high fence or a 6 foot high fence?

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MR. KOHN: I apologize. It's meant to be listed as a 4 foot wide gate. Maybe the surveyor accidentally put the wrong --

MEMBER DONATELLI: I see. So the 4 foot gate is 4 feet in width, but it's still the 6 feet or the 7 feet that you're requesting.

MR. KOHN: For the 6-foot fence, it would be 6 feet tall, 4 feet wide. That's keeping in line with the fire marshall code, and the two 7 foot portions would be 7 feet high with the 4 feet wide.

MEMBER DONATELLI: Okay. Understood.

CHAIRMAN MAMMINA: Mr. Kohn, one other question. The location of the fencing is very remote when we look at its proximity to Old Mill Road. I'm familiar with that part of the world up in there, but what's behind the area where the fencing is? Are those people's backyards?

MR. KOHN: For the -- I guess on the north side of the property?

CHAIRMAN MAMMINA: On the south side.

MR. KOHN: On the south side. That's backyard. They have a lot of vegetation on their side of the fence. Then there's the stockade fence that will remain. There will still be some distance between our new fence and their fence. With our fence, it will be kind of a better way, also, making it harder for people from their side who, say, want to come into our property from their backyard into ours, it will make

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it more challenging. For their side, it would be harder for somebody from our side to try to enter the back of their property in that portion. I mean, that's not the intent. There's plenty of place to try to kind of go around. It also keeps the kids, when they're outside, from going anywhere closer to the stockade fences. Some of the neighbors appreciate that, actually. When they're outside, they'll be within the primary section within the 7 feet portion. The kids will be contained within our fencing. They're not liable to go up to the wooden fencing. It will encourage further distance between our fence and our side neighbors.

CHAIRMAN MAMMINA: I think either counsel or you had said that it's essentially redundant fences in there, but just for the record, as we potentially get other cases should any come forward, I'd like to try to make the record as complete as possible as to what the physical conditions are around the subject fences.

You said in terms of the other fence, it would be either black or green with the rolled in vegetation you have? I'm not going to say I don't care. It's really not the subject of this Board, but I would -- I'll just put my architect hat on for a second and say, "Well, I think green would look better than black," but I doubt you're going to see much of the fence --

MR. KOHN: In both cases -- so they're not shiny. For security wise, for whatever reason, they say black or green is better just to stand out.

CHAIRMAN MAMMINA: If they say black or green is better, then do black or green.

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MEMBER HERNANDEZ: Mr. Kohn, just a question on the fencing. In front of us, we have a 6 foot and 7 foot request. It appears that the 6 foot is "x" amount of feet in front of the 7-foot fence, like, a second layer of fencing from the building to the side of the property. Now, I try to look at your property from the rear because this fence is going to be in the rear, and I couldn't see it, obviously, because it's all houses back there, and they're all neighbors back there. So it's really separating your backyard from your neighbors' backyard.

As a rule, when it's backyard to backyard, not side yard to backyard, the rules allow a 6-foot fence. Can you explain why a 6 foot hardened fence, which is what you're discussing. You're not discussing a normal pet fence, why you feel that, if we're dealing with children in there, why is a 6 foot fence insufficient and you need to go to 7 feet considering that you're talking backyard to backyard.

MR. KOHN: It's still the thought of -- oh. You're saying the backyard to backyard.

MEMBER HERNANDEZ: Right. You could, as a right, say it's my backyard against my neighbor's backyard. I would even say the neighbors to your side. Yes. It is your side yard, but it's your neighbor's backyard. So your neighbor could have a 6-foot fence on his side. So an easy argument could, "Well, my neighbor could have a 6-foot fence there for my kids' protection, my students' protection. Can't I have the 6 on my side as well?" Okay. What makes the difference for that extra foot? Why is that extra foot so important?

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MR. KOHN: Homeland just makes -- it's all about how easy it is to scale the fence. It's all about anti-scalability. Six feet, in all honesty -- I'm 6-foot-2. I can grab hold of the top of a 6-foot fence, and I can pull myself over in just a few seconds. I'd hurt myself, now, at this age, but it could be done.

MEMBER HERNANDEZ: I used to be able to do it too.

MR. KOHN: Originally, Homeland had asked for 8 feet, but there was, like I said, another reason why we dropped down to 7. Seven is more challenging for someone to try and vault themselves over, especially, the distance between the -- I forget what that's called -- the distance between the steel strands is narrow enough where it's harder to get a foothold. So unless somebody's actually going to start jumping up to grab hold of the top and then pull themselves over, it can make it a little more challenging. It's a little bit more of a deterrent for them. I'm not worried about the kids trying to get over. It's more about adults trying to get in. That's what worries me. Once we put the fake hedge on the other portions, that also decreases their ability to get over and through because the foot can't take proper hold. Eight feet would have been even better, but 7 feet, according to Officer Kurkowski, he's, like, I could deal with 7 feet.

MEMBER HERNANDEZ: You mentioned that there was a separation between the existing picket fence, I guess, the stockade fence, which I'm assuming is yours as you're discussing it.

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MR. KOHN: Yes.

MEMBER HERNANDEZ: How much of the separation do you have between the stockade fence and the proposed fence?

MR. KOHN: About a foot. It depends --

MEMBER HERNANDEZ: It's not enough to plant something because what I was thinking, if you had enough of a separation, you certainly could plant evergreens in there to really make it difficult for anybody to try to scale the stockade fence, the evergreens and then your fence.

MR. KOHN: I would put as much greenery as I can around the area. Maintaining that, though -- also when something happens to the fence, that also gets a little bit challenging. Mind you, whenever something breaks with the fence, we try to be the best neighbors we can. We try to repair that as quickly as possible. Something always breaks, and we always assume that responsibility whether a tree or just over time. It's wood. It will eventually fail. Thank you, Mr. Hernandez.

MEMBER HERNANDEZ: Yup.

CHAIRMAN MAMMINA: Okay. I guess, Ms. Algios, how would you recommend that we proceed? I think the sense of the Board is we don't have any objection to the 7-foot fence as far as I can read everyone, and, please, if anybody has a different thought, give a wave. Do we want to receive that documentation first or move it pending the receipt of it?

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MEMBER HERNANDEZ: Mr. Chairman, as the applicant has put it on the record that there is something out there that they have been recommended, I think we should receive that documentation for good order only because they put it on the record. They used that as a reason for us to grant this. I think it's only fair that we should ask for evidence of it.

SECRETARY WAGNER: Also, we have somebody that wanted to speak. That gentleman I mentioned his name before. Deborah, do you want --

ATTORNEY ALGIOS: I see he has his hand up. I'll allow him to speak now. Sir, if you could just begin by putting your name and address on the record.

MR. ZIELENZIGER: My name is David Zielenziger, and for the benefit of the stenographer, Z-I-E-L-E-N-Z-I-G-E-R, Beach Road, Great Neck, New York.

I'm a member of Temple Israel. In fact, I was the first person in the building this morning at around 7:20. So I have no problem with security for the building because I'm quite familiar with the congregation.

I'm glad about two things. First, at your request, that you receive the recommendation of DHS.

My second question, and you members have raised this, but what do the property owners adjacent to the fence think about this? I don't know if any of them are on this call, but did the BZA receive any written comments or any complaints or anything about this, because I'd be curious to know what they think. I'm not sure if they would have any objection, but I know that if my

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house were adjacent to Temple Israel property and Temple Israel were proposing this big change, I might have a problem with it. So I'm curious about that.

MR. FILIPAZZI: If there is no further comment, I'll respond to that. The applicant has spoken with a number of the neighbors. I can't represent that he's spoken to all the neighbors, but they've made a good effort to speak with as many of the neighbors as possible, and none of those neighbors that had been spoken with had any objection or complaint made aware to us about the proposed fencing, and we also provided a copy of the plans to see the height and the location of the fence.

ATTORNEY ALGIOS: Mr. Filipazzi, did you receive any consent forms?

MR. FILIPAZZI: We did not, and I know there's also a deadline for those to be submitted. We weren't able to receive any of those in time to properly submit.

ATTORNEY ALGIOS: Okay.

MR. FILIPAZZI: I would request the Board close this hearing and allow for us to submit sufficient documentation from DHS, the communication that Mr. Kohn has already, and if the Board finds that insufficient, then we'll reach out to Officer Kurkowski to get further documentation satisfactory to this Board.

CHAIRMAN MAMMINA: We'll continue it, correct, Deborah?

ATTORNEY ALGIOS: Yes. We'll

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leave the record open to receive that additional information.

MR. FILIPAZZI: But then no further formal appearance would be needed?

CHAIRMAN MAMMINA: No further needed.

MR. FILIPAZZI: That is okay with myself.

MEMBER DONATELLI: I'm sorry. Before we move on, I just have one other question which is the proposed shrubbery. I think you mentioned artificial plants? Is that what I heard?

MR. KOHN: Yes. It's called fake hedge. If you've ever seen fencing with, like, with greenery.

MEMBER DONATELLI: The slats that inserted inside the chain links?

MR. KOHN: Not PVC slats. PVC slats is one option, but you're still able to see through it. It's a little bit more unsightly. This would be, like -- it's called fake hedge. It almost looks like grass up and down --

MEMBER HERNANDEZ: The same thing, but it's made to look like a hedge.

MEMBER DONATELLI: Right. I'm familiar with it. It's woven through the chain link. I understand.

MR. KOHN: Yes.

MEMBER DONATELLI: Okay. No other questions.

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CHAIRMAN MAMMINA: We will continue the hearing for a receipt of documentation from the Department of Homeland Security in our end or the -- I don't know what precinct that is up there, but the officer that was named by the applicant in terms of his correspondence before finalizing the decision.

MR. FILIPAZZI: Thank you very much Mr. Chairman and the members of the Board for your time this morning.

ATTORNEY ALGIOS: Thank you so much.

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Appeal #21143

SECRETARY WAGNER: Next appeal is **APPEAL #21143 - Valeria Michaelides-Sbarro; 57 Harbor Hills Road, Port Washington; Section 4, Block 3, Lot 43; Zoned: Residence-B.**

Variance from §70-41 to construct additions that are too close to the side property line and that create smaller than required aggregate side yards.

CHAIRMAN MAMMINA: You heard Appeal #21143, Valeria Michaelides. Is there anyone else on the Zoom hearing who's interested in this application other than the applicant? If so, just put your hand up or message into the chat.

MEMBER DONATELLI: Mr. Chairman, before we begin, I will have to recuse myself on this particular matter.

CHAIRMAN MAMMINA: Let the record show that Mr. Donatelli is recusing himself.

ATTORNEY ALGIOS: Dan, if you could shut off your camera and mic during this appeal. Thank you.

CHAIRMAN MAMMINA: Please give your name and address, sir.

MR. MIGATZ: For the applicant, Bruce W. Migatz, Albanese & Albanese, 1050 Franklin Avenue, Garden City. Good morning. Nice to see everybody again. Ms. Wagner, could you please promote Joseph and Valeria Sbarro and also Norman Nemec, the architect.

VICE CHAIRMAN FRANCIS: Mr. Migatz, just to clarify the record, the address is 57 Harbor Hills Drive? It's listed as Harbor Hills Road.

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MR. MIGATZ: Because that's how the Building Department has it in their records.

VICE CHAIRMAN FRANCIS: Okay. Because that confused me when I saw it.

MR. MIGATZ: It did me as well, but if you go into the Building Department's record, they have it down as Harbor Hills Road. It is Drive, but the Section, Block and Lot is advertised in the Notice.

VICE CHAIRMAN FRANCIS: Okay. Thank you.

MR. MRS. SBARRO: Good morning, everyone.

MR. MIGATZ: May I begin, Mr. Chairman.

CHAIRMAN MAMMINA: Yes, please.

MR. MIGATZ: The applicants are with us this morning, Joseph and Valeria Sbarro, and the project architect, Norman Nemec, is also with us.

For the record the property is 57 Harbor Hills Drive, Section 4, Block 3, Lots 43, 44, and 45.

Exhibit 1 on your screen is a photograph of the subject premises. As you can see, it's a small one-and-a-half story Cape Cod style residence. You see a front dormer in the picture. There is a rear dormer on the building as well. This house was constructed in 1950.

Exhibit 2 is a C of O for the house. You can see that when that when this house was constructed, the property was zoned Residence-C, which is the reason for the insufficient side yard setback that I will discuss shortly. I'm not exactly sure when it was rezoned

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to Residence-B, but it is now a Residence-C.

Exhibit 3 is the site plan of the existing layout, and you can see that the west side setback is only 5 feet, 2-and-a-half inches. Residence-C only requires 5 feet. So when this house was built, they did have a conforming side yard setback and a dwelling that has a detached garage, presently.

Exhibit 4 is the proposed site plan. The applicant is proposing to construct a second-story addition on the existing first story house, and then on the east side, extend that to a two-story addition which would have an attached garage and living space above. The detached garage would be removed.

The variance is required for the side yard setback. We're not increasing the non-conformity laterally, but going vertically, we are maintaining that same 5 foot, 2 one-half-inch side yard setback. So that does require a variance, and it does require an aggregate side yard setback variance.

The Notice of Disapproval says 15 feet is required, but that, actually, is in error, which is 30 percent of the width of the lot. So it's actually 18 feet aggregate is required, and 13 feet, 4 and 1/4 inches are proposed.

If we look at the balancing test for the area variance, weighing the benefit to the applicant against the potential detriment of the community, the benefit to the applicant is to have a modern four bedroom house. Presently, the existing house has one bedroom on the first floor and three very small bedrooms on the second floor, and it has a detached garage, which is not favored these days, especially, in inclement weather. The benefit is to have a house that more or less is a normal house that one would want to live in these days.

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Weighing the potential detriment to the community, will there be an undesirable change in the character of the neighborhood? We don't think so. The 5 and 5'2" side yard setback has existed for 71 years and without any detriment to the community. Houses have been bought and sold over a 71-year period, and prices have sky rocketed. We're only increasing them vertically. We're not coming any closer to that side property line.

The aggregate insufficiency is only 2'4" on each side. Combined, it's 4'8", roughly, but if you were to split that up on each side, it's only short less than 2-and-a-half feet on each side. We would submit to you that that would not have an adverse impact on the adjacent properties.

Can the benefit be achieved by the applicant by some other means other than a variance? Well, the answer is no. We don't have a clean slate to work with. We have a house that was built in the 1950's pursuant to a Residency Zoning Code, and in order to make it into a modern four-bedroom house, these variances are required.

Are the variances substantial? First and foremost, the percentage of deviation we know by case law is not really the key here. The key is whether or not the deviation on the community, and for the reasons I've set forth, I would submit to you that it would not, and it's not even that substantial. The side yard setback is only 1 foot, 9 and one half inches short of the required, and the aggregate is less than 2-and-a-half feet on each side. So it's really not substantial in the context of zoning.

Will an adverse impact impose upon the environment or physical conditions? The area variance is a Type

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II variance under SEQRA, which is deemed not to have an adverse impact on the environment.

And lastly, is the difficulty self-created? The case law, as we know, if you acquire property subject to the zoning code for which you seek relief, it's deemed a self-created hardship. The Town law says that that is only one fact for the Board to consider. The hardship really is the result of a change. It was zoned from Residence-C to Residence-B which causes that insufficient side yard setback. It increases the aggregate side yard setback deficiency.

I did submit yesterday four consent forms; 53 Harbor Hills Drive, which is the house adjacent on the east side; 58 Harbor Hills Drive across the street; 54 Harbor Hills Drive across the street and 13 Poplar which is across the street. It's on the corner of Harbor Hills and Poplar.

Now, an inquiry was made to the Zoning Board by e-mail by Esther Lee (phonetic). Exhibit 5 is an aerial shot of the property. The blue dot here (indicating) is the subject property. Ms. Lee lives on Lot 45. (Indicating) 49 I think it is. The neighbor to the right here (indicating) has consented, and they could be affected by having that garage located on -- adjacent to that property line, but they have consented.

I responded to Ms. Lee's e-mail because she asked a couple of questions. One question she asked is whether the second-story addition and the detached garage would extend into the backyard, and I advised her, no. It would not, and I told her the benefit to her is that the detached garage, which is in the backyard, would be removed. So that's actually a benefit to her. The

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second question she asked whether there would be a professional office in the residence, and I responded to her that the answer is no. She also had some questions about the design of the house. It's not really relevant to the variances, but Mr. Nemec did respond and answer questions she had about some of the design features of the house.

I did not receive any other letters or e-mails in opposition to the application.

Unless the Board has any questions, that's our presentation.

CHAIRMAN MAMMINA: Mr. Migatz, if I may, I know that in New Hyde Park, there's a whole section of New Hyde Park that had it's zoning changed from C to B.

MR. MIGATZ: Mr. Martinoff (phonetic) refers to that as the Clinggy (phonetic) and Martin Overlay Zone.

CHAIRMAN MAMMINA: That's right. You beat me to it. We've had a lot of applications in that area. Do you have any idea of what the history of this zone change was there? It's maybe more curiosity than anything else.

MR. MIGATZ: I do not.

CHAIRMAN MAMMINA: Okay. That's fair. I will point one thing out, and I don't like to play architect, and I know that the house is extremely symmetrical, and it looks very pretty, but the garage is only 18 feet deep. I mean, that's very shallow, but there's still plenty of parking. It works. I do know in my own house, my own house only saw a car inside the garage one time. When I cleaned it out, I pulled the car in, took a picture of it, pulled it out, and then it had, at one point, three

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apartments worth of furniture from my children who were students at various times. Just pointing out if you pull it forward just a tiny bit more it wouldn't effect the requested variance really. I'm just putting it out there. That's all.

MEMBER GOODSSELL: I also have a comment. It seems to me that by removing the existing garage and moving it up as part of the house now, you're actually increasing the side yard there because it looks -- it's not measured, but it looks fairly narrow, the side yard, between the existing garage and the property line as opposed to where the garage is going to be moved to. In that respect, I see that as an improvement to the property and an increase in the size of the backyard.

CHAIRMAN MAMMINA: I think that that's certainly the case, and, really, my reason for asking about the history of it is -- I would like to say that while, of course, I can't be certain, it would be reasonable for me to believe that this single house was not picked from all of the houses in that neighborhood and changed from a C to a B. There had to be some greater geographic area that was effected by that zoning change.

Mr. Migatz, is there any information on any of the surrounding houses?

MR. MIGATZ: If I you drive through the neighborhood, you see a lot of houses that -- some are still small, and a lot of them have been increased in size similar to what we are proposing. One of the houses across the street was actually before this Board not too long ago. That's 54 Harbor Hills Drive, and

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that was also Residence-C when that was constructed and part of the Residence-B change of zone. That received a variance as well.

CHAIRMAN MAMMINA: I remember that one. The houses almost -- they look like original Levitt houses.

MR. MIGATZ: Some of them do, yes.

CHAIRMAN MAMMINA: I looked on the Certificate of Completion, and the Certificate of Completion was through a different company than Levitt. A lot of times those will pop up, but a lot of people also borrowed Mr. Levitt's plans to construct their houses.

My opinion, as one Board member, assuming that no one else has any feelings, is that while the hardship is "self-created," it was a Residence-C, and it was changed to a Residence-B, so any addition to it on that diminished side, the side to the west, there's nothing you're going to be able to do about it. It's going to be there. You're not going to push the house back, and to set the house back more on the second floor would make it look awkward, and aside from that being out of character with the community, not in character in terms of what it would look like. My own feeling is that I think that this is reasonable request considering the existing conditions and what they have to work with.

MEMBER HERNANDEZ: Mr. Chairman, that second floor that you were discussing just now, goes straight up. It is not encroaching any further.

CHAIRMAN MAMMINA: Correct.

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MEMBER HERNANDEZ: The fact that it is also next to a corner house means that it is up against a backyard, which has a much deeper setback than the usual side yard. So though it is close to the line, at least it is not on top of the neighbor. There is ample space between this house and the neighbor's house.

CHAIRMAN MAMMINA: One other point which I think I always make when we have these kinds of variances being requested, is that the roofs -- when we look at the front elevations, the roofs are hip roofs, meaning that they slant in. They're not straight up so that the gutter line of the second floor is the highest visible point to that neighbor next door before it starts to move away, and that does diminish the bulk of the house, and then, of course, certainly you know, the appearance I also think, in terms of this house, it makes it very handsome. It fits the character of it.

MR. MIGATZ: I was remiss. Mr. Nemec wanted me to point that out to you that he just designed it with a hip roof with that in mind.

CHAIRMAN MAMMINA: Yes. He's been here before, so he knows this --

MR. MIGATZ: I think he did a wonderful job in designing it having to work with what he had to work with.

CHAIRMAN MAMMINA: I think it's very nice. Limited space.

MEMBER HERNANDEZ: Mr. Chairman, given all that has been said, and the reason why we give -- this being a unique situation with the change of the upgrading of the zoning for the property, I move that we grant the

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application as requested.

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

MEMBER GOODSSELL: I will second.

CHAIRMAN MAMMINA: Seconded by Ms. Goodsell. Motion by Mr. Hernandez. Please poll the Board.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. The application is granted. I wish you good luck. When I was probably about your age, I had a similarly small house and I expanded it similarly to this. I lived in that house for 42 years. I wish you the same.

MS. SBARRO: Thank you very much.

ATTORNEY ALGIOS: Chairman, I just want to note for the record that there were no hands raised in the attendee box.

CHAIRMAN MAMMINA: Thank you very much.

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MR. SBARRO: Thank you,
Mr. Chairman. Thank you, members of the
Board for your time today.

MR. MIGATZ: I'll see you later
this afternoon, I think.

CHAIRMAN MAMMINA: Merry
Christmas.

MEMBER DONATELLI: I've rejoined.

ATTORNEY ALGIOS: Let the record
reflect that Mr. Donatelli has rejoined
the meeting.

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Appeal #21144

SECRETARY WAGNER: Next appeal is **APPEAL #21144 - Claudia Flechas; 12 Flower Hill Place, Port Washington; Section 5, Block 87, Lot 5; Zoned: Residence-C.**

Variances from §§70-100.2(A)(2), 70-100.2(A)(4), 70-100.2(M) to install fencing within a front yard (not permitted) that is too tall and to install an arbor within a front yard (not permitted).

CHAIRMAN MAMMINA: You heard Appeal #21144, Claudia Flechas. Do we have anyone on the chat thus far? I'm not seeing anybody there. If not, we can promote the panelist, please. Please give your name and address, sir.

MR. FIORE: Brian Fiore, architect, 208 North Wisconsin Avenue, Massapequa, New York. I was the architect for the homeowners from their previous projects and we're here before you to request variances for a proposed fence. So we are requesting variances for proposed fencing with an arbor located in a front yard. We're here before you today because this is not a standard lot with a front and rear yard. It's a through lot with two front yards with streets abutting each end. The Flechas are looking to enclose what would normally be considered their rear yard space for privacy and security, and there is no way to do that without the relief from a variance in this space.

We are proposing 5 foot PVC fencing on the sides of the property returning into the sides of the house. The 5 foot PVC fence would continue on the side yard to the rear front where we are proposing a 4 foot high PVC fencing along Murray Avenue with an 8 foot high arbor with gate, 6 foot high gate, for the access into that yard. We know the

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arbors are not permitted in the front yard. They're only permitted in side yards. So we are requesting that to become part of this variance.

This entire block is set up this way with the two front yards. So every house has this condition. Five of the seven homes along Murray Avenue have these fences here along with the corner house also has fencing in the front yard to the east of them. This is the only house that doesn't have any fencing. So all of these homes (indicating) do have Flower Hill Place as their mailing address. We consider all of these to be secondary front yards on Murray Avenue. So this fence would fit in with the characteristics of the neighborhood. In fact, most of these fences are located on retaining walls and are built higher up than the grade than this house would be. We're proposing it to be on the ground.

Also on Murray Avenue, the property line starts about 13 feet in from the curb, and we're setting this fence back an additional 3 feet for additional planting space. So there would be a total of 16 feet between the fence and the street curb. We feel this setback space provides safety from the street and also the provides adequate sight lines for the abutting neighbors which do have driveways on Murray Avenue. The property to the east has a driveway on the opposite side and the property to the west does have an adjoining driveway and an adjoining fence on their own side.

We do have a 24 foot line of sight at a 45 degree angle running from the corner of the fence to the curb for the property on the west side for their driveway to allow line of sight going in and out of their driveway which they don't have on their own property.

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I also want to make a point that this property is located two blocks from the train station. So there is a lot of foot traffic at all times of the day and in the night. They do hear people around in the area. So this fence will provide them with a sense of safety, security, and privacy for what's really their rear yard living area for their outside property.

There are also many stray cats roaming around which are defecating in their yard. So, hopefully, this will also relieve that problem that they're having.

I believe there were pictures submitted that show some of these conditions with the neighbor's fences and the cats and the proximity to the train station.

MEMBER DONATELLI: So Mr. Fiore, I do have a question. You mentioned the neighbors have fences. Do we know if those fences are legal? Were they permitted, or do you know the status of those fences.

MR. FIORE: I do not know. I don't have any copies of their permits or variances for those fences. We can certainly research it.

MEMBER DONATELLI: As one Board member, I would like to know if those fences are legal or not. I mean, certainly a through lot does present some challenges, and I am mindful of the fact that the way the house is situated, this is a backyard, for all intents and purposes, for your clients, but I would like to know whether or not those other permits that are referring this to, whether or not those fences, in fact, were obtained for the benefit of a permit.

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MR. FIORE: We can definitely look up that information and FOIL those properties to let you know which ones do, in fact, have permits because they all appear to be 6 foot high fences. There's another one that appears to be a 4 foot high fence.

MEMBER DONATELLI: The other question I have is, do you have any photographs or any brochures or anything that you can send us showing the arbor and the fence that you propose to install.

MR. FIORE: We can provide that also. Eight foot arbor with a standard archway with a gate, but I can give you a detail of what it would look like. We did not submit that.

MEMBER GOODSSELL: Mr. Fiore, just to clarify, of these houses that are on this very unusual block, the seven houses you mentioned, they are all treating Flower Hill Place as their front yard; is that correct.

MR. FIORE: Yeah. I double checked them all, every single one, even the corners. When I clicked on Google Maps, it told me their address was Flower Hill Road.

MEMBER GOODSSELL: So this applicant is not looking to turn the property around and treat the backyard as the front yard or anything like that. They're just looking for a backyard the way everyone else has.

MR. FIORE: Correct. They just remodeled the whole house. They have the garage in the front. They're looking to keep the front door on Flower Hill. There is a deck in the backyard,

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and they're looking to use it as a rear yard space and have it enclosed.

MEMBER DONATELLI: As I look at the survey -- the site plan. Forgive me -- that was submitted along with the application, I note that the applicant is proposing landscaping in front of the fence, and then I see where you have delineated the sight of the proposed fence and the arbor. What is the distance between the lot line and the proposed fence? I don't see that measurement.

MR. FIORE: Three feet. Three feet back from the fence to the lot line. I don't have an actual dimension on there.

MEMBER DONATELLI: Do you have anything else that you want to add to your application.

MR. FIORE: I do know one of the neighbors had concerns over the fencing, the neighbor to the east on the corner, but the 5 foot fencing is permitted on the side yard. It's a fine line as to what's considered the side yard and a front yard. I believe the 5 foot high fencing is as-of-right. That's parallel to the house on the side yard.

CHAIRMAN MAMMINA: Not for any distance other than the front yard -- excuse me -- the depth of the house. Beyond that, it's a front yard.

MR. FIORE: Right. So if it's within the side yard, I believe it's pretty much as-of-right in that location as a 5-foot fence. One of the few portions that it is as-of-right was what her concern was with, and also there's a front retaining wall that's very high.

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You can't access the northeast portion of the property without accessing it from their backyard. So they wouldn't really need a gate there to access that without coming onto her property also, which I believe was her issue because it's difficult to access the front portion of that being that there's a sunken driveway and a high retaining wall. So they really need that gate because they're proposing a fence there to access their -- that's the only way to access that piece of property without coming onto the neighbor's property.

MEMBER DONATELLI: Let me just correct something because I think that there may be a slight misunderstanding. I think the issue, because this a through lot, is that you have two front yards. So even though you are entitled to a 5-foot fence along the side yard, I believe that that would only entitle you to the 5-foot fence that does not extend beyond the building line of either what you consider the front of the house or the back of the house, because anything that exceeds the building line, because it is a through lot, will be considered a front yard; is that correct, Deborah.

ATTORNEY ALGIOS: Yes. That's correct.

MR. FIORE: That's my understanding of it as well.

SECRETARY WAGNER: Just to let the Board know, the neighbor was in here into the BZA office, and in addition to the letter that she submitted, she was mostly concerned about that portion of the fence that the applicant was just referring to that probably would be permitted as-of-right between her home and the -- on the left of the home if

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you're looking at it on this screen. She was concerned about that gate that we were talking about, that does give access to the front yard. In her opinion, she feels that coming out of that gate that there would be no way to access that little portion of the front yard without going onto her property.

MEMBER DONATELLI: I'm not sure I understand that.

CHAIRMAN MAMMINA: Next to the driveway.

SECRETARY WAGNER: Yes. She's mostly concerned about the fence and the gate, the portion of it that exists between this home and her home, the part that she would be looking at from out her window.

CHAIRMAN MAMMINA: I would agree with the applicant, if I'm understanding correctly. I think I am. They're entitled to their fence.

SECRETARY WAGNER: Yes, we explained that to her. That was her main concern.

ATTORNEY ALGIOS: The applicant has her hand up, so I'm going to unmute her to see if she'd like to speak. If you could just put your name and address on the record, please.

MS. FLECHAS: My name is Claudia Flechas, 12 Flower Hill Place, Port Washington.

ATTORNEY ALGIOS: Thank you.

MS. FLECHAS: I just wanted to be clear on that. I think everyone is. Basically, I do want the gate on the

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side of my property, but, obviously, we do share that front yard with my neighbor. So I would only want a little gate, a little door to access my front yard, so that way I don't step in her property, with nothing to do with her property, and just to maintain my side of the property clear and clean and that way, nothing goes into her property.

MEMBER DONATELLI: I understand.

CHAIRMAN MAMMINA: That gate that's in the front, I don't see a height on it, but that would be a 4-foot gate, 4 foot high.

MS. FLECHAS: Yes. And then for the side fence, it would be whatever is allowed.

CHAIRMAN MAMMINA: You're allowed 5 feet for the length of the house, and then you're not allowed any fence beyond that. I'm assuming that's the variance that you're asking for.

MS. FLECHAS: Yes. So I just wanted to clarify that, and explain the reason.

CHAIRMAN MAMMINA: Thank you.

MEMBER DONATELLI: Again, I would like to repeat that I would like to see the arbor and fence that's proposed. I'm sympathetic to the situation. I understand it's a through lot. I did visit it, I believe, two days ago in preparation for today's hearing. I understand that the applicant would like a backyard that is usable, and that this particular property presents some challenges that I am sympathetic to. I would like to see the fence that's proposed. I would like to see the arbor

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that's proposed.

I would also -- I think for purposes of our record, it might be best to go back to the site plan that was submitted, Mr. Fiore, and to delineate whether the applicant is looking for a 4-foot fence or a 5-foot fence in that portion of the lot that is, for all intents is purposes, the rear of the house, what the proposed height of the fence for that portion, whether it's going to be 4 feet, or whether the applicant is asking for 5 feet, because right now, the way I read it, it's showing 5 feet or 70 linear feet. If we're going to consider a variance, we should also know what the height is of the fence in that portion of the yard.

MR. FIORE: Right. It's pretty much on there. It's five foot along the sides. It turns to the house on both sides. Everything was 5 feet, and the only place we were proposing 4 feet, was on Murray Avenue. I do know the history of the fencing and zoning and, obviously, 4 foot is preferred going from the house to the side yard, and there was a case of not having a fence versus having a 4-foot fence. I'm sure the owners would prefer having a 4-foot fence versus not having any fence.

MEMBER DONATELLI: If I may suggest, why don't you also find out whether or not those fences on the neighboring properties were installed with the benefit of permit, and then, perhaps, Mr. Chairman, we can continue this until such time as we receive that information.

CHAIRMAN MAMMINA: I think that's a good idea. The other thing, Mr. Fiore, just that I would point to is that on the Haven Avenue -- I know it's

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not on Haven Avenue -- but on one side you've got landscaping. On the other side, you don't have landscaping.

MR. FIORE: Correct. That's an existing landscaping on the site plan on the west side to the north, right between Haven Avenue and the property line there.

CHAIRMAN MAMMINA: Okay. So there's no proposed landscaping there on that side.

MR. FIORE: No.

CHAIRMAN MAMMINA: Okay. Just asking. So I think we'll, as Mr. Donatelli said, I agree. We'll continue the application, and please just get that info into us, and the sooner that you can, then the sooner that we can look at it.

MR. FIORE: Sure. Thank you.

CHAIRMAN MAMMINA: Thank you. Thank you both.

MS. FLECHAS: Thank you.

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Appeal #21145

SECRETARY WAGNER: The next appeal is **APPEAL #21145 - Lisa & Blake Aber; 12 Pine Dr., Port Washington, Section 5, Block C, Lot155; Zoned Residence-A.**

Variances from §§ 70-100.2.A(2) & 70-100.2.A(4)(a)[5] to legalize fencing which is located within the front yard (not permitted) and to legalize fencing which is too tall.

CHAIRMAN MAMMINA: You've heard Appeal #21145, Lisa and Blake Aber. Is there anyone who is on the Zoom currently who wishes to be heard other than applicant.

ATTORNEY ALGIOS: I don't see any additional hands raised. I'm looking to pull the applicant now. If the applicant could raise their hand, it would make it easier for me because I don't see your name on here.

CHAIRMAN MAMMINA: Please give your name and address. If you both wish to speak, that's absolutely fine, just both of you put your name and address onto the record, and the only thing that we would ask is that you speak one at a time so that the stenographer can take an accurate transcript of the hearing.

MR. ABER: I'm Blake Aber. This is Lisa Aber, 12 Pine Drive in Port Washington. Thank you, Mr. Chairman. Thank you, members of the Board. We've put together a package of some materials. Hopefully, you've had a chance to review, but just to hit the main points, we purchased our property in the midst of COVID and moved in in August of 2020. The day after we closed, a tree fell on our deck. It fell on our fencing. There were a bunch of issues with the house. What I'd like

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to call attention to is the fences that we're currently discussing existed before we moved into the house. They were shown on a previous site plan that was done in 2003. None of the, kind of, lines have changed. In terms of our particular situation on Plandome Road, it's a busy road. It's in close proximity to a commercial area with heavy foot and vehicle traffic. We're the proud parents of two 4-year-old twins who also happen to have some special needs, and so we are very concerned for the safety of our children and the ability for our children to be in our yard.

We understand that in terms of zoning, we're in a special situation because our lot is a side lot. So basically, any fence that extends beyond the front of our house is not according to zoning. The challenge is that when you look at the existing footprint of our fencing, if we were to follow that code, it would reduce the amount of livable outdoor space for our twins by 66 percent. So that's a major concern for us. I think some of this is due to the history of the house, and the setback, and where it's located.

What we would like to call attention to is that where the fence exists today on the west side, which is abutting Plandome Road, there are significant bushes and vegetation that block the fence. There's also ivy that covers the fence, so it's very unobtrusive, but also protective. We also have some supporting documentation on precedent where the fencing was approved. In terms of the height of the fence, on the west side, it's unobtrusive visually. On the north side, we have fencing that is -- our attempt was to make it attractive. We tried to make it so that any area that

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was significantly above the 4 foot code requirement is see-through so it's not completely obstructive, but we also need the extra height because our twins are growing constantly. They can easily reach over a 4-foot fence and get out, and that's something that we're very concerned about in terms of safety. Likewise, if we were to follow the code and took down the fence on Plandome Road made it 4 feet, it's very easy for people to get in, and if there was no fence at all, it would be easy for our kids to slip through vegetation.

I'll kind of pause and let my wife add any points if she believes I missed something.

MS. ABER: No. I think that that covers it, and I think that we did, and we submit a copy -- well, we redacted the children's IEP just to show that the Port Washington School District does recognize that they have a disability under the Americans With Disabilities Act, and we did site to case law that does state that people with disabilities are supposed to be some leniency with variances in such as the case here where it wouldn't seem to impact any of the neighbors. In fact, our neighbors, when they received this notice were very supportive of the variance and they actually, like we mentioned in our papers, appreciated the fact that we're going through this process.

MR. ABER: Two points that I missed. One was we had two neighbors verbally stop by and tell us of their support of our variance and one has, actually, has submitted an e-mail in support. The second is in terms of the five factor test. I believe we addressed the five factors.

I think the key thing here which

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we would submit to the committee is that this isn't a self-imposed issue. This was something that pre-existed and we were unaware that it was previously approved because the previous site plan had the fencing in the existing location. So those are a couple of more points that I would just like to add.

CHAIRMAN MAMMINA: So Blake, did I hear you say that you had some documentation that the fence was approved, or did I mis-hear that.

MR. ABER: The site plan that was submitted within the office in terms of -- so in 2003, an addition was made to the house. The 2003 site plan. What you're looking at currently, I believe, is the updated site plan.

CHAIRMAN MAMMINA: The survey.

MR. ABER: This had the fence in the exact location, but we learned from the Town when we were trying to permit and kind of follow the rule of the law that the previous site plan, the fence was against code even though it was in the city's, kind of, ownership.

I guess the only other thing I would add is that the building has gone through many owners. It was a 1948 property. It was previously a unitarian ministry and then it became a homeowner. So we don't know the true lineage of the fence, whether it existed prior to 1966 or not. We can tell you only that as of 2003, we know of its existence in its current location.

MEMBER DONATELLI: Was there anybody who wanted to speak on this issue, Deborah.

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ATTORNEY ALGIOS: Let me check again. I did not see anybody. Doesn't look like anybody would like to speak. There are no hands raised, and no one has indicated so in the chat.

MEMBER DONATELLI: Mr. Chairman, as one Board member, I drove by this property again, approximately, two days or so ago to take a look at it. I personally also drive along Plandome Road. There are really two ways off the Port Washington peninsula, Plandome Road and Port Washington Boulevard and, unfortunately, both are very heavily traveled, although, Port Washington Boulevard is a four-lane road, whereas Plandome Road is only one lane coming and one lane going. So I'm very mindful of the applicant's issues.

It is a corner lot. It is problematic. I know in the past this Board has looked favorably on these applications, but we also try to mitigate the visual effect of the fence. When we have approved these applications, we have asked the applicant as a condition of the approval, to plant shrubbery in front of the fence so as to mitigate the visual impact. Typically, we would seek no more than a 4-foot fence particularly since that is the least objectionable of the fences, but understand the applicant's position here, having moved in, being forced to move in at a time when, perhaps, their attorney wasn't able to do full due diligence.

I guess because of its position, I would, as one Board member, not have an objection; however, I would like to see some shrubbery planted along the front of the fence as the property faces onto Pine Drive.

MR. ABER: I think that seems

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very reasonable, and the only other consideration would be that there is a large tree that's right on Pine Drive that blocks the majority of the fence. Actually, we have a maple that blocks the existing fencing. So it's mostly obscured by shrubbery. If you wanted some bushes along side, that seems reasonable.

MEMBER DONATELLI: Yeah. I'm looking at your property, and, again, I looked at it mostly from the Plandome Road side, but I did turn into Pine. I do see that there is a tree along the front, but my request would be, particularly if it's acceptable to yourselves, that we plant some sort of arborvitaes or some sort of a tree that would lessen the visual impact of the fence along Pine Drive.

MR. ABER: Okay. Absolutely.

CHAIRMAN MAMMINA: I think one thing to clearly establish on the record is that under normal circumstances, I would look at this fence and say, "No way, no how. I don't care how it got there. I don't care when it got there. No. You can't do that." Understanding, of course, that it's not because I hate high fences. That's not where the Board comes from. We have a certain job to do based on the zoning which is the laws of the Town of North Hempstead. We may think that they're bad, but we still have to uphold those. We may think they're great, and there's something else we might have to end up denying because of it. What we have done, I think, fairly consistently -- not fairly. Always -- is when we have special needs for children, adults, whatever, we do go out of our way to

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accommodate those people within reason, and yours is justified and is reasonable for that reason and separates your variance from another neighbor coming in across the street and saying, but you gave it to him. You're also in the predicament that we see fairly regularly that when you buy a corner house, depending upon how the builder sited it, you can end up with no usable backyard based on the fencing laws. Even on those, we'll sometimes give a little bit of leeway in there so that they can have something as well.

We do them on the case-by-case basis. We look very carefully at every single application that comes in. I do think, though, that that's a major factor that weighs in your favor regarding your children. I think everybody here has children, so we know.

MEMBER DONATELLI: Once they get taller than us we're not allowed to call them children anymore.

CHAIRMAN MAMMINA: My son is 29 and he's 6'2". I'm 5'5-and-a-half, and I still call him boy.

MEMBER HERNANDEZ: Just to be clear, there is one small section of your backyard that has not been highlighted. You are not requesting a fence on that little section. I'm assuming that there is something else there now? If you look at your survey. I want to make sure that we are approving everything you need or that is what you are requesting.

MR. ABER: Yeah. Thank you for --

MEMBER HERNANDEZ: If you look at that lower left corner.

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MR. ABER: So that should be highlighted. That is also existing stockade.

SECRETARY WAGNER: I don't know if he needs a variance for that. Actually, part of the fence there does not --

MEMBER HERNANDEZ: What is the return height.

MR. ABER: The backyard is technically the west side of our property. So that's a 6 foot height fence, which should comply with all existing codes. That's why that hasn't been highlighted, but hopefully if we were to be comprehensive, the variance could cover everything.

MEMBER HERNANDEZ: I wanted to make sure you get everything you wanted; that you don't come back with an obstacle later on. I also, like Dan, drive up and down that Plandome Road very, very frequently. So I have driven by your house probably thousands of times, and that is very heavy traffic area, no doubt, and not just rush. All the time.

As the Chairman said, we generally are very much against this type of fencing because we need to enforce code, but we recognize that there are times that things need to be changed because it is necessary.

CHAIRMAN MAMMINA: Okay. With that said, is there anything else that we would need then, or can we make a motion.

SECRETARY WAGNER: I believe that

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Dan had indicated the conditions about the shrubbery in front of the fence. So that would be part of the condition.

CHAIRMAN MAMMINA: Right. So we can make that as part of the decision. So I think everyone is nodding affirmatively. So Ms. Wagner, if you would poll the Board.

SECRETARY WAGNER: Somebody needs to make a motion.

CHAIRMAN MAMMINA: How about that? Could we have a motion first.

MEMBER DONATELLI: So, Mr. Chairman, I can make a motion to approve the application subject to the applicant planting arborvitae along --

MEMBER HERNANDEZ: Or other similar plantings.

MEMBER DONATELLI: -- or other similar type planting in front of the fence that is facing Pine Drive.

CHAIRMAN MAMMINA: Motion by Mr. Donatelli. Do we have a second.

MEMBER GOODSSELL: I'll second that.

CHAIRMAN MAMMINA: Seconded by Ms. Goodsell. Please poll the Board.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

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SECRETARY WAGNER: Member
Donatelli:

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman
Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman
Mammia.

CHAIRMAN MAMMIA: Aye. So the
application is with the stipulations
that were placed upon it. Thank you
very much and good luck.

MEMBER DONATELLI: Good luck.
Welcome.

MR. ABER: Thank you.

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Appeal #21147

SECRETARY WAGNER: Next appeal is **APPEAL #21147 - Gary Levinson; 19 Salem Ln., Port Washington, Section 6, Block 45, Lot129; Zoned Residence-B.**

Variances from §§ 70-40.C & 70-100.2.A.2 to construct additions located too close to the street and to legalize a fence located within a front yard (not permitted).

CHAIRMAN MAMMINA: You've heard Appeal #21147,.

Gary Levinson. Is there anyone who is on the Zoom who wishes to speak other than the applicant.

Deborah, are those people in the chat when you look for them or just so I see them, not that I need to. You do a great job.

ATTORNEY ALGIOS: Any of the attendees or panelists can put comments in the chat, but when someone wants to speak, they raise their hand.

CHAIRMAN MAMMINA: Thank you so much. I appreciate it. Good afternoon, Ms. Miller. Please state your name and address for the record.

MS. MILLER: Good afternoon. Janice Miller, 2 Lincoln Place, Port Washington, New York.

I'm here today on behalf of Gary and Amy Levinson who live at 19 Salem Lane in Port Washington.

This is a 1938 colonial that is on a corner property -- here we go again with a corners -- on Crestwood and Salem Lane. The issue is we're trying to construct a very small addition, 60 square feet which would be in their rear, which is, actually the side, I guess you would say, but we are not going to make the average setback of 30.8 feet. The existing garage is

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22 feet, and the new addition would be 26 feet from the property line. So we're not increasing the non-conformity, but it's really the only location that is suitable for this addition.

They're renovating their kitchen, and they really wanted to get their powder room out of the kitchen. So that's really the genesis of the whole project.

CHAIRMAN MAMMINA: So it's just that corner that we're looking at on the northeast side.

MS. MILLER: Yes. This neighborhood is really -- I think it's my third or fourth variance for a corner house.

MEMBER HERNANDEZ: The addition is actually next to the garage, and it doesn't come any closer to the street than the garage does.

MS. MILLER: No. It doesn't.

MEMBER DONATELLI: It's a little further setback but it still is not sufficient for the --

MEMBER HERNANDEZ: But it's still encroaching.

MEMBER DONATELLI: Right.

CHAIRMAN MAMMINA: That's all within the envelope of the house, essentially.

MEMBER HERNANDEZ: And the garage.

CHAIRMAN MAMMINA: And the garage.

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MS. MILLER: We actually cut it back so we wouldn't go that far. We would be more respectful of keeping the distance, as much distance as we could.

MEMBER HERNANDEZ: Is it a one story addition.

MS. MILLER: It's one story, 60 square feet. It's a little mudroom and a powder room. There's really nowhere else to put it.

MEMBER HERNANDEZ: I don't know. Is that a good location.

MEMBER DONATELLI: Ms. Miller, do you want to address the second issue which was the fence.

MS. MILLER: The existing fence, it's actually exactly where the addition is going to be. It's considered a front yard, I guess, because it's a corner, and it's blocking what they use as their backyard over here (indicating). You can see it on the site plan. It's right here. It's circled (indicating). That's just there. It's giving them privacy for what is essentially their only backyard.

MEMBER HERNANDEZ: The gate is going alongside the new addition to the side property line.

MS. MILLER: Yes.

MEMBER DONATELLI: Is it, because it's difficult to see at this scale. Is it forward of the garage.

MS. MILLER: Yes, it is. It exists right now, and it is forward of the garage. Oh -- could the homeowners be allowed into this discussion.

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ATTORNEY ALGIOS: Yes. I'll promote them in now.

MS. MILLER: Thank you.

ATTORNEY ALGIOS: Mr. Levinson, please unmute yourself, and just provide your name and address for the record, please. I see Mr. Levinson is unmuted, but we can't hear him.

MS. MILLER: Homeowner Amy Levinson says her hand is raised for a comment.

MS. LEVINSON: I had a different last name, Zimmerman.

ATTORNEY ALGIOS: If you could just start by providing your name and address.

MS. LEVINSON: Amy Levinson, 19 Salem Lane, Port Washington, New York. I believe that Gary is having technical issues. Can I speak for us?

CHAIRMAN MAMMINA: Sure.

MS. LEVINSON: The existing fence has been there since 2012. It has a slight angle. It was to enclose the yard for children at the time, and, now, a dog. So the fence has been there since 2012, and there are pine trees in front of it blocking it from the street.

MEMBER DONATELLI: Ms. Miller or Ms. Zimmerman, either one, can you discuss with us, I see that there are notes as to conversion of the garage as habitable space, and I see that there are steps going through. Can you walk us through exactly what is being proposed there.

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MS. MILLER: We're actually converting a portion of it to a mudroom area which really wasn't -- I mean, I don't know if that's a variance issue. We were taking some of the square footage and we have the necessary paving area outside to convert a portion of that garage.

MEMBER DONATELLI: So what you're doing is you're taking a portion of the garage to use it as a mudroom and to expand the kitchen I believe you said.

MS. MILLER: Yeah. The issue was taking the powder room which is adjacent to the kitchen, a teeny little powder room, original, from 1938 and relocating it right adjacent to where it was so that they could expand the kitchen.

MEMBER DONATELLI: Will the entire garage be converted to living space.

MS. MILLER: No. Actually, 12 feet of it will remain for one car. So we basically took around 5 feet away by about 12 feet to use for this mudroom and entrance to the house. So we're preserving one spot.

MEMBER DONATELLI: I understand. As I look at the plot plan that was included in the application that was filed, and I think we were just on that page which also shows the fence and the garage conversion. What is on the side yard. I see deck. It says, "existing outdoor deck." What is that notation.

MS. MILLER: There is an existing wood deck, yes.

MEMBER DONATELLI: Wood deck. Okay. The fence needs to stay where it

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is, I guess, for what reason? We've just heard about the dog.

MS. MILLER: There's mature planting there, also, which also provide a lot of privacy. Amy, do you want to speak to that.

MS. LEVINSON: On the street side of the fence, there are rather large pine trees blocking the fence. There are actually trees that are on the other side of it, and that blocks us from the side. Janice, do you know the exact amount of feet? It's kind of an angle, the gate is an angle, and then there's a short fence. So it's a 4-foot fence, and then --

MS. MILLER: I think -- I don't know.

MS. LEVINSON: On the street side, there are large pine trees and a platting bed.

MEMBER DONATELLI: All right. I really have no further questions, Mr. Chairman.

CHAIRMAN MAMMINA: Okay. Is there anyone else who wishes to speak.

(Whereupon, there was no verbal response.)

ATTORNEY ALGIOS: If there is anybody else who wishes to speak, please raise your hand.

MEMBER DONATELLI: Actually, sorry. One additional question. As I look again at that same plot plan that we were just looking at, I see that there is a notation also for the fence at the rear yard. What does that

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pertain to? Are you seeking a variance for that as well.

MS. MILLER: I believe so.

MEMBER DONATELLI: The portion of the fence that I thought you were just talking about was the 3.3' high fence along Crestwood Road, but as I look at the, I guess that would be the west side of the property. It looks like there is another notation around the rear yard fence. I guess it's around the fence.

MS. MILLER: In the disapproval are you seeing something.

MEMBER DONATELLI: I'm looking at the plot plan that has bubbles around what is being changed.

MS. MILLER: It's not being changed. It actually was in the process of the Building Department review. It came up that it had not been filed. So that's why it's bubbled, because it was filed as the maintain permit.

MEMBER DONATELLI: Okay. But that is not the subject of this variance.

MS. MILLER: No.

MEMBER HERNANDEZ: The only thing that was picked up was the angled gate with the fence.

MEMBER DONATELLI: Right. Along Crestwood.

MEMBER HERNANDEZ: That's the only thing that was picked up.

SECRETARY WAGNER: What are you

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concerned about that wasn't picked up.

MEMBER DONATELLI: My question was as you take a look at the application that was submitted, there is a plot plan that is part of the application. Page A-1. You'll see, on the west side of the property, there's a bubble around the rear yard fence, and I did not know if that was also subject of this variance.

MS. MILLER: It's not.

SECRETARY WAGNER: I do not believe that it is. Let's look at the disapproval. Front yard fencing located in the primary front yard, so that would not --

MS. MILLER: No. It was bubbled because it had to be maintained.

SECRETARY WAGNER: So they do have to legalize it. It just doesn't require a variance.

MS. MILLER: Right.

MEMBER DONATELLI: Understood. I know I interrupted Deborah. Any other questions or comments from the public.

ATTORNEY ALGIOS: So there are no other comments. No. We're good to proceed.

MEMBER DONATELLI: Mr. Chairman, again, having viewed this property, it seems to be fence in Port Washington day on the BZA.

CHAIRMAN MAMMINA: Corner lots with largely no usable area.

MEMBER DONATELLI: And again,

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noting the fact that this is a pre-existing non-conforming at least as it relates to the front yard setback along Crestwood and noting also that the applicant is not building as far out as the garage, but is still coming out within the front yard setback, but I do believe it is a reasonable accommodate accommodation to grant the variance. Also relating to the fence, while, of course, it is not according to code, it appears to be minimal. It appears to be well shielded from the public. In fact, I had to drive by the property two or three times to finally stop and see it. It's a secondary front yard setback in line and does not extend as far as the existing garage, so that I make a motion that we grant the application.

CHAIRMAN MAMMINA: Motion by Mr. Donatelli. Do we have a second.

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Seconded by Mr. Hernandez. Ms. Wagner, 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

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Francis.

MEMBER FRANCIS: Aye.

SECRETARY WAGNER: Chairman
Mammina.

CHAIRMAN MAMMINA: Aye. The
application is granted.

MS. MILLER: Thank you.

MEMBER DONATELLI: You're
welcome. Good luck.

MS. LEVINSON: Thank you.

VICE CHAIRMAN FRANCIS: David,
before we get started on the next
application, I'm going to leave at this
point.

SECRETARY WAGNER: Let the record
show the Vice Chairman is leaving the
meeting. Do we want to take a ten
minute break.

CHAIRMAN MAMMINA: That would be
helpful.

(Whereupon, a short recess was
taken 12:23 p.m.)

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Appeal #21148

SECRETARY WAGNER: The next appeal is **APPEAL #21148 - Erica Pereira; 8 Lowell Rd., Port Washington, Section 6, Block 52, Lot 20; Zoned Residence-B.**

Special exception from § 70-231 to legalize a staircase to an attic.

CHAIRMAN MAMMINA: You heard Appeal #21148, Erica Pereira. Is there anyone on the Zoom who would wish to speak other than the applicant.

ATTORNEY ALGIOS: Not at this time.

CHAIRMAN MAMMINA: Okay. Thank you, Ms. Algios. Please put your name and address on the record.

MR. MOCCIO: My name is John C. Moccio. I'm a registered architect. My address is 22 Waldron Drive, Stony Point, New York 10980. Good afternoon.

CHAIRMAN MAMMINA: If Ms. Pereira wants to speak, then she'll also have to put her name and address on the record when she chooses to speak.

MR. MOCCIO: Thank you, Mr. Chairman and members of the Board. My name is John Moccio. I'm the architect of record for 8 Lowell Road. I'm here to request a variance relating to maintaining a stair to the attic of this residence.

Drawings were initially prepared and filed for a first and second-story addition and a front portico. The drawings, at that time, included the stair to the attic, and the attic, itself, has a clearance of 5'3", which makes it an unoccupiable [sic] space. I have known since I was a young boy what an attic is and I never would have dreamed possible that I would have to go

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to the definition to find the exclusion of, in the Town of North Hempstead, that no stair is permitted to go to an attic. As I said, I've been doing this for many, many years, 43 to be exact, and my drawings were submitted, reviewed, commented on. I responded to the comments and resubmitted them and then never did receive any comments regarding this stair to the attic. The drawings were eventually approved and a permit was issued. The construction took place and the stair was installed to the attic and we also -- because we had a stair, we're allowed to install an electric panel for the additional construction in the attic. Without a stair, the electrical panel is not permitted to be there. This is a completely internal aspect of the house. It has no effect upon the community whatsoever. It's completely internal. If we were to be forced into remodeling this stair and relocating the panel, the numbers for the owner to have to extend again to have this taken out would be extraordinary.

CHAIRMAN MAMMINA: I apologize. I try very hard not to interrupt. Just a couple of things. There's a panel in the attic.

MR. MOCCIO: There's an electric panel now in the attic as part of this construction.

CHAIRMAN MAMMINA: Okay. If you took the stair out and had a pull down stair or a hatch or something of that nature, why would you have to move the panel.

MR. MOCCIO: It's not compliant with the national electric code. It's not permitted by their code. A formal

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stair you're allowed to have a panel, but without a formal stair you have to relocate it and that would mean relocating the panel along with all the branch circuits that were eventually installed under this approved permit.

MEMBER GOODSSELL: Mr. Moccio, if the Building Department had denied the staircase, where would the homeowner have put the panel.

MS. GOODSSELL: We would have located it somewhere in the new construction of the second floor.

MEMBER GOODSSELL: Okay. And this is now fully constructed.

MR. MOCCIO: Yes, it is.

MEMBER GOODSSELL: You can't tell from the outside of the house, but the interior is fully constructed.

MR. MOCCIO: We're about 95 percent complete with construction.

MEMBER GOODSSELL: As part of your application, do you have any photos of the attic or the stair.

MR. MOCCIO: No. As I said previously, the clearance to the under side of the attic is 5'3" which makes it in accordance with the building code of New York an unoccupiable space.

MEMBER GOODSSELL: I understand that.

MEMBER DONATELLI: Is the attic finished.

MR. MOCCIO: No, it is not.

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MEMBER DONATELLI: The height in the center of the attic you said is what.

MR. MOCCIO: It's 5'3" to the underside of the (inaudible).

CHAIRMAN MAMMINA: The section that's up on the screen, now, doesn't look like 5'3.

MR. MOCCIO: No. That's a different area where we have a raised ceiling.

MEMBER DONATELLI: Are there any windows in the attic.

MR. MOCCIO: No.

MEMBER GOODSSELL: Are there any skylights in the attic.

MR. MOCCIO: No.

CHAIRMAN MIAMMINA: Do you have a floor in the attic.

MR. MOCCIO: There is a three-quarter inch tongue and groove plywood floor in the attic.

CHAIRMAN MAMMINA: It's been a while since I've read that section, this specific section of the zoning, but I believe that that flooring had something to do with it as well. I know for myself, I have to -- I remember the genesis of this, but I would have to go back to the specifics of it, myself.

MEMBER DONATELLI: Mr. Chairman, you would probably know the answer to this question, perhaps, better than I, but the prohibition against fixed stairs to the attic has been in place for quite

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some time. These plans appear to have been approved in 2021, if I'm seeing that correctly.

CHAIRMAN MAMMINA: Yes.

MEMBER DONATELLI: So it's probably likely that the Building Department somehow erred in the approval of the plans because that was not changed recently, is my point.

CHAIRMAN MAMMINA: It's been around for I'd have to guess at least ten years. I don't know that for certain.

MEMBER DONATELLI: But not within the last year, is my point.

CHAIRMAN MAMMINA: No, no, no. Not within the last year. There were specific reasons for that, and without sounding harsh, because I do the same thing that Mr. Moccio does for a living. We know that at the end of the day, the municipality bears no responsibility for an error that they make in their drawings -- in their review of the drawings, but I'm not saying that gives weight, at this point, to what I think one way or another about this.

MEMBER GOODSSELL: Mr. Chairman, if I may. The purpose of not allowing stairs into an attic, would that be so a perspective homeowner doesn't finish the attic into living space.

CHAIRMAN MAMMINA: That's why I need to go back through it. That was a large part of it, and there was some height, I think, that was put into it, the genesis, I believe. And, again, I'm going to qualify all this on the record as conjecture of memories. But a lot of

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it came about as a matter of these builders were building large spaces over garages and referring to them as bonus room. In order to get those rooms, there usually were stairs that had to go up to those rooms. Again, I'm going a ways back, and I'm not certain that I'm not confusing that with something else.

MEMBER GOODSELL: Mr. Moccio, the fact that there are stairs there, this could not be remedied, this issue, by putting pull-down stairs instead of permanent stairs? The electrical code does not allow that.

MR. MOCCIO: These stairs are already installed. They were purchased, fabricated and installed by the contractor. It's installed completely. The cost, as I said, to remove the stair, patch it, put in a pull-down stair, have the electric panel removed and all the circuits redone, you're talking into the \$20,000 range as a cost to the homeowner.

MEMBER GOODSELL: And this is a full size set of stairs, say 13 steps with --

MR. MOCCIO: Yes. It's a compliant set of stairs in accordance with the residential code of New York, and as I said before, the attic, because of its clearances, is not a compliant occupied space and can never be an occupied space.

MEMBER GOODSELL: Well, it can't be a compliant occupied space. Regrettably, I have seen in the Town of Hempstead, not North Hempstead, a very clever homeowner that put in a children's room, family room, media center for his very short children in

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such a space. That's what I'm thinking of when I am thinking of this. I understand this homeowner is not using it as space. It's not legal, occupiable space. I am just thinking of the ramifications of a having a full set of stairs going to an attic.

ATTORNEY ALGIOS: Ms. Goodsell, the homeowner has indicated they'd like the opportunity to speak. Maybe they can address your concerns.

CHAIRMAN MAMMINA: Please. Let's promote Ms. Pereira.

ATTORNEY ALGIOS: Ms. Pereira, could you just start with your name and address.

MS. PEREIRA: Eric Pereira, 8 Lowell Road, Port Washington, New York. I've lost sleep for the good part of the last two months since we had the inspector come and notice the stairs and brought it to our attention. I can think of nothing that gives me more anxiety than the thought of having to rip these stairs out which is central to our decision to stay in our home instead of moving and building the second floor addition for our growing family.

So I just wrote this to make sure I get all my points across. I know this isn't an easy situation because we're asking for a variance after the fact. I sat through the last two hours and listened to the other hearings and I understand people are asking for all kinds of other things, but I feel like this -- it's already been done. We're here as a direct result of a mistake made by the Building Department upon which we relied for four months. We built the fixed stairs to an uninhabitable attic because they were

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approved. We put a new electrical panel in the attic which we had access to the stairs, we lowered out downstairs ceiling 2 feet to accommodate the new stairs. We made another room that was upstairs smaller to accommodate the base of the new stairs.

We previously lived with a pull-down ladder in our garage for ten years. A huge part of this renovation was building a proper staircase you can come up and down with our bins and I'm not falling carrying my Christmas tree with a pull-down ladder.

The factors I know you guys look at when you decide on a variance, like, the answer to all of them is no. Would there be an undesirable change to the character of the neighborhood? I don't think so. Every single village that I've called; Baxter Estates, Flower Hill, Muncey Park, Roslyn, Great Neck. I called them all, the State of New York all allow a fixed staircase to an attic. I grew up in Muncey Park. I don't exactly know why. I guess one person ruins it for everybody. So in the Town of Hempstead there was someone that did something at one point. I'm the one not doing that, and even still, I'm the one that's being punished for a mistake made by the Building Department at this point. I physically can't stand up there. I'm 5'9. I have to duck under the beams. There's spray foam. There's duct work. There's nowhere for anyone to walk around.

Can I make the necessary changes without tearing it down? No. No, the variance requested is not substantial. It's already been built. The variance will not result in the adverse effects or impacts to the neighborhood. My neighbors, everyone's gotten a certified letter. Nobody's had an issue with it. I actually can't believe I have to go

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for a variance after what I've been through considering it was a mistake by the building department, and the cost to remove it would be exorbitant. Is it self-created? I don't know. I had an architect who put it in the plans. I had Building Department who had it for six months. It was many hands before it got approved, and then I had it for four months being built. Ten months later I'm now being told I need to take out the staircase which I think is unfair.

I've also spoken with John, the Building Commissioner, a zillion times. I don't know if he's spoken with you. He's told me he has no problem with me communicating. His thoughts, he agrees that the stairs were built to code. He does not care that I have the staircase. He knows the attic is 100 percent uninhabitable. He actually said, speaking as a former fireman, that it's safer to have a staircase, god forbid there's a fire, for them to climb up instead of stairs with a pull-down ladder.

He was working to change the Town code currently with the new council members, and I'm trying to push that through because it seems to me like there isn't a valid reason. It's truly uninhabitable that I should not be able to have the stairs.

Basically, the cost to rip it all out is just -- I literally can't stomach the thought. I'm not using it for anything other than to store my Christmas tree, and I just want to be finished with this project and close out the permit. Those are my two cents.

CHAIRMAN MAMMINA: Just a couple of things. Probably the major point is that New York State law says, and I said it before, and it does not mean that we are not compassionate. I am an

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architect, and I have made mistakes. I'd be lying if we said that we didn't, and I think anybody on this hearing today would be fooling themselves if they said they'd never made a mistake.

The reality is that if the municipality misses something, it belongs to the architect. During the break, I was out on my drafting floor figuring out how where I'm going to swallow something. That just is par. It doesn't mean that that's going to be the decision. Believe me when I say I'm compassionate to the loss of sleep. It has nothing to do with me, personally. I lose sleep every single night over other people's attic stairs that ended up in my drawings with no malice intended. I know Mr. Moccio is a good architect. He is. He's careful and that doesn't mean that your application is denied. It would be easy for me to say don't lose sleep over it, but I understand why. Of course, you should lose sleep over it. You're in a bit of a predicament here.

What I said, and if any of the other Board members has a different opinion, I think that we, as a Board, go out of our way to make sure that we make the absolute fair and logical tests of those balancing tests, and we spend a lot of time at it. We understand how personal this is to you. We do that for homeowners. We do it for builders as well. I'd have to go back to read all of that. I just don't remember what the legislative history of this was. Usually, as new things come in, I'll ask Virginia, the secretary to the Board, to give me the background on what did this have to do with?

I don't know if anybody else has any other opinion right now, but what I would like to do is just reserve the case so that we can look at all of this

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and put our best foot forward for Ms. Pereira in doing that balancing test.

MEMBER GOODSSELL: Ms. Pereira, I hear everything that the Chairman says, and I happen to agree with it. I do not know why we prohibit a staircase to the attic other than to prevent it from being used as livable space. I realize you and I couldn't stand up in there, but our kids could. My only experience with a permanent staircase to an attic was a bad one but in another town. Not in this particular town. I have certainly had experience with pull-down staircases. I would also like to take a look and see what the intent was when this statute went through, because it doesn't sound as if you're violating the intent. The other thing that I would really appreciate is if you could take some pictures of what you've got there now, what the staircase looks like and what the attic looks like and where the electrical panel is, because I see the plans here, and I see the drawings, and I see the staircase that Virginia pulled up on the screen. It's harder for me to visualize what you've got. So that I would truly appreciate.

CHAIRMAN MAMMINA: I do know that there was a tragic fire in Port Washington where several years back who were living in an attic illegally, of course, and I'm not sure if that's what promulgated it. I don't know. Clearly, you're not going to live in your attic. I don't believe that for one minute.

MS. PEREIRA: Can I ask why every single surrounding village that I called and personally spoke to, they all allow the staircase.

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CHAIRMAN MAMMINA: Here's why. Villages are independent bodies. There are more villages on Long Island than there are in the United States of America because the Revolutionary War all centered around Long Island in this part of the world. In Port Washington I could drive you through five villages in five minutes.

MS. PEREIRA: Its' not just Port Washington. It's Roslyn. It's Great Neck.

CHAIRMAN MAMMINA: They're all villages. And even towns. Every municipality has the right to establish its own zoning, and that's all it comes down to. I hear what you're saying.

I'm really not being contentious. You seem to be a lovely, lovely lady. We will do our best to get you something that makes sense. Zoning is not black and white. Sometimes its black and white, but you wouldn't understand what I'm saying -- I'm sure you're a very intelligent woman. We had fence cases today that in one second, we just would have denied. Be on your way. But we didn't. We didn't deny any of them. Their circumstances separated them. They mitigated by doing certain things to it. If we were just to act black and white, there would be no reason to have the Zoning Board. That's why New York State says every municipality has to have its own Zoning Board.

MEMBER DONATELLI: Let me just add, if I may, I hear your frustration, and I understand that, unfortunately, it appears that there were some mistakes made on both sides. I would just -- let us do a little bit of research. Let us figure out if there is a way where we can distinguish this from another case

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that might be a little bit different. We can't just decide willy nilly to approve one and deny another. Any action that we take as a Board may very well be translatable to another case that is maybe a little bit less clear. So we need to determine exactly, as the Chairman said, what the legislative intent was to see if there's some way that we can distinguish your case to see if there is some way that we can find a solution. While I understand that you're frustrated, we're actually trying to see if there is some way that we can help you.

MS. PEREIRA: I appreciate it. It's just -- it's like either it's -- okay.

CHAIRMAN MAMMINA: I would love to hand you a Christmas present today. Nothing would make me smile more than that.

MS. PEREIRA: It's hard when I have the inspector and the Building Commissioner telling me, like, I don't understand why you would have to _____. It's compliant. Everything is as it should be. It's our mistake, like, taking ownership of it. I get it. Whose fault is it? Who'd the one that's being punished? It's me. I have, like, zero dollars left after this construction to rip out a staircase. So where does that leave me? It leaves me with an open permit, a very difficult situation for something I didn't personally do. I didn't bring this on myself. I'm not asking for, like, a weird fire escape outside my bedroom or like a pool against the road. It's something that's already happened. I don't know. I don't know how they had my application and didn't notice it.

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Four months go by. It's so much money. It's so much time. It's an incredible waste of everyone's time, your time, my time, time, resources, labor, money, lumber that costs three times the price I should have paid for it. To throw it out in the dumpster seems, to me, it seems crazy, but it is what it is. I'm just frustrated.

ATTORNEY ALGIOS: Chairman, we have somebody with their hand up.

MEMBER HERNANDEZ: I'd like to ask a question of the architect first, if you don't mind, before the audience speaks.

ATTORNEY ALGIOS: Sure.

MEMBER HERNANDEZ: I've lived in Manhasset for 30 years, but I have a pull-down attic stairs. I don't have a fixed stairs. You mentioned that the attic is not finished, that it's -- can you describe, because we don't have the benefit of a photograph --

MS. PEREIRA: I have a photo.

MEMBER HERNANDEZ: What you have built up then is a frame around the stairs that will eventually have, I would imagine, a standard 80" door at the end.

MS. PEREIRA: It does now. I just don't have a current photo. That's the electrical panel.

MEMBER HERNANDEZ: And that's the framing and I guess there's a door --

MR. MOCCIO: The door's at the bottom on the second floor.

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(Whereupon, there was crosstalk.)

MEMBER HERNANDEZ: This could be a hole going into the attic. There has to be something up there.

MS. PEREIRA: There's a door at the top.

MEMBER GOODSELL: There's a door at the top.

MEMBER HERNANDEZ: But I would imagine it's a standard 80" door.

MEMBER DONATELLI: Is there heat in the attic.

MS. PEREIRA: Nope.

MR. MOCCIO: No, there's not. There's no heat. It's not ventilated. It's insulated walls and floor and rafters, and as I said, unoccupiable. It doesn't meet the standards of the building and residential codes of New York. In that regard, however, a stair to an attic is compliant with the building and residential codes of New York. As I said earlier, I never would have looked into the definition to find an exclusion such as this. It's just not been my experience that I would have ever needed to do that, especially, since it is compliant with the building code.

MEMBER DONATELLI: I think we had another member of the public who wanted to speak.

ATTORNEY ALGIOS: Yes. If you could just start with your name and address, please.

MR. PHILIPSON: Rony Philipson,

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North Shore Signature Homes. I am the builder. I want to emphasize that the current space of the attic is really not designed to be used as usable space aside from storage. The floor of the attic, we have all the mechanicals for the first second floor HVAC units plus all the duct work. If you would get a current picture of the floor plan, you would see that probably 40 to 50 percent of the floor area is all chewed up by the mechanical and the ducts which are running all the floor. So it would take -- it would pretty much be impossible to use this attic space for anything other aside from storage.

CHAIRMAN MAMMINA: That's why Mr. Donatelli, I believe it was, asked could we see pictures? That would be helpful to us. Those are the things you can send back to us quickly so that we can see that. We need to, as Mr. Donatelli said -- and this is a matter of law, what we do, and you very astutely read those sections, Ms. Pereira, and we need to be able to separate it from the next person. So we want to find out the legislative intent. We want to see how we can separate yours from someone else's, and that I think is the road that's best traveled for you as the applicant. Again, I'll repeat it, because I am very proud of it. After almost three decades of sitting here, that we really try hard to make sure that we are doing our job according to what the law says, but at the same time, in a logical matter, something that can give the best advantage in an instance that really is not what the intent of the law is trying to get at. So unless anybody has anything else to say, we'll reserve this.

MEMBER DONATELLI: Actually, if

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we could continue it, Mr. Chairman, so we get some photographs.

MEMBER GOODSSELL: Yes, please.

CHAIRMAN MAMMINA: Continue it. That's what I meant.

MEMBER GOODSSELL: The way it looks right now. The way it is constructed right now.

CHAIRMAN MAMMINA: Mr. Moccio, I'm not trying to make work for you, and as I said and I mean it very sincerely, you're a very good architect. There is no doubt about it, and I would say it to anybody. If we could just even get a hand sketch, if you feel it's appropriate as where is duct work, or maybe there's a mechanical drawing that would just show here's ducts coming across here and here's this moving in that direction and the vent pipe comes up over here. Those would be things that could be helpful to us.

MR. MOCCIO: Be more than happy to provide that for you.

MEMBER DONATELLI: Just one more thing since we have the contractor with us. I'm sorry sir, your name tag says Philly. What was your name again, sir.

MR. PHILIPSON: Rony Philipson.

MEMBER DONATELLI: Okay. Do you have a rough estimate as to how much it might cost to rip out the stairs and to move the electric box and anything else you needed to do to make this compliant.

MR. PHILIPSON: At this point, I would estimate this is going to be in the neighborhood of \$20,000, between removing the stairs, patching the

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ceiling, windowing the entire electrical panel, opening all the wall sections on the second floor and nominating a new address for the electrical panel, plus rewiring a good section of the theoretical location for the new pull-down. At this point, the place is sheet rock, insulated. We are starting to paint. It's a major headache at this point in time.

MR. DONATELLI: That was very helpful. Thank you.

CHAIRMAN MAMMINA: We'll continue that, and I would say please get us whatever you can as soon as you can. You don't have to have it to us this afternoon. That's not necessary, but as quickly as you can put it all together would help us, and then, ultimately, help you in whatever our decision is.

Thank you all. I'll just say one last thing. The first time that I ever sat not in this virtual Board room but in the Board room of the Town of North Hempstead, and my hair was black and much longer than it is now. I just got my license and I did my first zoning case. I sat there, and every case I'd say, "I know what I'd do there. Oh, I know what I'd do there," and then you sit here and you say, "No. It's a different world." There's law. There's people's lives. There's all the kinds of things that are connected to it. We labor over every one of the cases. Believe me.

MS. PEREIRA: Thank you.

CHAIRMAN MAMMINA: Thank you. Then we'll reserve this.

ATTORNEY ALGIOS: We'll continue this.

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SECRETARY WAGNER: We may or may not make a decision at the next hearing which is on January 5th.

CHAIRMAN MAMMINA: If we get everything -- we're not going to be looking to hold onto this, no.

MS. PEREIRA: Would you like a video or photos, because I can get those to you in like five minutes.

MEMBER GOODSSELL: I would be satisfied with photos.

CHAIRMAN MAMMINA: If you can take photos, you can then e-mail them to the zoning office, and we could have those today.

MS. PEREIRA: Okay.

MR. MOCCIO: I can be at the residence tomorrow to measure up the entire attic and prepare a mechanical plan showing all the equipment.

CHAIRMAN MAMMINA: All right, John. You know what I'm need. Don't make yourself crazy.

MR. MOCCIO: I understand.

MS. PEREIRA: Thank you.

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SECRETARY WAGNER: The next appeal, **APPEAL #21149 - Viktoria Toth; 82 Carriage Lane, Roslyn Heights; Section 7, Block 193, Lot 2; Zoned: Residence-AA LD.**

Variances from §§70-18, 70-100.1.A and 70-100.2(2) to construct a pergola, pavilion, hot tub and barbecue/outdoor kitchen within a side yard (not permitted), to construct improvements which exceed the permitted lot coverage and to install fencing within the front yard (not permitted).

CHAIRMAN MAMMINA: You've heard appeal #21149, Viktoria Toth. Is there anyone who is on the Zoom that wishes to speak other than the applicant, and you can raise your hand up if you do. Mr. Rant, please give your name and address.

MR. RANT: Good afternoon Mr. Chairman and members of the Board. My name is Michael Rant from Northcoast Civil. I'm an engineer with offices at 39 West Main Street, Oyster Bay, New York 11771. I'm here this afternoon representing the owners of 82 Carriage Lane and we're seeking a variance to construct proposed improvements in the side yard -- it's a corner lot. This is a unique shaped parcel. Am I able to share my screen.

SECRETARY WAGNER: Yes.

MR. RANT: On the screen is a copy of our site plan that we've prepared. There's an existing dwelling. The front of the dwelling faces Carriage place. There is a side loaded garage on the west side of the property. The east side is Locust Lane, and we're proposing our proposed improvements in the rear of

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the dwelling.

Due to the fact of the dimensional zoning aspect, the rear yard, I believe -- on a corner lot is determined as the shorter front yard. So it's the yard opposite Locust Lane. So the rear yard is actually where the garage is in the driveway. The existing driveway used to access the garage. There is no usable rear yard on this property. So we're proposing to install the improvement in the ideal location which would be behind the home adjacent to the living spaces and really what feels to be the rear of the property based on the location of the house, the orientation of the house and the layout of the property.

The improvements are there's a small raised patio. The elevation of the grade is slightly higher so that would access from the back of the house. That steps down to an on grade patio with an outdoor barbecue, a hot tub and an outdoor kitchen. So we're proposing typical amenities that will allow the homeowner to utilize their property.

So we have three variances, the first one on structure is located in the side yard. We have a slight lot coverage variance that we're requesting. So we're at 20.79 percent versus the 20 percent. So we're about 120 square feet above a minimal amount, and that's really due to the fact that the improvements that we're proposing, although the majority of it is a flat on grade patio which wouldn't count, there is a raised terrace at the back of the house, a spa and a pavilion.

The third variance that we're seeking, which in speaking to my client, they'd like to eliminate, there is a 4 foot chain link estate fence. It was part of the design -- the designer put it there. The existing fence ends at te

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corner and they have no objection to keeping it in its current location which would eliminate the fence being in the front yard. We would submit a revised plan to show maintaining the fence at the corner of the house and eliminate that variance.

CHAIRMAN MAMMINA: That would be 4 feet.

MR. RANT: That would be 4 foot, correct. I do have some photographs. This is a photograph standing in the backyard looking at the easterly property line which would be Locust Lane. There is a heavy, dense evergreen hedge along the property line. Really, there's no visual impact from Locust Lane seeing into the property. And then we have a photograph of the south property line which would be the side yard, and, again, that same hedge extends along that property line. It's heavily vegetated, is not visible. So we feel that the improvements, although in the side yard, would not have any negative adverse impact on the surrounding properties.

We did receive a phone call, and I believe they reached out to the Zoning Board, from the neighbor to the south. They had some concerns about drainage and the water from improvements going onto the property. Part of our application, we do have a proposed dry well and catch basins that will collect all of our runoff from all of our newly created impervious structures. Right now, there are no drainage structures, so it would be a benefit to what's there currently.

Due to the unique nature of the property, the homeowner has dealt with the hardship of not having any real usable rear yard. The improvements, as

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shown, we feel are in the best location for the property. They're well screened, and they will have no adverse or detrimental impact on the neighborhood.

If the Board has any questions, I'd be happy to answer them.

MEMBER GOODSSELL: I'll start with one, Mr. Rant. If this were not a corner property, you wouldn't have these issues, would you.

MR. RANT: Correct. If Locust Lane was a side yard, these improvements would all be considered in the rear yard. We would not require a variance for improvements in the side yard.

MEMBER GOODSSELL: The other question I have is I'm reading your plans and it's a little small, but it says, "Proposed impervious pavers." I thought pavers, by definition, were individual stones that allowed drainage. What's an impervious paver.

MR. RANT: An impervious has a solid base. Typically, either a compacted or RCA base or concrete.

CHAIRMAN MAMMINA: RCA means recycled stone, recycled concrete.

MR. RANT: Compacted concrete stone that when it's compacted, it becomes a solid structure. So rather than allowing water to drain through, we have drains set up, and we're collecting our runoff from that area. It is a standard paver patio.

MEMBER GOODSSELL: The only other comment I have, and this is purely a comment, this is like a blank slate. This a beautifully maintained property,

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and to say there's no usable yard? It's a gorgeous yard. It's just not being used as anything other than a croquet space. It seems to be level, cleared and like a blank slate, which the design, actually, looks very appealing.

MR. RANT: I may have misspoke. What I meant to say is there is no rear yard space that would comply with zoning code to build a structure. The only rear yard is the existing driveway which can't be used for entertaining and things of that nature. But, yes, it's a flat property. It's a blank space to create what the owners hope to be able to enjoy.

MEMBER DONATELLI: Mr. Rant, I have a question. First of all, if I heard you correctly, that fence will now be moved in line with the building line; is that correct.

MR. RANT: That is correct, yes.

MEMBER DONATELLI: The other question that I have, and I understand that the applicant wants the outdoor kitchen, and that that may be the only real practical space for it, but is there any particular purpose why the impervious pavers have to be in line with where they are right now? One of my concerns, of course, is the lot coverage, and you're 153 feet over on the lot coverage. While I understand that the drywell will help mitigate that, is there any reason why the patio can't be moved in a bit more to make it compliant with the code.

MR. RANT: The only patio space that counts towards coverage is the raised patio. The rest is an on grade flat patio which doesn't count towards

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our 20 percent building coverage. The portions that are adjacent to the home are raised up with steps that are higher at the first floor elevation. That's what's included. And then the covered outdoor kitchen and pavilion is what is being counted towards coverage. The flat on grade area does not count towards the 20 percent.

MEMBER DONATELLI: Is that true, Mr. Chairman.

CHAIRMAN MAMMINA: Yes.

MEMBER DONATELLI: It is.

CHAIRMAN MAMMINA: Yes.

SECRETARY WAGNER: Mr. Rant, does the pavilion count towards the lot coverage.

MR. RANT: The existing dwelling and front portico count towards lot coverage, and the proposed pergola area, the raised patio adjacent to the house and the pavilion area, which covers the outdoor kitchen, all of those structures count towards the proposed coverage. We're increasing our overall by 611.8 square feet, and we're over by 150 square feet of the allowable.

MEMBER DONATELLI: And the neighbor that contacted you with respect to the potential for flooding, where is that neighbor located on this diagram.

MR. RANT: They're the neighbor to the south.

MEMBER DONATELLI: If I look at your plan correctly, I see a drywell that is located in that corner where your cursor is right now. Are you

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contemplating the installation of any other drywells.

MR. RANT: We have one drywell that accounts -- we're using a 3 inch rainfall which does exceed the two-and-a-half inches by the Town, and it's large enough to account for all of this new patio and covered space.

CHAIRMAN MAMMINA: In addition, Mr. Rant, are those yard drains that you're also showing as well? I just want to be certain. Yard drains and there's a grading that's got a concrete box under it, and it will also capture water you grade the slope, the ground in the direction of that. So there's a yard drain that's immediately to the left of the drywell pool, and then on the other side of the patio, there's another yard drain that's over there. So those would be -- you'd be sloping from the outside property line and from the house down to those as lower points, collect the water, and then they would go down to the drywell in there.

MR. RANT: The goal is to back pitch the water away from the neighbor's property lines. They'll be contained, all of it, off on site.

MEMBER DONATELLI: Okay. Understood.

CHAIRMAN MAMMINA: Which you're required to do, and you have to contain all of your water on site.

MR. RANT: Yes. Correct.

MEMBER HERNANDEZ: On the section where you are saying a 4 foot estate fence would be moved back to its original location, that line right

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there. What are those four little boxes in the middle.

MR. RANT: Those are just stepping stones. Those would be eliminated. They're just slate stepping stones set in grass.

MEMBER HERNANDEZ: Okay. Very well.

CHAIRMAN MAMMINA: Okay. Any other questions for Mr. Rant? Mr. Rant, do you have anything else to present to the Board.

MR. RANT: That concludes my presentation.

CHAIRMAN MAMMINA: The way that I look at this, I'm going to kind of pick up on what Patricia said. You know, they say a picture is worth 1,000 words or something like that, and, clearly, that backyard grass area is just an empty talent of the pretty waiting for someone to paint. There really is no alternative on this site of this house. Must be corner house day today. All that it's going to do is make for a very pretty house. The majority of everything that is anywhere near a neighbor is all down on grade. As we've gone through, it's drained well so that adjacent neighbor won't have any issue with that. The hot tub is almost immediately adjacent to the house where if it were a swimming pool, that swimming pool could be 10 feet from the property line. That's even pulled further back. It just seems like a very sensitive design to a difficult problem. I'm sure that it will be very, very lovely when it's done, not that that counts to what our consideration is. It makes a lot of sense, and they have no

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other alternatives, and they have done their best to mitigate any impact on any of the neighbors. That's my feeling.

MEMBER GOODSSELL: The only other issue seems to be, and I agree, and that's why I asked the question. If this was not a corner property, what would we be looking at? We'd be looking at less than one percent of exceeding the lot coverage. Since it is a blank slate, and since it is Mr. Rant. You can design anything. Was there another way to reduce that 154 feet or 158 feet that exceeds the lot coverage.

MR. RANT: The improvements -- they're minimal improvements as far as the size, and we kept everything compact and tight to the house for that very reason, so that we weren't expanding a larger pavilion or patio that's needed. The designer with meeting with the clients, they felt that this was the least impactful and the least variance necessary to achieve their needs.

CHAIRMAN MAMMINA: The only thing that I would say, though, because your point is certainly valid, and as I've understood the paving thing in the back, in the rear yards, and we did have another application that I can still picture so vividly in my mind, and Dan will probably remember it as well, was that the intent of the Town Board was that your backyard doesn't become completely paved 100 percent or very close to 100 percent. We had one that came in with brick pavers on all different levels and all ups and downs and they took out a chunk of that in order to solve that. I think here, it's not quite on that level and furthering the point, if I understood correctly from the Building Department from

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another fairly recent application, if those were impervious pavers, meaning, just basically bricks set in sand, they wouldn't count toward that coverage. The fact that they're using a different material counts it towards the coverage.

MEMBER GOODSELL: You're right.

CHAIRMAN MAMMINA: So it's going to look the same when it's done, and they're handling the drainage.

MEMBER DONATELLI: I do recall that other case, Mr. Chairman, and I do recall when the applicant -- that that was an area where I think the applicant had, in fact, put stone over most of the backyard. In mitigation, here, I would note that that applicant still has a large grassy expanse that really tends to soften the visual impact, plus, of course, then the vegetation that we have along the fence. So I do find a distinction between the case that you're referring to and the instant application.

ATTORNEY ALGIOS: We do have somebody in the attendee box that does have their hand up.

CHAIRMAN MAMMINA: Oh, please.

ATTORNEY ALGIOS: I'm allowing them to speak. Ms. Tesser, you're able to turn on your mic and speak.

MS. TESSER: Can you hear me.

ATTORNEY ALGIOS: Yes, and if you could just start with your name and address for the record.

MS. TESSER: I'm Joan Tesser. I live at 85 Locust Lane, in Roslyn

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Heights. I own the property south of the property we're that we're discussing today. As I wrote in my e-mail, when the house was built, they tore down a house that was like mine, and in building the new house, it's up about a yard higher than my property level. I don't think that really was the proper thing to do, but it happened so quickly I could not complain. But now the Toth house is approximately a yard above mine, and I'm worried that the incline is going to send further moisture onto my property which already fairly we on that end.

I had hoped that I could be guaranteed that water would not go from a higher property to mine. We have to think of the pitch of the properties. Theirs is about a yard higher. Their house was built about that much higher, and I'm lower as is my neighbor next door further south. So you know how water tends to flow downhill. I'm concerned that with an impervious type of stone that the water will runoff and slowly seep onto my property.

CHAIRMAN MAMMINA: I don't want to speak for Mr. Rant. I'll just ask him to correct me if I am wrong, but the impervious paving is on the ground. It's on the dirt part. The house is up a little bit more, and you come out of the house and you're on a flat area and you step down to this flat area. So that flat area should be at the same elevation, I would think, or approximately the same as your house, but in addition he does have drywells and quite a large one. It's 10 feet deep and 8 feet around. Then he has structures that then have grates on them that will then deliver water from other parts of the yard into that drywell.

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MS. TESSER: There's not going to be another drywell put in. They're going to use the one that's already there; are they not.

MR. RANT: No. We're going to install a new drywell that accounts for all of our new work that's being done. So there'll be an additional drainage structure installed for this project.

MS. TESSER: Have I been clear that when the house was built, when 82 Carriage Lane was built, the entire property level was heightened by about a yard above mine? If you came to look at my backyard, you can see that they put in railroad ties to hold back the property from collapsing onto mine, and that there is a great deal of water, of moisture, that accumulates there even now before the building of this yard.

The Toths are lovely people, but I'm worried that it will impact the saturation of my soil which is already quite wet in that area just south of their house.

MR. RANT: The plan shows a series of collection catch basins that would catch the runoff to a drywell that's further away from your property so that the properly drain into the ground and not further saturate the soil. It would be at a further location from where you're seeing the moisture and, again, it's going to alleviate the water that's there now, as well as any additional water that's created from the new improvements.

MS. TESSER: I heard the word probably and that is concerning to me.

MR. RANT: It's been designed. This is the standard method of

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collecting water. During construction, it's important that the flow of the water is correctly constructed; that the plans are followed; that the collection areas are installed in the right locations. That water is then piped into the drywell. Again, that's further away from your home. That water can then be percolated into the soil and help alleviate any current and potential water problems in the future.

MS. TESSER: Mr. Rant, by any chance, did you come to look at what the situation is on my property and how it abuts the Toth's property.

MR. RANT: I didn't go onto your property. I see that there is a retaining wall, a wood retaining wall on the property line that's on your side of the evergreen screening. You're at a lower elevation and the Toths are at a higher elevation. The grade at the back of the Toth's property that's there now is not going to change. We're not raising it any higher. We're not bringing more fill in. It's going to remain as it is currently. Again, additional drainage will be installed to alleviate any current impact, and potential impact.

MS. TESSER: So you're saying that probably with rain, snow melt -- and, by the way, we're at the bottom of a rather steep hill on Locust Lane. The water comes down from that hill as well. Do you feel that what your plan will be sufficient to protect the property that I have just south of the Toth's home.

ATTORNEY ALGIOS: I just want to interrupt. Ms. Tesser, your time to speak is up. So Mr. Rant, if you want to address the last comment, we'll move

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on.

MS. TESSER: Thank you all. I know it's been a long day. I've been watching what you're doing since 10:00 a.m., and you have your work cut out for you. I thank you for listening to my concerns.

MR. RANT: So the drainage design will accommodate and account for all of our new work that's being done. I can't speak about other factors on Locust Lane or things of that nature, but the plan as designed will account and collect all runoff that's created from our property and will not create any additional drainage problems for the surrounding properties.

SECRETARY WAGNER: Mr. Rant, there is no drainage structures in that area presently, correct.

MR. RANT: I think there's one catch basin kind of near the driveway, a little further away, but not where the proposed patio is being built.

SECRETARY WAGNER: Right. So is it possible installing the drainage in the yard in that area would actually result in an improvement in the conditions.

MR. RANT: Yes. Definitely. Of course.

MEMBER GOODSSELL: I have no other questions.

ATTORNEY ALGIOS: Looks like there's nobody else who has any comments on this.

MEMBER DONATELLI: I do have one

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additional question. The proposed decorative wall that you're showing, the two proposed decorative walls along the rear of the property, what is height of those and what was distance from the lot line to the wall.

MR. RANT: Those would be a raised kind of seat, like, a bench. So it would be about 24 inches high. Just a sitting wall. It's not a retaining wall. So it would be 24" high. At its closest point, it's about 5 feet from the property line.

MEMBER DONATELLI: At the closest point. So where they turn in.

MR. RANT: Yes, at its closest point. Again, it's like a bench. It's a masonry bench/sitting area.

MEMBER HERNANDEZ: And there is nothing in between them? I see a line drawn there.

MR. RANT: There's no connection between the two. That's the edge of the patio.

MEMBER HERNANDEZ: Okay.

MEMBER DONATELLI: I have no further questions.

CHAIRMAN MAMMINA: Anyone want to make a motion.

MEMBER HERNANDEZ: I think that we want to wait to see the moved fence first.

CHAIRMAN MAMMINA: Okay.

SECRETARY WAGNER: So are you withdrawing the request for a variance

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for the fence.

CHAIRMAN MAMMINA: That's right.
He's withdrawing the fence.

MR. RANT: Yes. I'm withdrawing
the fence variance.

SECRETARY WAGNER: That would
clear that up. Is that good enough for
you Deborah.

ATTORNEY ALGIOS: Yes.

SECRETARY WAGNER: So he's making
an official request to withdraw.

MEMBER HERNANDEZ: Then we can
make a motion to approve the plans as
presented with the withdrawal of the
fence variance.

ATTORNEY ALGIOS: Correct.

MEMBER HERNANDEZ: Okay.

CHAIRMAN MAMMINA: Is that the
motion.

MEMBER HERNANDEZ: That's the
motion.

MEMBER GOODSELL: I would second
it with the comment that I believe there
has been an attempt to address the
adjoining homeowner's drainage concerns,
there will always be events that we get
six inches of rain within two hours that
we've had -- well, three inches of
rain -- where there are unusual
circumstances where nothing is going to
stop the water from coming down.

I do feel by seconding the motion
that the design does attempt to address
this and does propose a solution for
ordinary rainfall, ordinary snow melt,

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ordinary water runoff. In that regard,
I second the motion.

CHAIRMAN MAMMINA: So we have a
motion for Mr. Hernandez and a second
from Ms. Goodsell. Ms Wagner, would you
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: Chairman
Mammima.

CHAIRMAN MAMMINA: Aye. So the
application is granted with the
modification that the 6-foot fence in
the front yard is being removed and that
it will be a 4-foot fence pulled back,
aligning with the front of the house.

Thank you.

MR. RANT: Thank you. Have a
good day.

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SECRETARY WAGNER: Next appeal is 21150. **APPEAL #21150- Abesie Haye; 2 Baxter Avenue, New Hyde Park; Section 8, Block 169; Lot 59; Zoned: Residence-C**

Variances from §§70-49.B, 70-50.B and 70-51.B to construct additions that are too large and too close to the street, to construct a portico which is too close to the street, and to legalize a terrace that is located too close to the side property line.

CHAIRMAN MAMMINA: You've heard Appeal #21150, Abesie Haye. Is there anyone on the Zoom interested in the application other than the applicant? Right now, I don't think we're seeing anyone, but if there's anyone out there, put your hand up later, and you'll be invited to speak.

Please give your name and address, sir.

MR. FARRELL: Sure. For the applicant, John Farrell with the law firm of Sahn, Ward, Braff & Koblenz. Our office is at 333 Earle Ovington Boulevard, Suite 601, Uniondale, New York.

CHAIRMAN MAMMINA: Good afternoon.

MR. FARRELL: Good afternoon. We have a unique application today because this is a corner property that requires variances. It's located on the southeast corner of Baxter Avenue and New Hyde Park Road in New Hyde Park. The lot is 45 feet wide along New Hyde Park Road and 100 feet wide along Baxter Avenue for a total lot area of 4500 square feet. It's presently improved with a one-and-a-half story Cape Cod style home that's approximately 1918 square feet. It was built in 1956.

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There was a small dormer that was added over the attached garage in 1986. The way the home is currently designed, there are separate living units on the second floor (inaudible) first floor.

My clients' intention by this application is to go from a one-and-a-half to a full two-story home and make it a single family home, to remove the second living space on the second floor and relocate all of the bedrooms to the second floor.

This application, obviously, is going to require several variances. We need variances to reduce the front yard setback on New Hyde Park Road from 24.75 feet to 24.8 feet. This is an existing condition. The proposed dormer is -- the wall of the proposed dormer are not going outside the existing footprint. In addition, we need to reduce the front yard setback on Baxter Avenue from 20 feet to 12.8 feet, and we also need to reduce the front yard setback on Baxter from 20 feet to 9.8 feet. There is a portico that is going over the entryway to the home that extends out approximately 3 feet. Similarly, to the home on the other side of Baxter Avenue, directly across the street from us, they have a portico over their door on that side of the house, and it's about 9 feet from the street.

We also need a variance to reduce the side yard setback on the south side of the south side of the home to go from 5 feet to 0.1 feet. That's a 3 foot raised platform that really just provides access. There's not a lot of property here. The lot is mostly house. It's a small lot with a decent size house. There is some grass in the back of the home on the other side of Baxter, but there's no real area to go out and sit and enjoy the outside air. This platform area kind of gives you the

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ability to put a little bistro table and sit out there and maybe have your morning coffee. It's really not an offensive structure, and you can't really see it from the adjoining residence. There's landscaping, and there's a fence between the two properties. It really just allows the homeowners to use the outside a little more effectively.

MEMBER HERNANDEZ: I hate to interrupt but just so I understand what you're describing, that front porch is effectively up against New Hyde Park Road, correct.

MR. FARRELL: No. It's adjacent to New Hyde Park Road, but it's really between the two houses, the house directly on New Hyde Park Road and the subject house.

MEMBER HERNANDEZ: But it's closer to the New Hyde Par Road side than to the inner corner.

MR. FARRELL: Yes. It wouldn't interfere with the backyard of the adjoining home or anything like that. It's really a way to get in and out of the house and just really to have an outdoor area. As you can see on the plot plan, there's not a ton of outdoor area that's easily accessible for this home.

The proposed addition that we submitted to the Building Department showed an increase in the gross floor area from a 2250 permitted to 2,539 proposed. That's a full second story dormer. Right now, it's a one-and-a-half story dormer. Like I said, there's two bedrooms upstairs. There's a kitchen, a living room and a small dining area on the existing second

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floor. There is usable space up there. It's not that we're adding additional space. We're just increasing the height to take mor advantage of that space.

MEMBER DONATELLI: Was the house being used as a two-family or as a mother/daughter.

MR. FARRELL: I believe it was, and I'm not sure if it was being done legally. My client purchased the home in the current condition that it's in. My client is looking to redesign it. They haven't even moved in yet. They're waiting to complete this construction project before they move in.

MEMBER DONATELLI: What does the current certificate of occupancy say.

MR. FARRELL: It's a single-family home. So I'm not sure if there was some kind of rental, a mother/daughter permit or something of that nature. Like I said, it could have been used illegally before we got the property. We're not 100 percent.

MEMBER DONATELLI: When did your client become owner.

MR. FARRELL: In March of this year.

MEMBER DONATELLI: Thank you.

MR. FARRELL: So this isn't a huge increase over what's normally permitted, but I have been before this Board numerous times and understanding this Board's feelings about gross floor area. I explained to my client that 289 square feet over is a big number for the Town of North Hempstead even in a C Residence zoning district.

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In the time since they filed the application, I had them do a re-design which I'd like to share with the Board right now. I think it's something that's a little more in tune with what the Board would ordinarily grant when you're going over the gross floor area.

(Whereupon, Mr. Farrell is unable to share his screen.)

MR. FARRELL: Let me describe what we've done. What we did was we recessed the second floor about 3 feet from Baxter Avenue, and we've made some architectural changes that would allow -- that give it a little more depth and a little bit more character. The result of that is it reduces the request for gross floor area variance from 289 square feet over to 132 square feet over. And we were able to add hip roofs which kind of pull it away from the side yard as well.

MEMBER DONATELLI: So you're pulling back on the front elevation of the second floor.

MR. FARRELL: Yes, on the Baxter Avenue side. Instead of it being 12.8 feet, it would be 15.8 feet from Baxter Avenue. The second floor would be 15.8 feet.

MEMBER HERNANDEZ: So there would be a smaller roof space separating the first and the second floor.

MR. FARRELL: Correct.

MEMBER HERNANDEZ: A smaller roof area with a setback.

MR. FARRELL: Correct. Yes.

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MEMBER DONATELLI: And I'm sorry. What's the new gross floor area overage.

MR. FARRELL: It's 132 square feet over as opposed to 289 square feet over.

MEMBER GOODSSELL: So Mr. Farrell, any time an applicant would like to move a potential not legal use of a house to a legal use, and reduces the amount of the overage, I think you're making the Board very happy. We want you to keep going.

MR. FARRELL: I've had a lot of experience with the Board and with gross floor area variances. In the end, in speaking with my client, they're actually happier with the redesigned plan than the original plan.

MEMBER HERNANDEZ: It's looks more pleasing to the eye.

MR. FARRELL: Exactly.

MEMBER HERNANDEZ: You also mentioned that you hiped the edge of the roofs facing New Hyde Park and the neighbor next door.

MR. FARRELL: Correct. What is it? On the west side, I guess.

MEMBER HERNANDEZ: East.

MR. FARRELL: East side.

CHAIRMAN MAMMINA: Mr. Farrell, I'm just a little bit confused. Is the mass of the building the same? In other words, the first floor and the second floor, where did you lose the square footage.

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MR. FARRELL: We recessed the second floor in 3 feet for the whole length. Originally, everything was flush, so it was, like, one straight wall from the second floor down the first floor. So if you look at the plans you have -- what we did was if you can see it here (indicating), we took the square footage out of the second floor and we recessed it a little bit.

CHAIRMAN MAMMINA: It looks very much like a Queens garden apartment in the original design.

MR. FARRELL: Again, I had a conversation with my client, and I explained to them that I thought making it look less stark would be much more appealing to the Board.

MEMBER GOODSSELL: I have to say, the new design that you're showing us does look a little more appealing, particularly, with the hipped roof and a little bit less imposing. You know, I realize this is a 45-by-100 foot lot, but it seems smaller than that, and I think it's the way the house is positioned that makes it seem like such a small lot.

MR. FARRELL: Yeah. I agree. We're only at 28 percent coverage, and we're allowed 35, and we're still very close to being over with the existing house the way it is.

CHAIRMAN MAMMINA: Isn't that an insufficient lot already.

MR. FARRELL: Yes. It's a substandard for C. We're about 500 square feet below what minimum under code.

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CHAIRMAN MAMMINA: I can't believe Jericho Buckley (phonetic) is still around.

MR. FARRELL: I said the same thing.

MEMBER GOODSELL: Oh, he's the surveyor.

CHAIRMAN MAMMINA: The surveyor.

MEMBER GOODSELL: Perhaps there is a very small "junior" after his name.

CHAIRMAN MAMMINA: It could be.

MR. FARRELL: This is a modest house. It's three bedrooms. It'll be two baths. Nice living space on the first floor now. Moving all the bedrooms up to the second floor. It will be a little more modern, and I think it will really fit in nicely with the character of the neighborhood.

As the Board knows, New Hyde Park, especially in this area there is a lot of capes. There's a lot of ranches. Some have been dormered. Some haven't. There's a new house that was recently built around the corner from this site. They took down a small inline ranch and built a big brick colonial.

I think this is definitely going to enhance the character of the community. I think it's a modest request. I think the modifications make the plan definitely something that the Board should approve.

MEMBER GOODSELL: So Mr. Farrell, there isn't going to be a garage anymore on the property.

MEMBER HERNANDEZ: Yes. That's exactly what I was looking at. There's

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no garage there.

MR. FARRELL: There will not be a garage anymore, no.

MEMBER GOODSELL: Trust me. There's no parking on New Hyde Park Road. Whoever lives in this house is going to end up parking on Baxter Avenue.

SECRETARY WAGNER: That might be an issue.

MEMBER HERNANDEZ: Aren't they supposed to have two parking spaces.

SECRETARY WAGNER: To provide two parking spaces.

MEMBER HERNANDEZ: But that wasn't picked up, was it.

SECRETARY WAGNER: Because it wasn't part of the original application.

MEMBER DONATELLI: This is my question: Procedurally, then, is it proper for us to be reviewing this new plan or does it have to go back to Building Department first.

MEMBER HERNANDEZ: But even the plan that we have here doesn't show the garage.

SECRETARY WAGNER: Does it have two parking spaces on there, John.

MR. FARRELL: I think we have --

MEMBER GOODSELL: It would only be one. In the existing survey --

(Whereupon, there was crosstalk.)

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CHAIRMAN MAMMINA: He's showing two wonky parking spaces.

MEMBER HERNANDEZ: Where.

CHAIRMAN MAMMINA: If you go to drawing A-101. Go to the plot plan in the upper left-hand corner. I'm assuming that that's what those triangles mean.

MR. FARRELL: Yes. Cars.

MEMBER GOODSELL: Ah. Okay. If those triangles are, in fact --

CHAIRMAN MAMMINA: The left-hand side of the lot. See where the curb cut is down the street? Just go up and then to the left on an angle, and you'll see two --

MEMBER HERNANDEZ: In tandem.

CHAIRMAN MAMMINA: It says, "Two cars parking on permeable --

MEMBER HERNANDEZ: They're going to use the existing curb cut, go 45 degrees and then 45 degrees again to get to the side of the house.

CHAIRMAN MAMMINA: Yes.

MEMBER HERNANDEZ: And one stays on the side.

SECRETARY WAGNER: Okay.

MEMBER DONATELLI: So that is it according to code. It's not ideal, but it is according to code.

CHAIRMAN MAMMINA: They've got no outdoor space. There's no front lawn area either.

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(Whereupon, there was friendly banter among Board members and applicant.)

SECRETARY WAGNER: So what was reduced square footage number.

MR. FARRELL: So the reduced is 2382.

SECRETARY WAGNER: Is the new number.

MR. FARRELL: Yes.

MEMBER DONATELLI: But, again, my question is doesn't this have to go back to the Building Department first to verify that.

CHAIRMAN MAMMINA: Yes. It would have to.

SECRETARY WAGNER: Not necessarily.

ATTORNEY ALGIOS: I was going to say. I don't think necessarily because here he's reducing the variance, so the Board could approve the new plan pending the approval by the Building Department. If the Building Department comes up with another variance based on the new plan, that, obviously, would have to come back to the Board. But if the Building Department stamps it approved, and now the Board has approved the plans, then they can move forward.

CHAIRMAN MAMMINA: Okay.

SECRETARY WAGNER: It's a risk on the applicant's part. You're submitting new plans. If the Board approves the new plan as modified, then when it does go back to the Building Department, if

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there was anything that, just like what we were talking about the parking issue, if there was anything that came up as a result of the new plan, that would be problematic.

MR. FARRELL: We'd have to come back for another variance.

MEMBER DONATELLI: It seems backwards. Virginia, did you get the new plans.

SECRETARY WAGNER: Yes. That's what I'm just sharing on the screen.

MR. DONATELLI: Okay. Have you e-mailed them to us.

SECRETARY WAGNER: No. I have not, but I will.

CHAIRMAN MAMMINA: The air conditioning units in the front yard. I'm just confused because the Town Boards has been trying to help with air conditioning units. I don't know that they went that far. I know that they gave leeway in the side yards, but I don't know that you're permitted to have them in the front. I'm not sure. You never were.

MR. FARRELL: Right. I don't know. I see that it is marked off on the plans as a 20 foot setback. I'm not sure if that's the restriction. I would have to look at the code. I don't know.

CHAIRMAN MAMMINA: I don't know. It's still the front yard. Maybe they said if it's beyond 20 feet. That seems like an odd one.

ATTORNEY ALGIOS: If you feel more comfortable, you could continue it

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and just have the Building Department go over it, and you can make a decision at the next meeting.

MEMBER DONATELLI: That would be my preference. As we all do, we spend quite a bit of time reviewing the plans that are submitted with the application, and while I would agree Ms. Goodsell that it is encouraging to hear that the ask is being lowered in terms of the number, I still would want to renew it before just jumping in willy nilly.

ATTORNEY ALGIOS: I think that's fair.

SECRETARY WAGNER: The only thing is I think -- I get the impression now that the Building Department would prefer, if that's the route we're going to go, that the applicant, as opposed to in the past when we may have just shown them the plans, that the applicant need to actually resubmit the plans to the Building Department as a re-submittal. I'm not sure if that's what they would do, but I get the impression that that's the way they would like it to be done, to be submitted as an official re-submittal as opposed to just --

MEMBER DONATELLI: Wouldn't they have to do, then, a whole other calculation sheet.

SECRETARY WAGNER: They would probably have to give them a new zoning analysis sheet, yes.

MR. FARRELL: There's only two variances that are changing as a result of the proposed amendment that we're making. My only concern with doing a re-submittal is I'm not going to get an answer back from the Building Department

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for, you know, I don't know how long. It could be six to eight weeks before I hear from the Building Department.

CHAIRMAN MAMMINA: I'm sympathetic from that perspective that it could take a while for them to come back with a complete re-review of it where if you change everything around and then go back in, you'll have the ability to sit with planning examiner sooner, I guess.

SECRETARY WAGNER: I don't know if they're going to sign off on -- I don't think they would say we agree with the accuracy of their numbers without doing a full review.

CHAIRMAN MAMMINA: No. They're going to do is a full review.

SECRETARY WAGNER: In terms of whether or not they would need it, on the face of it, it doesn't look like they would trigger any other variances. We don't know that.

CHAIRMAN MAMMINA: Let's make sure that they agree with the final floor area.

SECRETARY WAGNER: If that's what the Board wants them to do. I mean, I can check with them and see --

ATTORNEY ALGIOS: I was just about to say that, Ginny. Maybe you can -- do want to try quickly to see if you can reach Glen or someone else and go offline a minute and get their opinion.

SECRETARY WAGNER: I don't believe I'm going to be able to reach Glen. I can see if anybody else is

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there.

ATTORNEY ALGIOS: Just to expedite things. I'd like to hear their opinion. They may require that it has to go through them, and then that's it. We'd have to go that route.

MR. FARRELL: If you guys want hold this and put me in the waiting room and bring me back if you guys want to move onto the next application. I know you guys have a lot left on your agenda, I'm fine with that.

ATTORNEY ALGIOS: I appreciate that, John, and I think we'll take you up on that just so we can move the calendar along. We'll take the next cases, and we'll call you back next.

SECRETARY WAGNER: Deborah, I'm not sure anyone's available to speak with today about that. I just tried someone.

CHAIRMAN MAMMINA: I think Virginia what John had just offered, and Deborah thinks it's a good idea, we all do, is that he can go off to the waiting room and if we can get a answer from somebody.

SECRETARY WAGNER: All right.

CHAIRMAN MAMMINA: That way we can keep moving.

MEMBER HERNANDEZ: What's the alternative? Can we rule on this now, and then if the Building Department has a different opinion when he submits, can they make him --

ATTORNEY ALGIOS: Then he would have to come back. I mean, if the Board

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felt comfortable with the new plans to make a decision, and if the Board granted the variances, then it would go back to the Building Department, and if the Building Department took issue and maybe had some different numbers or found there was another variance --

MEMBER HERNANDEZ: But if we grant -- he says right now that he's down to 132 over. If we grant it, for argument's sake, with a 132 over and that's what he presents to the Building Department, and they agree on it, then it's done.

ATTORNEY ALGIOS: Right.

(Whereupon, there was crosstalk.)

MEMBER DONATELLI: The issue, just for the other side of it, the issue that I have is that there may be other things in this plan that was just submitted to us, that we just don't know right now.

MEMBER HERNANDEZ: But it was being represented to us as the only thing that changed was -- the square footage was reduced. If something new comes up, then it's got to be presented to us again. I'm trying to at least move it along for the applicant so if we can't get an answer from the Building Department today, he can move on and not have to re-present. That's all.

MEMBER DONATELLI: I personally think there is value in running this by the Building Department. I feel for you in terms of the delay that might be posed by the Building Department. I just think that's the right thing to do.

ATTORNEY ALGIOS: If we can't get

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in touch with anyone from the building Department, what we could do is continue this in order to speak to the Building Department and then we could advise you. If the Building Department says you do have to put in a new application, a revised application, then you can go that route. If the Building Department is comfortable with the Board approving and then coming to the Building Department, then at the next meeting, the Board can make a determination that (inaudible).

Why don't we do this, John? Why don't we move you back into the waiting room and take the next case. I'm going to shoot an e-mail, myself, over to the Building Department and see if I can get in touch with anybody there. I'll call you back on second call. Is that good?

MR. FARRELL: That's perfectly fine, and when we come back, I'll talk about the central air. I found the answer to that question.

ATTORNEY ALGIOS: Okay. So Ginny, I'll move John back to the waiting room, and we call the next case.

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SECRETARY WAGNER: Next appeal is 21151. **APPEAL #21151, Alexandria Guyett; 36 Oak Dr., New Hyde Park, Section 8, Block 211-02, Lot 28; Zoned Residence-C.**

Variances from §§ 70-49.B & 70-51.A to construct additions that are too large and too close to a side property line.

I just want to let the Board know that I sent over several exhibits, but there were some that were too large to be sent, so maybe Steve --

MS. GUYETT: I'm also happy to present. That way I can show the pictures from my side.

SECRETARY WAGNER: Ms. Guyett, if you could just give us your name and address before you present.

MS. GUYETT: Okay. Thank you. Mr. Chairman and members of the Board. My name is Alexandria Guyett. I live at 36 Oak Drive, New Hyde Park, New York 11040, Section 8, Block 21102, Lot 28. Sitting here with me is my husband, Randy Mondesir.

CHAIRMAN MAMMINA: I didn't call this yet, so I need to call it.

MS. GUYETT: Sure.

CHAIRMAN MAMMINA: You heard appeal #21151, Alexandria Guyett. Is there anyone on the Zoom hearing who wishes to speak, you can get your hand up in the chat, or leave a message in the chat.

MS. GUYETT: I do also have my architect on the line as well, Edna Guilor, G-U-I-L-O-R. If you could promote her as a panelist, as well.

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MS. ALGIOS: I just did.

MS. GUYETT: Thank you. As I mentioned, I'm sitting here with my husband, Randy Mondesir. We purchased this house in the summer of 2018, and we bought in Manor Oaks because we loved the character of the neighborhood, specifically, the colonials that align the tree-lined street.

For some historical reference, the house was originally a cape, and previous owners have done additions to the right side of the house, if you're looking at the front of the house, making it non-conforming with the neighborhood. It kind of stands out on the block as being half cape and half colonial. I can share a picture on my screen here.

(Whereupon, a photo was displayed on the screen share.)

MS. GUYETT: You can see here (indicating) that they've done some work already to the right side of the house which looks very much like colonial; however, the left side of the house looks very much like a cape.

We'd like to do a fairly modest addition to the front left side of the house. Part of it is to square off this carport here (indicating), and the other part is to extend the master bedroom a bit and make a more comfortable bathroom, and improve the function of the house. The carport currently counts as an off-street parking spot, but it does not meet the requirements of a 10-by-20 size space because there's these beams here (indicating) that interfere with that space. It's a very tight squeeze. I've scratched my car on the beams a number of times trying to get in that spot. So expanding the

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space to kind of satisfy that 10-by-20 requirement will eliminate this issue so that the spot can actually be used to park a car, and converting the structure from a carport to a garage will make the house fit in with the rest of the colonials in the neighborhood, as well as protect our cars from the elements.

As others have mentioned, on August 4, 2020, a Category 1 hurricane caused extensive damage to the neighborhood. We took the necessary precautions, parking our cars in the garage and the carport, respectively, but we did not get by unscathed. A large tree branch from one of the trees in the neighborhood went through our bedroom window, landed on the gutter below the window and then fell on the backside of my car, which was actually under the carport. There's now evidence that the unnatural effects of human-caused global warming are making hurricanes stronger and more destructive. We've already had to have three trees on our property removed. We're waiting for our fourth to be removed. While we absolutely love living on a tree-lined street, I would be remiss to not include a safe parking spot for both of our cars.

The garage is less than 10 feet and really, we're only talking about a couple of inches to satisfy the off-street parking spot, and that kind of brings up the issue of the side yard variance that we're looking for. And what is it, 7, 8 inches? That's de minimis in the grand scheme of things.

Lastly, I would just like to mention when we started the application process two years ago, we were actually working with another architect. Due to personal commitments during COVID, they have had to reduce their case load. That actually ended up working out well

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for us because we found Ms. Guilor, and she came up with a better design that actually reduces the floor area ratio by, approximately, 40 square feet, 39.17 to be exact. We have already found a more efficient way to kind of achieve the things that need to be done on the house with less square footage since we started this process two years ago.

Ultimately, we need the second floor and the side yard is what you're requirements are to do to conform with the 10-by-20 off-street parking spot. Anything that I missed?

CHAIRMAN MAMMINA: Give your name and address, sir.

MR. MONDESIR: Randy Mondesir, 36 Oak Drive, New Hyde Park, New York 11040. Alexandria Guyett is my wife.

Just to piggy back off what my wife just stated, I'm 6-foot-4. It is very difficult to use the main floor second bathroom in this current state. I must have concussed myself twice using this bathroom. It's very difficult to get into the bathroom, because I'm 6-foot-4, and as you ask tell, you have this slant due to the dormer there that we would like to bump out a little bit so we could just get that flattened out, so, that way, I could take a comfortable shower. I don't think I'm asking for much. I just want to be comfortable when I shower. So that's one of the issues that we're having.

We also have the carport issue. Although we park our cars in the carport, we prefer to park our cars in the garage than the carport. Unlike many of the people on Long Island who prefer to keep storage in the garage, which is not a bad thing, we prefer to use the garage for parking.

My car's been damaged by acorns.

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I guess there's a huge acorn nest that hovers above our house, and I've got maybe three to four different dents in my hood of my car just because of the acorns. They come off the tree very forcefully. They hit the car. You even hear it from the inside of the house. That's something that has to do with the climate change, I suppose. With any wind or breeze the acorns come falling down and then, you know, I'm fixing my car, \$100 a pop just to remove a dent. So if we could, you know, possibly have the garage enclosed, I think that would negate most of these issues.

If you could tell, based on the picture, this was my wife's vehicle which was damaged about a year ago. It was parked in the carport and a tree branch actually fell through the master bedroom window, landing on the gutter and then hitting the vehicle. So like she stated, we take the necessary precautions to, you know, to protect our vehicles, but at the end of the day, there's only so much we can do. But for not enclosing the garage, I'm sure this may happen again in the near future with these phenomena going on right now that's so recent and so ongoing.

This is the reason as to why we would like to enclose the garage and just have some shelter for our vehicles.

CHAIRMAN MAMMINA: You're showing us a ton of pictures, but you haven't shown us any drawings. We don't see what it is you want to do yet.

MR. MONDESIR: This was the drawing that was too big for Virginia to open on the computer, I guess. This is the plan.

CHAIRMAN MAMMINA: How about either you or Edna or whomever, talk us

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through, what do you have? What do you want to build? What's the square footage now? What's the square footage going to be later, whatever, just so that we understand the things that we're trying to vary.

MS. GUILOR: Could you go to the second floor, or we can start with the first floor, and then we'll go to the second floor.

CHAIRMAN MAMMINA: Do you have the denial in there.

MR. GUYETT: Yes.

(Whereupon, the Denial letter is shared.)

MRS. GUILOR: Basically, the denial states that we have two variances, 70-49(B) which we're 234 square feet over the allowed floor area, and allowed 2,500. We're at 2,734. Most of it, you will see, I will show it to you on the second floor, is a result of straightening up the dormers that we were just hearing about, and aligning the second floor with the first floor to make it look like that full topographical house that looks correct both on the left and on the right. It's very imbalanced now.

The second variance we're seeking is 8 inches encroachment into the side yard. The side yard required 5 feet. We're providing 4.4, so it's actually 0.6, which is 7 inches encroachment onto the side yard.

If you go back on slide to the site, the reason for that encroachment happened because once you enclose the carport and use it as a legal parking spot, we needed to provide 10 feet on the inside.

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CHAIRMAN MAMMINA: Can we see the site plan, please?

MS. GUILOR: Let's go to the site plan. Zoom in a little bit so we can see the right side. This is not the site plan.

CHAIRMAN MAMMINA: This is the survey, but I can see it. You get 5.3. You're saying that it's 4.4.

MS. GUILOR: Right.

CHAIRMAN MAMMINA: So you're building onto this side of the house.

MS. GUILOR: Right, to this side of the house so that the garage will be 10 feet clear on the inside.

Let's go to the first floor and you will see that garage.

(Whereupon, the first floor was shared.)

MS. GUILOR: We're 10 feet inside the garage.

CHAIRMAN MAMMINA: Can you center that a little bit for us so that we can see the whole drawing.

MS. GUILOR: They had a carport in the front where the gray area is and an existing garage in the back, the tandems, one behind the other. What we did is we enclosed the front, and in order to get parking spot, it's 10 feet wide, we enlarged it. We could have kept it at 9 feet, but then we wouldn't get two parking spots. The one in the back cannot be considered a parking spot. I think that's where the storage is going to go because it's very tight.

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CHAIRMAN MAMMINA: That has to be 10-by-20 to be a parking use.

MS. GUILOR: In the front. There is a 10-by-20 outside. So we have two, one outside and one inside.

CHAIRMAN MAMMINA: So you have the driveway.

MS. GUILOR: The driveway, yes.

MS. GUYETT: One of the versions of the plans that we had actually had two parking spots outside side-by-side. The Building Department came back and just said, "Yeah. That meets the requirements, but it's not realistic because the second car wouldn't be able to get out of the driveway if the first car was there." So this is kind of our solution to that.

MS. GUILOR: And as you see, we did not continue the encroachment to the rear, which some people might, but we respected the fact that we have to encroach. So we did not go toward the rear, but we built the second floor, enlarged the second floor to sit on top of that so we don't have to go into structural --

CHAIRMAN MAMMINA: Your square footage is coming from the enclosure of the carport, correct.

MS. GUYETT: Yes.

MS. GUILOR: That's partial.

CHAIRMAN MAMMINA: Well, that's part of it, yes. I also see gray --

MS. GUILOR: For the front portico. That's a nice front portico.

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CHAIRMAN MAMMINA: That's not floor area. So I don't care about that. I just want to get to where is the floor area?

MS. GUILOR: Where I you see the dining room, that was a little porch, and we enclosed it.

CHAIRMAN MAMMINA: Who's got the cursor?

MS. GUYETT: I do. You're talking about this area right here (indicating).

CHAIRMAN MAMMINA: Please don't take this the wrong way, I'm getting just a little bit frustrated because I know what I want to point to and have answers on and you couldn't possibly know. So it's not -- I'm not being critical. So right now, where you have the cursor, what's there now.

MS. GUYETT: A porch.

CHAIRMAN MAMMINA: So that's a porch and that's why that's gray.

MS. GUILOR: Right. We're enclosing it now.

CHAIRMAN MAMMINA: So you're enclosing that and you're making that part of the house. So that's also floor area.

MS. GUILOR: Right. That floor area is about 43 square feet.

CHAIRMAN MAMMINA: Okay. I don't even care how much it is. I just want to see where it is. Are we going to see a plan -- just let me drive the car a little bit. Are we going to see another

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plan, Edna, that's going to show us what all of this looks like.

MEMBER HERNANDEZ: There is an elevation. Maybe you should look at the elevation first, David.

CHAIRMAN MAMMINA: How come I can't find it.

MEMBER HERNANDEZ: If you can bring it to A-3, that's the front elevation.

CHAIRMAN MAMMINA: I can't bring up the drawings.

MEMBER HERNANDEZ: I'm asking Alex to do it. Go to A-3 so the Chairman can see -- there it is. The front elevation of the house. That will give you a sense of what they're doing.

CHAIRMAN MAMMINA: I see that, but, now, what is it going to look like inside when it's all done? Do we have a floor plan.

MS. GUILOR: That's a niche in the dining room.

CHAIRMAN MAMMINA: Right. What happens to that niche? Is it just a niche.

MS. GUILOR: That's a niche, probably, with a little sitting area. It's something nice, but it gives us a chance to do those two windows on the outside that are nicely balanced. We don't want to leave it open.

CHAIRMAN MAMMINA: Let's go to where the rest of the floor area is.

MS. GUILOR: We have the garage

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which was about 199 square feet and that area which is about 34 square feet, which will bring us almost to the 230 square feet that we're asking for.

Then we go to the second floor, and on the second floor, as you saw before, there was a really horrible one bathroom and a closet. We did not increase the amount of bedrooms. We just increased the comfort of this house by doing three things: Bringing the laundry area upstairs, making the children's bathroom, which is three bedrooms to one bath which is not 100 percent up to standard. I would like to have two bathrooms to three bedrooms, but giving the master bedroom a comfortable and nice master bath.

As you see, we trimmed it back to try to give it a little character so it goes on a, like, cascading -- the bathtub, the bathroom. We didn't go straight. They're spending money to make it look nice and comfortable and pleasing to the eye.

CHAIRMAN MAMMINA: I see that, but aesthetics has nothing to do with what we do. We like seeing something that looks nice. That's nice, but it really does look like your opinion of the aesthetic dog, the tail is wagging it. I mean, that master bedroom --

MS. GUILOR: I'm just trying to make it more comfortable.

CHAIRMAN MAMMINA: I understand, but we have to look at when the next person comes in and asks for a variance, what did we give you that we're not going to give them or we're going to give them? When I look that floor plan, and I look at the modified master bedroom, quite honestly, from where the wall of the master bedroom is, where the

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7-foot-9 dimension is, it's equally big in the other direction for a tub, a toilet and two sinks. It's huge.

MS. GUYETT: If I could show you, quickly, what that looks like right now.

CHAIRMAN MAMMINA: I know what it looks like now. Believe me, I grew up in a Cape Cod house. I know a Cape Cod house, but my point is that there is an enormous amount of floor area that is being added on in that front area to balance out the architecture on the other side. Unfortunately, you don't get any points for architecture. I'm an architect. I'd like to believe I make beautiful things. Zoning is more times than not, problematic.

I don't know. It looks like that entire second floor part being added on has to do with a master bedroom and enlarging a bathroom. The laundry room? That's a big as a kitchen.

MEMBER DONATELLI: May I ask, looking at the new master bath, I see the bathtub toward the front of the house, and then where it's printed "new master bath," what is that space in between where the bathtub is and the printing? What is that space used for.

MS. GUYETT: The shower.

MEMBER DONATELLI: That's the shower? So you walk through the shower to get to the bathtub.

MS. GUYETT: Yes. The bathtub is actually in the shower.

MEMBER GOODSSELL: That's interesting.

MS. GUILOR: That's a very common

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design, these days, to save creating a shower enclosure. So, basically, this whole room -- if you see the two sides, it's glass and the glass will slide to close it. That affords you giving two showers and the tub. It's all enclosed in one area. So you don't have to create a shower enclosure and a tub.

CHAIRMAN MAMMINA: Here 's the thing, Edna, that area where that shower and that tub is as big as that bedroom that says "no change" that's to the left-hand side of the modified master bedroom.

MS. GUILOR: No, not quite.

CHAIRMAN MAMMINA: Well, it's pretty darn close.

MS. GUILOR: It's 10-by-10, something like that, from where the dormer ended. I definitely could see if we need to shorten the bathroom, but I can't shorten it by 230 square feet. That's impossible.

CHAIRMAN MAMMINA: Here's what I think, as one Zoning Board member. You got to do a better job than this. We get too many floor area requests. I don't know. I'm only one Board member. Everybody else can say if they disagree with me. I would like to believe that no single member here steers anybody in any direction, but as I look at it, it's a very big floor area variance --

MS GUILOR: Well, what we could do is --

CHAIRMAN MAMMINA: Edna, excuse me.

MS. GUILOR: Sorry.

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CHAIRMAN MAMMINA: It's a very big floor area variance, and we have to be able to see that you've mitigated 100 percent, as best you can, that there's not an extra square inch there that you don't need. And that doesn't mean that people shouldn't have beautiful things. Of course they should. That master bath, when it's all done, could be in a magazine. It's not a reason for us to give this big a floor area variance.

MS. GUILOR: Let me take you back a few steps and explain what I think the process of what was here before. The second floor is the tail that wags the dog in here. Not the first floor.

CHAIRMAN MAMMINA: I meant to say the second floor, yes.

MS. GUILOR: Obviously, we could leave the garage walls open and stay with that carport in there and not have to probably require a variance, and I believe, maybe, that was the original idea, not realizing that the garage would need a variance. So I would think that if the second floor would get a tiny smidget smaller, and the garage would stay open, no variance would be required.

CHAIRMAN MAMMINA: That's perfect.

MS. GUILOR: So wait. We go back and look at that garage and asking the Board to allow us to enclose that lower level garage which anyhow is there and it's affecting much. It's not changing the neighborhood to let that be open in there and then being in compliance with the code, I think -- we're not asking for the second floor to be so

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magnificent and huge. We're really asking to enclose the first floor. That's why most of the presentation of the owner was about her needs for the first floor garage because she realized that's what the variance is all about.

CHAIRMAN MAMMINA: I don't want to do a design critique, which is an architecture school term. When I say "critique," I don't mean that in a caustic manner. This is what we would did he in architecture school. My perspective is -- we can go back and talk about your design all the time --

MS. GUILOR: Alex, let's go back to the elevation.

CHAIRMAN MAMMINA: Ms. Guilor, you're not listening to me. You can't be talking and be listening to me.

MS. GUILOR: I am.

CHAIRMAN MAMMINA: No, you're not.

The existing house is very unbalanced. It looks like it's going to fall over to the right. I see that, but I, as one Board member, can't see my way to give you a variance for floor area in order to correct that because that's not the spirit of what zoning does and what Zoning Boards do, and you know that from the other part of your life the same way I know it because I'm sitting on this other part of my life.

Now I'm not being hard. You've had plenty times that you're being something else and not an architect, but coming with an architect's feeling. So I don't know what any of the other Board members think. I'm not saying no. Again, I'm one person.

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MEMBER DONATELLI: I'd like to jump in. I, also speaking as one Board member, this is a Residence-C area. This is an area where the houses tend to be smaller on smaller lots. It just seems to me that it is too much house for the plot that it sits on.

We used to have a Board member who sat with us who used to draw an analogy to a Speedo bathing suit. I'm not going to repeat that. I've decided to use a different analogy which is putting a size E foot in a size EEE shoe or vice versa.

I am very sympathetic to the applicant's desire to want to make the house appear a little bit more balanced, but there's got to be a way to do that without asking for 234 square feet more than allowed by code. That bathroom? It really does sound rather opulent for this particular house. It's huge in comparison to the rest of the second floor.

MEMBER GOODSSELL: If I could jump in. I live not too far from here. I think, to the homeowner, Ms. Guyett, living in the Oaks, which is this section, there's lots of big oak trees in here. I would tell you, quite honestly, your side yard setback does not bother me as much as your request for the overage. There are other houses in the area that have fairly narrow setbacks. There are other houses in the area that have been developed.

These tall, tall oak trees which predominate in this area, they provide shelter and they provide branches. I'm sorry you had to take some of yours down. I regret the loss of them, but your house design, while beautiful, I'm thinking there must be a way to do this without going quite so over what we allow.

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MS. GUYETT: Yes, there is. We could just do the design and leave the carport open. We wouldn't need the variance for floor area ratio overage. We would not need the variance for the side yard; however, as I mentioned, we thought that the carport was already included in our floor area ratio when we started this process, and we do believe that it is necessary given some of the circumstances that have taken place over the last three years of living here.

MEMBER GOODSELL: I don't dispute wanting a garage. I just think when you design something, and it goes over what the building code allows, that there may be other designs on the second floor, which is what the Chairman has been talking to you about. There may be other ways to design some of this and to cut out some of the floor area. I mean, we don't go by aesthetics. We don't go by -- this is a beautiful design. How can we shorn this onto this property? We go by what's allowed? What are you asking for? What have you designed? Can it be modified? I'm sure there are other modifications other than reinstating a carport.

MS. GUYETT: Yes. We are working in terms of the existing layout. What's really pushing this design is the fact that the right side sticks out as far as it does. If I were to do the house from the beginning, from when it was originally, a cape, I would have staggered the whole top.

MEMBER GOODSELL: Agree.

MS. GUYETT: So I'm just trying to work to make it not so drastic between the right side and the left side of the house.

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MEMBER DONATELLI: Having seen those photographs of your existing bathtub and shower, I fully agree that there is a need for you to address that. In fact, I had a similar situation in my house, and we did address that. I'm mindful of your plight, but, again, there are ways to do it without asking for 234 square feet additional over what's allowed by law.

MS. GUILOR: Okay. So I suggest that we look at this design and come back to the Board with a lesser amount of square footage so that we will see what can be done, if that's accepted by you, Alex.

MS. GUYETT: Is there any guidance you can provide as to where we --

CHAIRMAN MAMMINA: We really don't give guidance. It's not what our function is, and you have all been very, very nice, and so please don't take it the wrong way, but I'd say to people sometimes, it's not make not let's make a deal. It's let's try to get to something. And what I would say is we don't need any super fancy drawings. I'm old. I still draw by hand. Here's my pencil right here (indicating). Those kinds of --

MS. GUILOR: Better you than me.

CHAIRMAN MAMMINA: Our objective is not to say no. Our objective is to say yes, and how can we help you to get there? Don't go crazy. I've seen people come in with full sets of working drawings for these magnificent houses that they've probably spent a fortune on, and then it all ends up having to be redone. So keep it simple whatever else

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you'd like to communicate. I can certainly relate to the 6-foot-2 person trying to use the shower.

MS. GUYETT: Six-four.

CHAIRMAN MAMMINA: That's even better.

ATTORNEY ALGIOS: So Chairman, do we want to continue this then.

CHAIRMAN MAMMINA: Yes. Thank you, Deborah.

CHAIRMAN MAMMINA: So we'll continue it.

MS. GUILOR: Thank you.

CHAIRMAN MAMMINA: All you need to do is as you have things, feed them back to Virginia. That way, she'll distribute that to us and then we can look at that.

MEMBER HERNANDEZ: I would like to make one comment because you talked about the right side of the photograph being so far forward. That's very far forward, you're absolutely right. As I look at the drawings that are here, the new left side of the house will be even further forward.

CHAIRMAN MAMMINA: Yes.

MS. GUYETT: The garage will, yeah.

MEMBER HERNANDEZ: Yes. The garage will. So it's becoming even more forward. So I think what the Chairman is saying is let's tone back that second floor.

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MS. GUILOR: We will.

CHAIRMAN MAMMINA: Thank you.

MS. GUYETT: Thank you, Chairman
and the Board, for your time today.

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SECRETARY WAGNER: We can do a second call. Is John Farrell still on, Deborah?

ATTORNEY ALGIOS: Yes. He is.

SECRETARY WAGNER: We'll do a second call for **APPEAL #21150- Abesie Haye; 2 Baxter Avenue, New Hyde Park; Section 8, Block 169; Lot 59; Zoned: Residence-C.**

Variances from §§70-49.B, 70-50.B and 70-51.B to construct additions that are too large and too close to the street, to construct a portico which is too close to the street, and to legalize a terrace that is located too close to the side property line.

CHAIRMAN MAMMINA: So this is a recall of appeal #21150.

SECRETARY WAGNER: Hi, John. I spoke with the plans examiner, and he said that we could accept those drawings. We'll run them by him just to check the numbers. I don't know if it will be a full review. If there was anything that was triggered, there's always a --

MR. FARRELL: I understand that risk.

SECRETARY WAGNER: Just accept the gross square footage numbers so the Board can be confident that what you're representing is accurate.

MR. FARRELL: Sure.

ATTORNEY ALGIOS: So continue this then, Ginny.

SECRETARY WAGNER: We would continue it for revised plans, and then

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depending on whether they're satisfactory, the Board could possibly make a decision after this hearing or one of the future hearings.

MEMBER GOODSELL: If I may, Mr. Farrell said that he had an answer for those two air conditioning units in the front yard.

MR. FARRELL: So the code allows the air conditioning unit in the front yard. They just can't encroach more than 5 feet from the dwelling, and they have to be screened by greenery, by hedges and shrubs, which we're proposing on our plan, and we do not encroach more than 5 feet.

CHAIRMAN MAMMINA: Excellent. I knew that Tom (inaudible) did a bunch of stuff to try to make air conditioning equipment more easily installed.

MR. FARRELL: Yes.

CHAIRMAN MAMMINA: Thank you.

MR. FARRELL: Thank you. I appreciate your time.

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SECRETARY WAGNER: The next appeal is 21152. **APPEAL #21152 - Mahendranauth Algu; 173 Lawrence Street, New Hyde Park; Section 8, Block 300, Lot 11; Zoned: Residence-B.**

Variance from S70-40.B to legalize a conversion of an open porch to an enclosed porch that is too close to the street.

CHAIRMAN MAMMINA: You heard appeal #21152, Mahendranauth Algu. Is there anyone else who is on the Zoom who wishes to speak, and, if so, you can just raise your hand either in the chat or in the attendance column.

MR. ALGU: Good afternoon. This is Mr. Algu. My wife is here also.

CHAIRMAN MAMMINA: Good afternoon. Please give your name and address.

MR. ALGU: Mahendranauth Algu, 173 Lawrence Street, New Hyde Park, New York 11040.

I'm here to ask for a variance to legalize the conversion of an open porch to an enclosed porch that is too close to the street. The home is a corner property, 173 Lawrence Street, and the cross street there is Laurel Drive.

I purchased this home in good faith in 2005, and I had no knowledge the porch enclosure was illegal. Only recently when filing a dormer permit, it was discovered by the Town of North Hempstead that the enclosed porch was not legal. This was not self-inflicted. I, obviously, bought the home like this.

The way the home is currently, it is consistent with the character of the neighborhood and surroundings. There's no negative impact on the neighborhood.

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I think within half a mile, there's probably two other homes that has a similar style and design with the enclosed porch. I've been living here for over 15 years, and I never think this is not permitted until I file for a dormer permit in 2019, and then I received a letter from the Town saying the distance was too short.

So the garage is actually facing -- the way the home is, the front of the house is facing Lawrence Street and the garage is facing Laurel Drive. I'm asking if I can keep the porch the way it is, the enclosed porch.

CHAIRMAN MAMMINA: In looking at the drawings, I can't quite read what the title of that -- it just says "existing porch." Is that an entryway into the house? Is it heated? Is it not heated.

MR. ALGU: It's not heated. I can't see the drawing, but there is two doors, actually, one up the driveway which is facing Laurel Drive. It's a small door there, and then there's one on the other side which is facing Lawrence Street. It is not heated.

MEMBER GOODSELL: Mr. Algu, if I may. I'm one of the real estate attorneys on the Board. So I see you've have submitted, as part of your application, you're survey from 1947. When you bought in 2005, did you have an updated survey done.

MR. ALGU: I think I did, yes. I don't think the bank would have approved without an updated survey.

MEMBER GOODSELL: In 2005, they would have. That's why I'm asking.

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MR. ALGU: Yes. I think I have an updated survey.

MS. GOODSSELL: I'm wondering if you did not submit. You only submitted the old survey from 1947, where it says "open porch" with the dimensions. There it is, right there on the screen, and we can see the dimensions. In 1947, they didn't care anything about where hedges, fences, et cetera were. They just cared about the structures. I'm wondering if you had bought a newer survey, it would have shown as a closed porch or a Florida room.

MR. ALGU: I'm sorry. My wife is here. I have a survey here done 04/04/2005, and it's showing a CONC patio.

MEMBER GOODSSELL: Concrete patio.

MR. ALGU: That's all it shows. It doesn't show enclosed or not enclosed. It just shows -- written on it it says "CONC patio." Next to it, it says "CP" which, is carport, "20.70".

This is why this is all so shocking to me that by the time the survey was done on 04/04/2005, by Henry Cherkowski (phonetic) that no one picked up -- I was very disappointed. I actually tried calling the mortgage company and try to ask them -- why it's not their responsibility.

MEMBER GOODSSELL: Because in 2005, you could have signed an affidavit that said that you would assume responsibility for the property and that's how we got around it. That's why I'm asking if you did get a new survey. Because it's very unusual to have a 1947 survey submitted as part of an application here.

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CHAIRMAN MAMMINA: What that would mean is that that porch has been constructed after 2005.

MEMBER GOODSELL: Correct.

MR. ALGU: The porch.

CHAIRMAN MAMMINA: Not the porch. The enclosure.

MR. ALGU: No, sir. I bought the home like this in 2005, just exactly the way it is.

CHAIRMAN MAMMINA: Well then, why would your surveyor just call it a concrete porch.

MR. ALGU: I don't know. It says CO -- that's what I'm looking at.

CHAIRMAN MAMMINA: CONC is an abbreviation for concrete. That's what your original -- the other one says open porch. It would be a piece of building. This would have been part of the building.

MR. ALGU: They made a huge mistake. When I bought the home, I bought it exactly the way it is. That's why I was surprised when I got a letter from the Town of North Hempstead saying there's no paperwork for this porch.

CHAIRMAN MAMMINA: That's very, very odd.

MEMBER GOODSELL: It is odd, and yet, if we look at the 1947 survey, it looks like the driveway to your garage is located on Laurel Drive; is that correct.

MR. ALGU: Yes, it is.

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MEMBER GOODSSELL: And it looks like the open porch that's shown on your 1947 survey is even with the garage on Laurel Drive. It doesn't recess. It doesn't project forward. It's just even with the garage.

MR. ALGU: Correct. It's even.

MEMBER GOODSSELL: And it also looks like because your property is slightly irregularly shaped that one corner of your garage appears to be 26.4 feet from Laurel Drive and the other corner is 25 feet from Laurel Drive. It's not clearly delineated, but I suspect that's what this survey shows.

MR. ALGU: The lot is very unusual. One side says 68.18 and the other side says 82 --

MEMBER GOODSSELL: Does your 2005 survey show the setbacks for the garage and the open porch from Laurel Drive.

MR. ALGU: It says 24.91 inches from Laurel Drive.

CHAIRMAN MAMMINA: To which point.

MR. ALGU: To the CP. That is the carport.

MEMBER GOODSSELL: I'd be interested in seeing that survey.

MR. ALGU: Is there any way I can take a picture and send it to you.

SECRETARY WAGNER: You can go into the notes section of your iPhone. There is an option. Go into the notes section, and then you -- the little pencil down on the right-hand side.

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MR. ALGU: Okay.

SECRETARY WAGNER: When you hit the pencil, then you come up with a screen with several icons.

MR. ALGU: Yes.

SECRETARY WAGNER: There is a little camera, and when you hit the camera, it will say "scan documents" and you can use that to scan.

MR. ALGU: Okay.

CHAIRMAN MAMMINA: While he's doing that. I don't know. If I'm understanding this correctly, and I don't want this to sound like a decision, but this could be much to do about nothing because the required front yard setback is 25 feet. Somewhere or other, average front yard at 25.94 is on his application, and he says he complies with 25.94. Either way, it's that single point -- even if it's all off by a couple of few inches, that's what we're talking about.

MEMBER GOODSSELL: Good point. Actually, the denial says 70-40.(B) that it's a 30 foot in depth --

CHAIRMAN MAMMINA: This is Residence-B. Residence-B is 30 feet.

MEMBER GOODSSELL: So it's a little bigger.

MR. ALGU: Can I e-mail the scan.

SECRETARY WAGNER: You can e-mail the scan. Were you able to scan it.

MR. ALGU: Yes.

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SECRETARY WAGNER: E-mail it to the BZA Department, bzadept@northhempsteadny.gov.

CHAIRMAN MAMMINA: Where did his 25 come from? It could be the 25 would have been permitted even now if it were an open porch because you're allowed to extend 5 feet and encroach.

SECRETARY WAGNER: Chairman, what you're saying is the average is 25.94 which is slightly larger than what he has at 25. He's required to have 30, but he's closer to the average than the required.

CHAIRMAN MAMMINA: And it's a point at a corner.

MR. ALGU: The 2005 is showing 24.91 from the carport to Laurel Drive.

CHAIRMAN MAMMINA: It could just be that that information was incorrect.

MR. ALGU: I don't know, sir, with all respect.

CHAIRMAN MAMMINA: I mean, if that survey was not submitted -- it's still 24. It's still going to be too small.

MR. ALGU: I was quite shocked when I got the letter from the Building Department because this is exactly the way we bought the home.

CHAIRMAN MAMMINA: What's interesting, though, too, is that the original house survey shows the setback to the garage at 25-foot-4 and that would have not been legal at the time.

SECRETARY WAGNER: Mr. Algu, you

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just sent me a picture of the site plan, not of the survey. That's not a survey.

MR. ALGU: I'm looking at it. It says survey by Henry Cherkowski.

SECRETARY WAGNER: What you just attached in your e-mail was the plan from your architect. Maybe you sent me the wrong thing.

MR. ALGU: This one says "title survey", the one I sent you just now.

SECRETARY WAGNER: I haven't gotten the survey yet. Deborah, is this something that we want -- I mean, if that's something that the Board is waiting for, do we want to take --

ATTORNEY ALGIOS: Yes, I think for expediency we should just continue it. They can get the plans and the survey to the Board. That way we can decide this. It's possible it could even get decided today as part of our reserve calendar. So we'll continue this now and then get those documents over to us and the Board. If we have them, perhaps the Board will take a look later today.

MR. ALGU: You want to put me back in and come back to me.

CHAIRMAN MAMMINA: No. We're not going to come back to you. So you can get off. We're going to continue, right Chairman.

CHAIRMAN MAMMINA: Yes. I think that's the best way to travel, yes.

SECRETARY WAGNER: We'll continue it. You can get us survey. We could either make a decision today or at the

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next hearing which is January 5th, or possibly after that. It is not guaranteed that it would be done.

MR. ALGU: Would I have to come back before the Board, or you just get me a letter or something.

SECRETARY WAGNER: No. We're just continuing it so you'd have an opportunity to submit that information.

MR. ALGU: Can you check it now? She just sent it.

SECRETARY WAGNER: No. I did not receive it. No. It's not coming through. You sent it to bzadept@northhempsteadny.gov.

MR. ALGU: Yes.

CHAIRMAN MAMMINA: Why don't we just keep moving forward.

ATTORNEY ALGIOS: We should just check to see if we have anybody has any comments on this. The only hand I see on this is Scott Tirone.

SECRETARY WAGNER: I'm not getting any e-mails.

ATTORNEY ALGIOS: Scott is saying he can help here. I'll allow Scott to speak.

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

While I was waiting for my case, I just went on my Nassau property back porch is showing on the old property cards as enclosed. And these cards were used in discontinued in '85. So it was definitely enclosed sometime before

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'85. Also, this area is the area of New Hyde Park that used to be Residence-C. That's why all the houses in that area have a 25 foot yard setback. None of them have 30. That's the reason why it was set back at 25 feet. When the house was built, those houses required a 25 foot setback, and somewhere along the line, the whole area was re-zoned from C to a B zone.

CHAIRMAN MAMMINA: That's the area that we're talking about.

ATTORNEY ALGIOS: Thank you very much, Scott.

MEMBER GOODSELL: Thank you. That's very helpful.

MR. ALGU: Thank you very much, sir.

MR. TIRONE: No problem.

SECRETARY WAGNER: So are we still continuing it for the receipt of that.

ATTORNEY ALGIOS: Do you want to continue, or is the Board ready to reach a decision.

SECRETARY WAGNER: Hold on. I think I got the e-mail.

MEMBER HERNANDEZ: But, again, the property card went back to '85 saying that he --

MEMBER GOODSELL: The old property tax cards. They are very old, and I just checked that also. It does show an enclosed porch.

MEMBER HERNANDEZ: It's a

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pre-existing condition that never --

MEMBER GOODSSELL: And that's interesting that Scott is aware that, once again, this area was re-zoned, which I was not aware of.

CHAIRMAN MAMMINA: My understanding was that when Clinton G. Martin was the Supervisor of the Town, he lived in that neighborhood, and he did not want to live in a Residence-C Zone. So with one stroke of the pen, it all became Residence-B. And that's why we have a good amount of applications a year from that. At least that's the tale. I have no idea if that's true.

MEMBER DONATELLI: We've seen that in other instances.

CHAIRMAN MAMMINA: Yes, we have.

MR. ALGU: Thank you, Scott.

MR. TIRONE: No problem.

SECRETARY WAGNER: We had done some research in that area, and I had sent an e-mail to the Board back in 2018, about it was zoned Residence-C until 1945, and then the code was amended and re-enacted, and the area was upzoned to Residence-B as a result. Looks like in 1945. This is an area that was referred to as Clinton G. Martin up-zoning, but he wasn't around until the '60s.

CHAIRMAN MAMMINA: That's interesting.

SECRETARY WAGNER: South of Marcus Avenue, east of New Hyde Park Road, and north of Hillside.

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CHAIRMAN MAMMINA: As they say in the Wizard of Oz, that's a horse of a different color. Something like this would be something that the Board would, generally, approve, plus it appears to be correct that based on the property cards that this has been there for many, many, many decades.

SECRETARY WAGNER: Here is the survey.

(Whereupon, the Secretary Wagener shared her screen with the Board.)

MEMBER GOODSSELL: That's a 2005 survey. Go back a little further up to the house. CP is the enclosed porch, and then the concrete patio is something different.

CHAIRMAN MAMMINA: The concrete patio might just be a concrete slab on grade.

MEMBER GOODSSELL: Correct. CP is where the porch is. I'm satisfied.

SECRETARY WAGNER: CP probably stands for "covered porch".

MEMBER GOODSSELL: Mr. Algu, I think you are the luckiest man because I think this Board has changed their opinion based on the re-zoning. Mr. Chairman, if we need to have further discussion, that's fine, but if not, the applicant's only required variance is to approve this covered porch, enclosed porch, which does not meet setback, but it doesn't meet setback -- the cart came before the horse. It was apparently built before the setback was changed. So I, as one Board member, would make a motion that we approve this variance.

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CHAIRMAN MAMMINA: So we have a motion by Ms. Goodsell.

MEMBER DONATELLI: I will second.

CHAIRMAN MAMMINA: Seconded by Mr. Donatelli. Ms. Wagner, 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: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. The application is approved.

MR. ALGU: Thank you very much, Board, and thank you very much, Scott.

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SECRETARY WAGNER: The next appeal, **APPEAL #21153 - Peter & Diana Venza; 8 Willow Lane, Carle Place; Section 10, Block 279, Lot 4; Zoned: Residence-B.**

Variances from §§70-40.C and 70-101.B to construct an addition and portico that are too close to the street.

CHAIRMAN MAMMINA: You heard appeal #21153, Peter and Diana Venza. Do we have anybody with any interest in the application other than the applicant?

ATTORNEY ALGIOS: I don't see anybody.

MR. ZAPKA: This is James Zapka from Todd O'Connell Architects, 1200 Veterans Highway, Hauppauge, New York 11788. Unfortunately, Todd cannot attend this hearing as he is held up also at a Town of Hempstead hearing.

I am proposing to add a front vestibule and front portico to and existing one story framed in the Residence-B district. The average front yard setback for this particular house based on the block is 30.33 feet. We are, therefore, seeking relief to alleviate that so we could construct the front portico at a distance of 22.45 feet and a front vestibule at 26.45 feet.

If you're familiar with this style of house, it is very similar to, almost like a Levitt style home where (inaudible) with the front door and immediately opens up into the staircase of the house.

In doing the renovations, the Venzas would like to bring more of a welcoming opening to this home. They're constructing this vestibule and portico.

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Therefore, we'd like to seek relief to construct these.

SECRETARY WAGNER: I'm sorry to interrupt, but the court reporter has asked for you to repeat your name again.

MR. ZAPKA: James Zapka,
Z-A-P-K-A.

SECRETARY WAGNER: Thank you.
Are you an architect.

MR. ZAPKA: I work with Todd in the office. I'm one of the associates. I'm not an architect by license, though.

SECRETARY WAGNER: Okay. Go ahead.

MR. ZAPKA: We feel that these are within character of the neighborhood. Most of the houses on this block, it's a short block with four or five houses on each side. They're also relatively the same, built at the same time period. There are other homes on this block that they have done additions and porches to the front. We feel that this would be de minimus, but would stay in character of what is there.

CHAIRMAN MAMMINA: So what it looks like, is that the -- I'm not seeing the side elevation.

MEMBER HERNANDEZ: Yeah, I was looking for that. It's in D-2.

CHAIRMAN MAMMINA: Okay. That's what I thought. So the front part of the portico is open.

MR. ZAPKA: Correct.

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CHAIRMAN MAMMINA: The distance to the -- I get confused. I have it up on my screen and you have it up on this screen, too, at the same time.

MR. ZAPKA: The front two-column portico is an open structure.

CHAIRMAN MAMMINA: Right. So that's open. So that's 26.45 feet back --

MR. ZAPKA: To the vestibule, correct.

CHAIRMAN MAMMINA: -- to the vestibule.

MR. ZAPKA: And then 22.45 to the actual open air two-column roof over.

CHAIRMAN MAMMINA: Right, and what was your average front yard setback.

MR. ZAPKA: The average for the block came back at 30.33.

CHAIRMAN MAMMINA: Okay. Pretty much in line there. It's open on three sides --

MR. ZAPKA: Correct.

CHAIRMAN MAMMINA: -- for the balance of it, correct.

MR. ZAPKA: Correct. The front portico is open on three sides.

MEMBER HERNANDEZ: David, they are projecting, if I'm reading this correctly -- the enclosed portico is 3' 6" deep.

CHAIRMAN MAMMINA: Right.

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MEMBER HERNANDEZ: And then the open portico is 4 feet deep. They are projecting 7'6" in total.

MR. ZAPKA: Right. It would be a projection of 8 feet into the front yard based on the front line of the home.

CHAIRMAN MAMMINA: You're allowed to have an enclosed vestibule that's 8 feet wide and 5 feet deep as-of-right, and you're allowed to have an open porch for 5 feet the entire length of your house.

MEMBER HERNANDEZ: And they both encroach? I didn't think they could both encroach.

CHAIRMAN MAMMINA: I think if one is part of the other, it can. In other words, you could project out 5 feet with a vestibule and have an open porch on both sides of it as long as it only projects out 5 feet.

MEMBER HERNANDEZ: Right.

SECRETARY WAGNER: You don't get to double --

MEMBER HERNANDEZ: The encroachment is 5 feet.

CHAIRMAN MAMMINA: Really, what we're looking at here would be a 3 foot open porch area, would be the variance that we're granting, because he's got 8 feet there, 5 feet he's allowed to project in and -- yeah. So it's an additional 3 feet. Technically, the enclosed part is only supposed to be 8 feet wide. So we're also granting him 1.67 feet of enclosed porch -- excuse me -- enclosed vestibule which having a lot of personal experiences with those

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houses and with that neighborhood, at the 8 feet, it makes it very tight to have a closet on both sides and have any space in the center to walk through.

These are slab on grade houses in here, and as you had said, sir -- and I'll apologize for not remembering your last name -- these were built by Levitt, all of these houses were. As a matter of fact, this was Levitt's first development before he built Levittown.

MR. ZAPKA: He built the introductory bare bones houses.

CHAIRMAN MAMMINA: This is where he did his experiment. Carle Placer for 42 years. That's the nature of it. I lived in a Levitt colonial which was two stories, 25 feet-by-25 feet, and it had a basement.

MR. ZAPKA: So you can understand the space that they're requesting is much needed in trying to renovate these homes.

CHAIRMAN MAMMINA: My brother-in-law lived around the corner from me. We did something similar to that. We squeezed it in to 8 feet, but it was very tight.

For myself, as one Board member I would be inclined to approve this.

MEMBER DONATELLI: I'm going to chime in. I think that it is an issue that needs to be corrected. It's not very attractive walking into a house and being confronted immediately with the stairs. There are a bunch of issues that arise with that, and unfortunately, we've seen that a little bit too often, and the encroachment does not -- it is 9.67 feet, but it does not run any more than that, so I also would be inclined

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to grant.

MEMBER GOODSSELL: I would too. It's a short block. I think this is one of the only houses that doesn't have some sort of portico or overhang over the doorway, and it doesn't seem to encroach because there's no sidewalks here. This is kind of a large front lawnish looking are. It does not -- the application, to me, doesn't change the neighborhood at all.

CHAIRMAN MAMMINA: We have a motion from Mr. Donatelli and a second from Ms. Goodsell.

MEMBER DONATELLI: Do we have any members of the public who wants to speak.

ATTORNEY ALGIOS: I had just looked. No. There are no hands raised and there's no one in the chat.

CHAIRMAN MAMMINA: Thank you, Ms. Algios. I appreciate it. Ms. Wagner, would you 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: Chairman

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Mammina.

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

MR. ZAPKA: Thank you for your consideration and good luck on the rest of your meeting tonight.

CHAIRMAN MAMMINA: Thank you. Your observation of the whole neighborhood is very accurate in that one of things that really attracted my wife and myself to that whole neighborhood was the fact that there are no sidewalks, and there are the Belgian block curbs. It's all green coming right up to the streets. It really is nice.

MR. ZAPKA: Thank you.

SECRETARY WAGNER: Deborah, do we need to take a break between the commercial.

MR. DONATELLI: I would appreciate a five-minute break.

SECRETARY WAGNER: Five minute break, then.

ATTORNEY ALGIOS: Let's make it ten.

(Whereupon, a short recess was taken 3:40 p.m.)

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SECRETARY WAGNER: Next appeal is
**APPEAL #21136 - Jinsong Yang; 380
Northern Boulevard, Great Neck; Section
2, Block 85, Lot 14; Zoned: Business-A**

Conditional use 70-126.D and
variances from §§70-103.A(1), 70-103.B,
70-103.O and 70-203.G to construct a new
3-story automobile dealership and office
building with interior parking spaces
for the parking, storage and sale of
automobiles (a conditional use) with
parking that is less than required,
parking stall space dimensions that are
less than required, parking access
aisles that are narrower than required
and a landscape buffer that is smaller
than required.

CHAIRMAN MAMMINA: You heard
appeal #21136, Jinsong Yang. If there
is anyone interested in the case other
than the applicant, please feel free to
put your hand up in the chat, and
Ms. Algios, if we could promote the
applicant? Thank you.

MR. BLOOM: Good evening. I'm
looking out the window too. I'm going
to start in a semi-jocular but in a
semi-serious manner and that is stop me
when you've heard enough. I will try to
speak slowly. You know, of course, I
have difficulty in not speaking too
much, but this is an application that
has been before the Board very recently.

ATTORNEY ALGIOS: Mr. Bloom, I'm
just going to interrupt you for a
moment. If you could start with your
name and address for the record.

MR. BLOOM: By all means. Paul
Bloom, Harris, Bloom & Archer, 445
Broadhollow Road, Melville, New York
appearing on behalf of the applicant,
Jinsong Yang.

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As I was saying, this is an application that has been before the Board recently, as of 2015. It was also reviewed by the Building Department in 2017, but has a long history of variances. And the last time the Board had rendered a determination, both Mr. Chairman, David Mammina and Member Francis were on the Board at that time. I'm sure you gentlemen have recollection of this property as you and the other Board members have driven by this beautiful structure that we intend to demolish.

It is located at 380 Northern Boulevard. Just so that we are on the same page, this is in a Business A zone, and we are looking at sheet Z-1, which has an initial date of 4/18/17 with the last revision of 11/01/21. I specifically am bringing that out as that last revision adds a second loading zone which was originally part of the required variances. So two loading zones have now been provided which no longer requires that we obtain a variance for that part of the application.

The application seeks a conditional use for auto sales. It has three parking variances that we require; number of parking stalls on site, the size of parking spaces and access aisles and also the buffer.

With respect to 70-126.D, that being the conditional use for auto sales, this Board granted that permission in 2015.

With respect to the parking, the number of parking stalls, that Board granted that variance, 70-103.B, in 2015. The difference, though, is that we are changing part of the use of the structure from what was originally approved, and I'll give you the overview once I finish these preliminary remarks.

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The lack of a significant or sufficient buffer under 70-103.G was granted by this Board in 2015. What is new for this Board to consider is the access aisles, but the overview is thus: In 2015, we sought permission to build a three-story building that would have three levels of automobile sales, and we required a conditional use for that just.

To date, what we are seeking is a conditional use not for three stories of automobile sales, but for only one story of automobile sales, and two stories of general office use. I'll just say as an aside, one of those floors, one of those stories, the two stories of office, is going to be self-user. It is going to be used by the owner of the property as their general offices. They are in the real estate, investment and development business. So there will be one floor which will have other general office use. We do not know what that use is as we speak today.

We're here because the original approval, which we could have used today and not appeared before the Board, is being changed to this mix use from a single use which changes the parking requirements for this building and this site. It is located in the unincorporated area of University Gardens. It is on the south side of Northern Boulevard just east of Merrivale Road.

This property is a shallow property just as all of the business zones within University Gardens. There is not one piece of property in the business zone in University Gardens that has not received a parking variance from this Board. We have been in touch with the University Gardens Property Owners Association. We have worked very closely with them. They appeared in

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2015 in support of our application seeking a variance. I am under the impression, and if they are not physically here, we do have a writing that the University Gardens Property Owner Association is, again, supporting this application. There are conditions. We agreed to those conditions previously, and it relates to the windows and heights emanating from the back of the building which would be facing the single-family homes behind us in the residential portion of University Gardens.

In 1947, this property was first developed. In 1947, this property received its first parking variance. It received a parking variance in 1953. It received yet another parking variance in 1962 and, again, in 1984. I can provide for the Board, the case numbers for each one of those or we will send it to you separately, and we, again, received a parking variance with respect to the number of parking stalls, and though the parking regulations were different in 1947, 1953, 1962 and, frankly, as late as 1984, we did in 2015, receive a variance because we had stalls which did not conform to the required dimensional requirements. We had a shortage of parking stalls for the use of the building, and we did not have an appropriate 15 foot buffer between the business and the residential zone.

When we look at the property as a whole, since 1947 and probably a little after that, this property has been utilized as restaurant use and, in fact, catering house use. So the variances that were granted previously, when it was the Claridge House, when it was the Old Hempstead, rumor was it that this was the first Leonard's before they built their palazzo up the block, and also by the Bombay Palace whose awning

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still exists on the property.

Ginny, if you could put up the photograph just so that we could shock everybody with the beauty of the existing structure.

(Whereupon, the secretary shares her screen of the photograph requested.)

I will say that this is a photograph that was taken prior to the time that we received summonses because of the graffiti of the walls. All those summonses have been resolved, and the graffiti has been removed.

This structure has been granted a demolition permit, and I hope, as soon as this Board does grant the variances again for things that we've asked for previously, this building will no longer exist on the site. It has been an eyesore to University Gardens. It's been an eyesore to the Town. It's been an eyesore to the office buildings in front and on the side and certainly an eyesore to the residential properties behind.

In 2015, as I indicated, Member Francis and Chairman Mammina granted, along with the Board at that time, our variances which were a lesser variance than we are seeking today.

When this was a restaurant use, a variance of 117 cars was granted by the prior zoning boards. The use of the property as restaurant and a catering facility were such that the demand for parking under the code was just not achievable, but still granted.

When we had proposed a structure which had three levels of conditional use automobile sales, we required a 43 car variance. At that time, we did have a traffic study and parking study prepared by Schneider Engineering. Steve Schneider is here on this electronic or Zoom meeting and can respond. We have submitted an updated

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parking and traffic study for your consideration. Should you have any questions with respect to that, I would suggest that those questions can be given or directed directly to Mr. Schneider.

We also have on the Zoom, members who're appearing, the architect, Barry Bashker, who will be able to answer any questions with respect to the structure of the building specifically.

The proposal asks, today, for a conditional use but only for one level of automobile sales purposes. It is, as I said, the same conditional use that was granted previously, but for only one level as opposed to three. It is the exact same layout with respect to the alignment of cars along the southern property line, and, therefore, the variance for the 15 foot -- waiver the 15 foot buffer is exactly the same that was granted previously.

With respect to the dimensions of the parking stalls that we are proposing today, it is exactly the same relief that was granted by this Board in 2015. Where there is any difference or change is 70-103.A(1) where we didn't receive a prior variance, as I said, for 43 vehicles. Today, because of the office use, our variance is for 60 vehicles. Again, I will leave it to Mr. Schneider to be able to explain what his study was assuming you have any questions other than the conclusions that are presented in his study, so that there will be no question that, in fact, there are sufficient parking available for the use that were intended. Again, if, in fact, we need a 60 stall variance, it is nothing compared to the over 100 car variance that was granted on four separate occasions by the Zoning Board in the past.

With respect to the other item

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which is, in effect, a new item, that is 70-103.0, and that relates to the aisle width. The aisle width is required at 24 foot each. Twenty-five of our 30 stalls are at 23'4". We are just over a half a foot short with respect to the aisles. With respect to five of the other stalls, these are at a lesser dimension of 13 feet, but, as I indicated, those spots will be allocated to the owner of the building who I said is going to be using it as their offices and will have control over the use of those stalls and will have their own employees utilize those stalls. So the balance of the stalls which are, I believe, 8 inches short -- excuse me, the aisles are 8 inches short, will be under control of the owner of the property.

If there are any questions, we're happy to address them now. I can respond, but if you want straight answers and ones from professionals, you can get it from both the architect and the engineer.

CHAIRMAN MAMMINA: I think we should start with the architect to give us a quick walkthrough the plans, and then we'll turn it over to Mr. Schneider.

MR. BASHKER: This is Barry Bashker. My address is 174 North Herman Avenue, Bethpage, New York 11714.

As Paul had said very eloquently, this application was approved in 2015. I was just as excited as the Town to see the building constructed, but the previous owner sold the property and, luckily, the people who had purchased the property still want to direct this particular building.

So the plans are pretty much almost identical to what they were

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before. The footprint of the building is the same. We did reduce some of the heights of the stair bulkheads and elevator bulkhead as requested by the Homeowners Association, but their requirement of 35 feet is lower than the Town's 40 feet. So we were always in full compliance with the Town of North Hempstead. So we made a few minor aesthetic changes to the glass and windows and some other items, but for the most part, the plans are very similar.

The additional required variance for the parking spaces comes just because they're going to be using two of the levels for offices instead of for retail for the car dealership, but if you look at the actual occupancy of the building, it's very similar to what it was before.

There are less than 75 occupants in the entire building. If you compare that to what it was when it was a restaurant, it was close to 300. Again, the intensity of the occupancy, the uses is very similar to what it was before. It was just because we're changing it from two levels of car dealership to two levels of offices, we're requiring the variance for these additional parking spaces.

MR. BLOOM: Barry or Ginny, do you have, assuming the Board wants to see it, the elevations of this building or just the site plan that we're looking at right now.

MR. BASHKER: Who are you asking? Are you asking me.

MR. BLOOM: I'm asking you, Barry.

MR. BASHKER: I wasn't prepared

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to bring up the elevations of the building, but they were filed. Do you have them? There's also the rendering of the front of the building from the two sides.

SECRETARY WAGNER: Mr. Bloom, I can bring those up.

MR. BLOOM: Excellent. I'm only assuming, since David asked, that that's something that you would like to see or the Board would like to see.

CHAIRMAN MAMMINA: What I'd like to do for, especially for the balance of the Board members, is to kind of be walked through the floor plans to understand all of the things that you have very correctly put onto the record. I can look at the drawing. I can absorb it. I remember it, but I think it would be helpful for all of the members to see it and understand what had been previously approved.

MR. BLOOM: Ginny, if we could go to the first level, and Barry could walk you through. Here's what is proposed with respect to the buildings' use.

MR. BASHKER: This is the first floor. This is remaining as a car dealership. You'll notice that there are two elevators, one is a passenger elevator and the second one is actually a freight elevator that will also bring cars down to the cellar. There is not going to be any parking for the cars that are for sale on the lot, on the site exterior. All the inventory is going to be required to be kept inside in the cellar.

CHAIRMAN MAMMINA: If I could

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interrupt for a second. I don't know if you have the ability to take over the screen, but, again, I understand everything that you're saying. The rest of the Board members were not here originally, nor do they read drawings the way you and I read drawings. If you show them --

MR. BASHKER: In the top right-hand portion of the floor plan, you'll see a box with a car. It looks like the image of a car inside of it. That is a freight elevator that can bring cars that can be brought in from the outside and go directly into the basement, or it can go through the elevator and brought onto the first floor for the showroom.

MR. BLOOM: If I can just interrupt Barry for a moment. This automobile sales. There are no parts sales. There are no repairs. There is no prep work, et cetera. This is just the sale of automobiles, and that was one of the conditions that was discussed in the 2015 hearing.

MR. BASHKER: And this was already previously approved for the use of automobile dealership. The difference now is that we're actually not bring this elevator up to the second and the third floor. It's only going to be traveling between the first floor and the cellar.

As you can see, it's just a basic layout. It has a couple of bathrooms. It has the stair. It has a main lobby that you come into. If we zoom down, you'd be able to see on the left-hand side. When you come in through the main lobby, there'll be a three-story atrium with glass to each of the floors. So it will be very nice. When you walk in,

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there will be skylights above. We did have something before on the third floor where we had a skylight, and we had a glass floor on the third floor. So on the second floor, you'd be able to see the bottom of the cars being displayed, but we eliminated that because we don't have automobile sales on the upper floors.

It's pretty much just a basic open floor plan with just some bathrooms, one office, and I guess if we go to the upper floors --

MR. BLOOM: Ginny, if you could bring this first floor plan down.

CHAIRMAN MAMMINA: I'm just going to say it one more time, and this for the benefit of the other Board members, because, for me, it doesn't matter. I understand the plan. There's a lot here, and I don't know that everybody else is absorbing this.

MEMBER GOODSSELL: I don't read plans the way David does. I appreciate you going through this. I see the elevator for the cars. I presume there is a separate elevator for people to go from the first floor to the second to the third floor, which I think we're looking at to the left of this screen, and there's a certain number of what look like offices in the center or cubicle space in the center.

CHAIRMAN MAMMINA: Do you have the ability to share the screen.

MR. BASHKER: Well, it says share screen, but if I do that, what would I be sharing? Just the screen I see now.

CHAIRMAN MAMMINA: Because you'd have the cursor and you could move the

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drawings around.

MR. BASHKER: Okay.

SECRETARY WAGNER: He has to have the drawings in order to do that. Do you have the drawings.

MR. BASHKER: No. I don't have the drawings on this computer. I brought it up on my second laptop.

SECRETARY WAGNER: Chairman, is there something that you want him --

(Whereupon, there was a discussion.)

CHAIRMAN MAMMINA: I just think everybody else should understand the building. That's all.

(Whereupon, there was a discussion.)

CHAIRMAN MAMMINA: Ginny, for lack of -- no one's not trying to not work with the other person. We're looking at the elevator car lift. I understand the elevator car lift. Where are all of the other things so they can understand how those work? Where do the cars come into that lift? How do they circulate around? Again, unless the rest of the Board members are okay, then I'm okay.

MEMBER DONATELLI: I would appreciate some more elaboration.

SECRETARY WAGNER: You need to stop your screen sharing.

MR. BASHKER: I guess we can start with the second floor plan and I can start with the office plans now.

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SECRETARY WAGNER: This is the second floor plan right here.

CHAIRMAN MAMMINA: I suggest we go back to the first floor, and you might even want to start with the site plan and say this is the way the cars come in. This is how they circulate around. This is how those cars are going to come into the car lift.

MR. BASHKER: Okay. Can we bring the site plan up.

(Whereupon, the site plan was shared.)

MR. BLOOM: By the way, the red dotted lines is the existing structure. And the original 2015 approval was an expansion and an addition to the existing building. This is a total new project demolition and buildup from ground up.

CHAIRMAN MAMMINA: So Ginny, maybe bring it up just a little bit more. Northern Boulevard is on the bottom. And just so we can see -- there's where the curb cuts are.

SECRETARY WAGNER: Okay.

MR. BASHKER: So there are two curb cuts on the left side, you can see between the two planters. The building, itself, is in the same position that the original building is in. So when you saw that picture, the left side and the right side are identical to where it was. We squared it off, and it's three stories. So we were able to utilize the existing curb cuts because the vehicular flow around the property is going to be exactly the same as it exists now, where they have parking on the left side,

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parking in the back and you can come around the other side and come out through the front.

When I was asked to add a second loading birth, both the loading births are on right side of the building one after the other. They both meet the minimum requirements of the size, and that is actually where the freight elevator is. It's at a good place for them to load if they had to, and that is also where if they had a car, which is actually considered inventory for the first floor, they would drive it into the left parking lot and drive around the back, and they would bring it around and into the elevator from the outside. There is a door that actually goes up. They can bring it in from the outside and either drive it into the first floor or they can turn on the elevator and bring it down to the cellar floor and just leave it there for storage.

One of the things that was also in the original requirements when we filed it when it was approved is that there is not going to be any gasoline in any of the cars that are within the building. So you won't be able to turn any of them on. So anything that is brought in, probably off the truck, they'll be pushing it into the elevator, and it will just be brought down to wherever it's going to be stored for sales.

MEMBER DONATELLI: Do you contemplate the tractor trailers that we typically see with new cars, do you contemplate trucks of that size entering.

MR. BASHKER: I believe, actually, and, Paul, you can correct me if I'm wrong, that there was a provision in one of the requirements that it was

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going to be delivered by a certain type of truck and they were going to bring it onto the property in a particular way; is that correct, Paul.

MR. BLOOM: No vehicles shall be delivered to the site on trailers or car carriers. All vehicles to be delivered shall be driven to the site or brought on a flatbed truck. That's one of the conditions that we agreed to and was part of the resolution 2015.

MR. BASHKER: For now, all of the original conditions that were part of the approval in 2015, the Homeowners Association are still insisting that they stay, so there won't be any changes to that. As a matter of fact, they had me add some more provisions to the drawings. We just talked about lighting and other things, but whatever was in the original -- any restrictions in the original approval is also to remain. That answers the questions about the delivery of the trucks -- of the cars.

MR. BLOOM: Daniel, one of the other conditions is something that I have just mentioned that I think is also important. The retail operator shall not perform any service detailing or preparation of vehicles on site. No repairs of vehicles. No sale of vehicle parts shall take place on the premises.

MEMBER DONATELLI: Thank you.

MEMBER HERNANDEZ: Just for the sake of clarification, because something is inconsistent. If you bring in vehicles one at a time into the building, you will need to have some minimal amount of gas. You have to run those engines, because it will be virtually impossible to be -- I know the

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property. I know the area. I know the location. In some cases, you're pushing up hill. They're not electric vehicles.

MR. BASHKER: I do believe that in most car dealerships they're required to not have gasoline in the tanks, and I believe they're delivered that way, and I believe they're pushed into the -- these are not going to be used vehicles. These are new vehicles. I don't believe they're going to have gasoline in them. I believe that was indicated on the drawings that these are cars intended for sale only, and they're not going to have gasoline in their tanks.

MEMBER HERNANDEZ: They're display only. Those cars are not being sold. They're displayed so they can sell the other cars.

MR. BASHKER: They're going to be sold. They'll probably be put into the elevator and be taken outside, and they'll probably put gasoline into it, you know, into a tank. I don't believe that I'm into the level of detail of how exactly how that's going to work.

MEMBER HERNANDEZ: It's not level ground, is all I'm telling you, because I know that area very well.

MR. BASHKER: That's true. That's why we have on the right side of the building you'll see that there is a platform with three steps, so it's about 2 feet up, and on the left side, we're coming in from the handicap entrance on grade. That's why, actually, we don't have the access aisle that we were required because when we eventually develop the site, the cars on the left side are slightly lower than the cars on the right side so that we can keep the

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pitch of the water away from the building. I believe the grade goes up, so there's a small retaining wall on that side. So the depth of the retaining wall, in order to accommodate the slope, is what actually doesn't allow us to have the full 24 feet. We're at 23 feet, 8 inches. I don't believe -- you see from the drawing that I don't believe that that's going to be an issue. We still have a two direction lanes in between. I don't believe the cars will have any difficulty at 90 degrees with 23 feet, 8 inches coming in and out of the parking spaces.

That's the main entrance of the building. That's where the handicap entrance is and the two handicap parking spaces are. There's a concrete walk along the building. It's only a three inch step up except for the handicap where they come right up. And if you park in one of the cars in the back, then you come to the front, and like I said, on the left side is on grade, so you can walk from the sidewalk right into the entrance, and on the right side, there is a slight platform there where you have to come up three steps and then enter the building because it is lower -- the sidewalk is lower at that side.

I guess just to let you see, now that we're seeing the roof, you can see that there are skylights over the main lobby. So when you walk into the front entrance of the building, which is the left side, it's a three-story atrium. So you can see the glass on the first floor, the second floor and the third floor, and it's a nice open stair that winds around that has glass railings, and there's a skylight above so that it has a lot of light. It's sort of like a mall.

This is going to be a very modern

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building. It's going to have a lot of amenities. It's going to be a beautiful addition, certainly, a lot better than what is there now.

In the back, even though we don't really have room to do a landscape buffer, as all of the stores along Northern Boulevard, they park along the rear of the property line, and they don't have anything. I at least tried to provide a minimal amount of plantings so that brings some vegetation in the back. This is exactly as it was previously approved.

So if we can go to the first floor, again, I'll elaborate on that one.

(Wherupon the secretary shared her screen with the next image.)

MR. BASHKER: So you can see on the left side, there's a double glass door. You come in. It's a main lobby. There's a skylight above there and each of the different floors are separated from the lobby with glass, which has a sprinkler deluge system which is going to be approved by the fire marshall.

Over here (indicating), you can walk into the car dealership with two sets of doors, and on the right side, you can see the exit and you end up on a platform. When a car is brought in, you can see on the upper right-hand side, that is the freight elevator. It serves for freight to the basement and for cars. In the main lobby on the left side, you can see we have a passenger elevator. Other than the passenger elevator and the freight elevator and the stair components and a couple of bathrooms, the utility room, there's really just one sales office and one main office.

So it's basically kept at a

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minimum so that whoever is going to be occupying the space, whichever car dealership, will have flexibility, and they'll probably -- it's open in the middle. The actual column layouts were arranged in a certain way to provide the maximum flexibility of being able to present cars on the first floor -- on the main floor. It carried up through the other floors in the other -- when it was approved previously, but now the other floors are going to be used as office space.

So if someone was going to enter the building, if you want to go to the upper floors, you'll enter from the left side which is the main entrance, and you'll have an open stair or an elevator and each floor will have a landing and you will enter into those floors.

So we can go to the second floor now.

(Whereupon, the secretary shares her screen of the second floor.)

MR. BASHKER: Again, right now, this is an open plan. Those dash lines aren't cubicles. They're just the beams and the beam enclosures. When it was designed, it was designed to have an open ceiling. We'll have different types of ceiling systems suspended from the exposed concrete and exposed sprinkler. That's going to be part of the interior design.

As you can see, it's an open plan. It's completely open except when you have the glass lobby that's enclosed by glass, you can walk around the staircase and enter in two different locations. We have the passenger elevator which is handicap accessible. And I guess we've laid out one office in the corner and the core of the building in the back because it can't have any

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windows because the Homeowners Association had made a condition for us that we can't have any windows on the rear of the building. All the lights have to face downward, which we've complied with.

On the back, we have the shafts for the mechanical. All the mechanical is on the roof. We have a storage room, couple of bathrooms, a utility room. Then we have a bathroom for the employees, a main bathroom, but other than that, it's just a complete open floor plan. And I believe the third floor is almost identical -- if we bring it up to the third floor.

(Whereupon, the secretary shares the third floor diagram on her screen.)

MR. BASHKER: And the only difference with the third floor is that if you actually pull it up a little bit, we can see that there's an exterior balcony on the third floor. That was just to give a little bit of interest to the front façade of the building to set back the glass there. If you actually -- I don't know if we have the rendering after this to show. You can get a good idea of the feel of the building. Although it's a rectangle building, it's almost square. In order to create interest, we have a play of certain glass and concrete and aluminum. I tried to shift the planes. So you see here on the left side, that's the glass railing and then that's aluminum. It actually doesn't project out. It's a terrace. It projects out only a couple of feet, but the glass is set back to create the balcony there (indicating).

This is the elevation of the wall that faces Northern Boulevard. What you see in white, will be concrete. What's brownish or grayish is going to be

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aluminum cladding, and everything else is going to be glass. And you can see on the left side on the roof, those are the skylights, and then there's a railing that goes around it that encloses all of the mechanical equipment. And the main level of the building that we're seeing here is at, approximately, 35 feet. You can see it. It says 37, but that 37 is to the bulkheads, to the elevator bulkhead and the stair bulkhead. If you see, it says 35 feet. That's to the main roof. That's because of the University Gardens Homeowners Association.

There are stricter requirements for room height that we're complying with, and they've already given us their approval for the elevator and stair bulkheads, but everything is within the Town of North Hempstead's 40 foot minimum height requirement. I guess if we can go to the next elevation and see which one that is.

MEMBER GOODSELL: Can I stop you for a second? Where do you anticipate -- go back to the screen we just had -- where do you anticipate the sign for the car dealership to be? On the white concrete right level with the number 380.

MR. BASHKER: Well, right now, we filed two sign applications, but they were for the numbers 380. So what you see there, 380, and then when you're looking at this building from the left side, we have 380 on the aluminum canopy as well.

At this point, there is no plan for a specific sign. We'd have to look at the code to see what it allows, if it would allow a sign on that front elevation. I'm not sure if it does. But whatever sign they're going to

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propose at the time which has not been designed as of yet, will comply --

MEMBER GOODSSELL: I understand that. You're designing a building and to me, the logical place for whatever car dealership happens to go in there is across the white concrete façade there, and it's probably going to be back before us for a sign variance, I think.

MEMBER DONATELLI: If you're going to have another tenant in there using the office space on the upper floors, they may very well want a sign too, and, again, that might very well be before us as well, but for now, I understand the application does not contemplate the sign.

MR. BASHKER: One of the original thoughts that I had was we were going to -- where you see the light sort of be an upside down C, on the right side, it was going to come up through the roof because we have an extra 5 feet of height to play with. It will be whatever that concrete is. If it's 4 feet wide by 4 feet wide, maybe, 5 feet back and have a sign on the left and right side, both, but that was eliminated. I guess more thought is going have to be put into how we can do the sign tastefully. It also could be etched into the concrete and maybe not even require to have a sign permit, if it's just cut into the surface of the concrete. Again, these are thoughts that we have for the future. We're not quite sure what we're going to do yet.

MEMBER GOODSSELL: Correct.

MR. BASHKER: The next elevation is the rear elevation. It's going to be some sort of exposed concrete masonry

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unit in an interesting pattern. I broke it up with some aluminum on the sides. They're actually hiding the gutters because there's one main gutter that goes across the back. So in addition to whatever drains, everything pitches to the back so that -- I don't like to completely contain a commercial roof on all the sides and have no way for it to have an emergency overflow out, so everything pitches to the back. There are gutters that inside the aluminum.

This light fixtures that we have there (indicating), they're only facing down so that it will keep the back dark as per University Gardens Homeowners Association. At the top, you see a railing with a screen on it so that the mechanical equipment can't be seen from the back.

MEMBER DONATELLI: Do you know the approximate height of those light fixtures.

MR. BASHKER: It's showing from around the middle of the building, it's 12 feet to the top of that canopy. So it's probably about 15 feet high or 14 feet high. Something like that.

MEMBER DONATELLI: And the vegetation that I believe you said is already there that is acting as a buffer, what is the approximate elevation of that vegetation.

MR. BASHKER: Well, the vegetation -- there are right now a lot of evergreen trees and deciduous trees there that we're trying to save, and one of my details shows to save and maintain any of the trees I can, to put the planters around them, but they really weren't meant to be a vegetation screen as much. There is an existing 6 foot

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high vinyl fence there. So there is a solid fence there that we're going to put, I believe, another solid fence on the inside. So there's going to be 6 feet of a solid fence.

We really can't provide any more -- we're not providing any more screening other than just some evergreens, but even with all we have there, there are spaces in between. So it was not meant to be an absolute hedge screen of a certain height that was going to completely block it.

The University Gardens Homeowners Association has already given their blessing on the design. It was already approved previously that we were not going to have any windows, any light emanating from the building other than just enough to safely walk along the side in case anybody parks after sundown. And they're not going to operate after business hours.

MEMBER DONATELLI: Okay. That was my next question to you. Do you anticipate keeping them on all night long, or will they be turned off after business hours.

MR. BASHKER: On the site plan, it already has a whole list of notes for the lighting; that they have to be directed down; that only during business hours can they remain on, and any changes to the lighting or any specific lighting plan has to be approved by the University Gardens Homeowners Association. They're going to have last second approval over any type of lighting on this property.

MEMBER DONATELLI: Thank you.

MR. BASHKER: If we go to the next elevation. This is the elevation

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from the right side of the building. This is the second entrance. You can see, it has a little tiny 380 on -- there's aluminum projecting out through the glass. There's a little platform there that's about 2 to 2-and-a-half feet high. What you're seeing on the right side is -- that is the entrance to the freight elevator. And there's some windows, and that's the exit door for the fire stair.

Although it's somewhat of a rectangular building, I tried to create a little bit of interest. So bringing some spaces back, changing the planes, breaking up the glass with the aluminum. Hopefully, after this, you'll bring up the rendering, and you'll be able to really get a feel for the building.

If we go to the next plan. That's going to be the main entrance. The left side. That's the view from when you're parking your car on the left side. That's the main entrance, and you can see on the right side, the balcony on the third floor where the first and second story have the glass, but then you pull the wall back for the third floor. It creates a little bit of interest there. And there's a canopy over the main entrance. On the left side of that door is the fire stairs, probably the second fire stair from the cellar. And you can see the grading of the property such that we're on grade for the main entrance. So the handicap entrance and all the parking along the front of the building are right there on the same grade, and then it slopes gently away from the building, and that's why we have the retaining wall on the other --

There are many properties on Northern Boulevard that have a retaining wall because of the parking and the way they're sloping their driveways.

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Is it possible? Do you have the rendering?

CHAIRMAN MAMMINA: No. The rendering is not in my packet.

MR. BASHKER: Okay.

CHAIRMAN MAMMINA: I really wanted people to get a sense of the interior of the building so they would understand how it functions and what's where.

MR. BASHKER: It's, basically, a very open plan at this point. I know that the owners of the building would like to use the third floor -- right now, I believe it's the third floor. I'm not 100 percent sure. Definitely, one of the floors for their own offices, and whatever tenant comes in for the other floor is going to lay out their tenant space the way they would like to which is why it's just mostly an open plan at this point.

CHAIRMAN MAMMINA: So we're looking at an office -- two floors of office space over a car dealership.

MR. BASHKER: Exactly.

MEMBER HERNANDEZ: And there's no tenants or anything in the building except for the owners' offices.

MR. BLOOM: That is correct.

ATTORNEY ALGIOS: Ginny, I have a picture of the rendering on my screen. Do you have it, because I could share my screen.

SECRETARY WAGNER: Which rendering is that.

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MEMBER DONATELLI: It was in the packet. I think it's Page 2.

(Whereupon, there was a discussion among the staff.)

MR. BASHKER: That's an old rendering that shows the motor cycle. That was actually taken out back in 2017. I took that out. I believe this is the parking study, so they just used an old rendering. The building is the same shape. It's pretty much the same way it was previously, but we're not going to, obviously, have any motorcycles in front of it.

CHAIRMAN MAMMINA: If we go up one more page to Page 25. Can you tell me, it appeared that there was cross access between the piece of property and adjacent pieces of property. Is that the case or not.

MR. BLOOM: That is the case. All of those properties along Northern Boulevard and University Gardens not only have their own driveways, but they have cross access easements over those driveways, and also cross access easements running behind all of the buildings.

CHAIRMAN MAMMINA: Can they park in those, Paul.

MR. BLOOM: They're not permitted to park, to block those accesses. I will say that I have personally experienced, in one of those locations, where the owners would park their cars behind the building, but they cannot block the cross access.

CHAIRMAN MAMMINA: Okay.

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MR. BASHKER: The footprint of our building is prettier than what you're seeing here except that you see those little one-story additions in the back were taking over the whole area. But that pretty much is -- the way you see it here, is the way it will be eventually laid out.

In addition to the small amount of trees that we're going to be able to have on our side, you can see it has trees on the other side on the residential properties, as well, that are going to remain, obviously, as long as they intend them to remain.

CHAIRMAN MAMMINA: I guess, Paul, if you want to bring Mr. Schneider up, or we can see if there are any questions for him. I don't want to do your presentation for you.

MR. BLOOM: I think, frankly, I could just read his conclusion, but he's here. If he wants to read his conclusion and tell you what he did, whatever you would prefer.

MR. SCHNEIDER: Steven Schneider, Principal of Schneider Engineering, PLLC, 43 Seacliff Avenue, Miller Place, New York 11764.

CHAIRMAN MAMMINA: You did a study of parking and of traffic, and do you have a conclusion based upon the study that you performed as it relates specifically to the parking onsite.

MR. SCHNEIDER: Yes, I do. The report was updated as requested. We took new counts in September after school started, so that any parking counts that we took on the street was as close as possible to after COVID and during school time, when things were

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open.

We also took a (inaudible) walking distance from the building as our outside distance that people might walk based on other studies that were done of this type, and we came up with 32 legal parking spaces that were available, meaning, for anybody on the street within that 300 feet legally.

As was mentioned earlier, they're looking for a variance, according to the numbers, of about 60 parking spaces, but that's using the Town's zoning code which I think is pretty much off with the numbers especially with this type of automobile dealership. It was mentioned earlier that this dealership will not have service. People there will not have parts. I'm not going to go through the whole list. You've heard it already a few times.

So what I looked at was a ITE to determine how many parking spaces might be required above and beyond the 30 that's going to be on the site, and based on the ITE, and I did make one assumption that the ITE also uses automobile dealerships as a full function dealership. So what I did was, I took -- that was only, by the way, 17 parking spaces that were required for that size of dealership because it's not really a very large one, and I used 9 instead of 17. Not a big difference. Could I have used, 10 or 11? Yes. It comes out that when you use the IT numbers, which are industry standards, we're short about 13 spaces off the site. Our studies had shown -- and we have charts in here that shows when we took them on the Thursday and a Saturday, which is during the peak hours, realizing on a Saturday that the offices are closed, so you have more availability of parking -- the range of available parking spaces was from 11 to

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28 over any one-hour period. We're requiring, based on this, the 43 that IT is saying you would need and the 30 that we already have on the site or the short about 13, we're saying we'll have available between 11 and 28 spaces.

So knowing that, I feel really comfortable that there would be enough parking spaces available for this type of a site in that type of area.

CHAIRMAN MAMMINA: Any questions.

MEMBER DONATELLI: Yes.
Mr. Schneider, to be clear for the record, when we talk about the parking calculations, we're talking about the calculations that are required by the Town code for the entire building; is that correct? Not just for the two floors that would be contemplated or the one floor that would be contemplated for the dealership.

MR. SCHNEIDER: That is correct.

MEMBER DONATELLI: We're talking about, potentially, any future tenants who might come into the third floor or whichever floor that for the time being, is being contemplated as being empty. We're talking about any potential tenant also having access to those spaces.

MR. SCHNEIDER: That's correct.

SECRETARY WAGNER: Mr. Bloom, does that parking study reflect the space that was lost due to the addition of the loading space.

MR. BLOOM: Yes. Originally, our request for variance was 59 by substituting that as a parking stall with compliance with the loading zone. We lost one. So our variance is 60.

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MR. SCHNEIDER: And that's what I used in the report.

SECRETARY WAGNER: Okay.

MEMBER GOODSELL: If I could ask a question. We received a letter -- the Board received a letter from one couple in the neighborhood who seemed to be around the corner from 2 Hampton Road that were concerned that there would be spillover parking on Merivale Road and then up on Somerset North. Now you mentioned, Mr. Schneider, that 300 feet is about what people are willing to walk to get to someone's front door, which I believe there has to be some sort of standard because you're not going to park a half a mile away to walk to even your favorite restaurant.

MR. SCHNEIDER: If you're not going to a chocolate egg cream store --

MEMBER GOODSELL: Exactly. You would walk a half a mile. That's true. I'm just wondering if you could address the concern of the neighborhood as to the excess spillover parking up Merivale Road and then possibly into the neighborhood there.

MR. SCHNEIDER: As I said, the 300 feet is a reasonable number based on other studies that were done. We're only talking about requiring, again, based on IT numbers, requiring 13 extra spaces offsite, and we will have between 11 and 28 spaces based on the study that we did including the -- again, it was done in September of this year. So it was a fairly accurate study. In the previous study was done, I think, in 2015, we tried to project what was going to happen, but this is, obviously, more accurate. They should not have a

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problem on the residential streets.

MEMBER GOODSSELL: Unless this car dealership happens to be having a half price, blowout, no interest, et cetera, sale for some reason. I just wanted you to address the concern of the neighborhood.

MR. BLOOM: The only problem with that is they could give the cars away for free. They just don't have them.

MR. SCHNEIDER: That's true. And by the way, people now, they don't even bring a car there. They get dropped off and they just pick up the car and go. It's crazy, to be honest. Hoping things will settle down in general.

ATTORNEY ALGIOS: Chairman, we have one person who would like to speak. Mr. Schmergel you can speak now. You just have to turn on your mic.

MR. SCHMERGEL: Thank you. Good evening, Chairman Mammina and Board members, I suppose Mr. Bloom and Mr. Bashker. My name is Bill Schmergel, S-C-H-M-E-R-G-E-L. My office is located at 1010 Northern Boulevard in Great Neck, Suite 312.

My family owns the office building, one of the office buildings located across the street from this proposed site at 380 Northern Boulevard. We own 425 Northern Boulevard, and my company manages 425 Northern Boulevard which the building was built by my father, completed in 1964.

I'm very much aware of the prior history of the 380 property, the use as the Old Homestead Restaurant and the use of other restaurants since that period of time. Let me say that most of the time, those restaurants were for evening

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business and not for daytime operation. Starting with the Old Homestead and moving on forward, they had valet parking at the evening and during any catered events, and they would use the parking lot of our property, which is across the street and contain 48 parking spots for additional parking. So if you drove by on a Friday or Saturday night, you'd see the lot was completely full of cars, and then on Monday morning, we'd have to pick up all the chips from the valet parking guys.

I was present at the previous hearing for this similar occupation when it was three stories of automobile use. I made some comments, but I did not have objection to that application; however, as anxious as we are being directly across the street to what has been described earlier as an eyesore and note that we've complained numerous times to the Town of North Hempstead, 311, about the condition of the property across the street. So we're anxious to have it be removed and replaced with a new building. We find the office use of the building, two floors, so two thirds of the building with the reduced amount of parking that's necessary for office to be a problem.

The four office buildings that are basically, across the street from this property are all in Russell Gardens and were built as per the Russell Gardens code which, I believe, is one car were for every 333 square feet for office use. Over the years that 3 cars per 1,000 has been found to be pretty tight for office use, and the necessity exists for visitors to the offices and sometimes for employees in the offices to be parked on Northern Boulevard in the street. And that goes for all four office buildings starting at 415 and then 425, 445 and 475 Northern

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Boulevard.

So I'm concerned then that adding to that requirement by having shortage of parking, and I didn't hear a presentation that exactly identified how many cars were going to be available or what are the requirements for the automotive floor, and how many cars were the requirement for the two office floors, so I'd like to know what that requirement is --

ATTORNEY ALGIOS: Mr. Schmergel, I'm sorry to interrupt you, but your time actually just expired, so if you could just wrap up your thoughts.

MR. SCHMERGEL: You mean the applicant can get time to talk and then the objection gets --

ATTORNEY ALGIOS: The Town imposes a three minute time limit. This is a large application, so I'll give you a little leeway.

MR. SCHMERGEL: I recognize that it's been a long day, so I'd like to make it as quick as possible.

ATTORNEY ALGIOS: Right. So if you could just finish up.

MR. SCHMERGEL: We're questioning the change in the use from automotive to office and the shortfall of the parking. We think that's going to be a significant detriment to our property and other properties located across the street and adjacent properties.

I didn't hear whether the traffic study measured what the utility or use of the street side parking was, but I can tell you, obviously, in the last two years during COVID, it's reduced from what it had been previously. We're

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hoping it's going to go back to full utility as time goes by. Thank you.

CHAIRMAN MAMMINA: Thank you, Mr. Schmergel.

ATTORNEY ALGIOS: Thank you for your comments.

MR. BLOOM: For the record, I don't know if the representative from the University Gardens Property Owners Association is still on or around, but we did submit the e-mail that we received, and I think that's part of what we sent to you, Ginny.

SECRETARY WAGNER: You mean an updated --

MR. BLOOM: Yes. There was an updated one which basically said there is no change in our position, but what preceded that was, "Okay. We're done. Thank you. Your plan, as revised, has been approved except for a separate lighting plan to be presented for review and approval at a later date."

Now, I know that there was conversation just recently, Barry, with the president of the organization.

MR. BASHKER: Yes. He had originally -- they had originally recommended approval of our variances in 2017. He has the same opinion today, as far as I know.

MR. BLOOM: We've been very concerned and working very closely with the association through all these years. As you can see, there are numerous changes and modifications that we've made to the plan that is being presented to you that are even more stringent than the code provisions of the Town, such as

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height, as an example. The association is very anxious to see this project go through.

MR. BASHKER: Paul, I'm just going to amend my answer. Based on my conversation with him over the last few days and before that, they're very anxious to see this building approved and constructed. It's something that's very important to them. It's always had their blessing, and they, of course, want to see this new building take the place of that eyesore.

MR. BLOOM: With all due respect to Mr. Schmergel, he has one building among many across the street office buildings. I dare say that we haven't heard from, and this Board, I don't believe has heard from the owners of 445, 475, which is a double building which is significantly larger in size than Mr. Schmergel's, from 415 or 305.

MR. BASHKER: Paul, if I may also add I believe that Bill had also mentioned something about that the building that he represented was using one for 333 square feet for parking space in Russell Garden, and then I heard him say something about how he thought that one per 1,000 feet wasn't sufficient. I wasn't sure what I heard him say, but the parking requirement for the retail part was one for 300 square feet, which is why when we changed it to office, we needed the variance for the additional parking spaces because it's one per 200 square feet, which is extremely more stringent than it is in Russell Gardens and probably not realistic. If we have been using 1 per 333 square feet per parking space, we're looking at a reduction of the variance that we had received previously, just in

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case anybody wanted to know the numbers on that. We did it based on what the 200 square feet for retail -- excuse me, for office, which is why we needed the extra parking spaces.

MR. BLOOM: That completes our presentation.

CHAIRMAN MAMMINA: Any questions from any of the Board members.

MEMBER DONATELLI: I have no further questions.

CHAIRMAN MAMMINA: I think we'll reserve decision on this application and based upon what time it is, I doubt that we'll have any further deliberation. Thank you.

MR. BLOOM: Thank you.

SECRETARY WAGNER: Mr. Bloom, I wanted to make a note that the revised plans are still being reviewed by the Building Department.

MR. BLOOM: We understand, specifically with respect to the loading zone, the additional level. I will acknowledge I received your e-mail. I don't believe we have any issues with respect to that and we welcome the review by the Building Department.

CHAIRMAN MAMMINA: Thank you, Mr. Bloom. And, Virginia, I did not mean to put you on the spot in terms of being the audio/visual person there. I just wanted to make sure that everybody got a full view of it, and I really do have to learn how to do that myself.

SECRETARY WAGNER: So we're continuing this, Deborah.

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ATTORNEY ALGIOS: We're reserving decision.

SECRETARY WAGNER: Next is the appeal 21155. **APPEAL #21155 - Lucid Group, USA, Inc. (Sign); 1950 Northern Boulevard, Manhasset; Section 3, Block 219, Lot 9; Zoned Business-A.**

Variance from §70-196.(j)(1)(f) to install a wall sign that is higher than permitted between the top of the sign and the ground.

CHAIRMAN MAMMINA: You've heard appeal #21155, Lucid Group, USA, Inc. If there is anyone else who wishes to speak, please raise your hand in the chat. Thank you. Mr. Migatz, name and address, please.

MR. MIGATZ: For the applicant, Bruce W. Migatz, Albanese & Albanese, 1050 Franklin Avenue, Garden City, New York. I will try to be very brief.

This is a sign that's replacing a sign that had a variance. I do have to get some documents into the record just to preserve the record. So I will go and quickly. If I'm going too quickly, let me know, and I'll stop.

This sign is for Lucid Motors. Earlier this year, this Board gave Lucid Motors a conditional use permit for the sale of cars. They expect to open up early next year. This is a sign that will be on the Northern Boulevard façade. It is stainless steel channel letters on a black aluminum panel. It's not a large sign, and the panel is 2-and-a-half feet high by, roughly, 18 feet long, only 44 square feet in area, and the letters are 10-and-a-half inches high. They are back lit along the side of the letters.

A variance is required for height above grade for the sign. This is the

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façade (indicating). The sign is going right in the middle of that façade. This is the new shopping center that's to the west of the Americana. It's not part of the Americana. It's between the Americana and the building that has the Apple Store in it.

This building has a façade that has a place for signs, and Exhibit 2 is the former tenant, Banana Republic. They were at this location. They had a sign there. They received a variance for that. The Disapproval Notice, which is part of this Exhibit 2, it said the height above grade was 23 feet, 6 inches. When we measured it, it was 26.5 feet, which is what we have on our application, but it's going in the exact same place as the prior sign.

The next exhibit is the adjacent storefront, Sephora. You see their sign is at the same location of that façade as our sign will hopefully be, and that received a height variance of 25 feet, 6 inches. A little different from our sign. Of course, you can see that the grade slopes down. So we're slightly higher above grade, but it's in the same location on that building façade.

Going through, real quickly, a detriment to the community. This proposed sign blends in with the other signs. We showed you the Sephora sign. Exhibit 4 is the picture of Peleton and Mandwell and the GAP. They don't have a height variance I could find because I guess the height was measured to the sidewalk there. So they didn't get a height variance. But you can see it's in the same location along that façade. The group of stores next to that had their signs lower. The next group of stores, they're back on that same façade as we are, but I didn't find a variance for them because I guess the height was measured from the elevated sidewalk

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there.

This is Crate and Barrel (indicating). I did this application many years ago. This has the height variance of 33 feet due to the change in grade. As you go from east to west, that grade slopes down. All of these signs are in the same location on that façade.

Over the years, there's been many variances granted for height. Exhibit 8 is a sign for BeBe at a 25 foot height. Exhibit 9 is a sign for the Green House Manhasset Spa at a variance with 23 feet. Exhibit 10, Spa Thera had a variance for 23 feet. Exhibit 11 is for Nine West. I think I did that application. That has a 21 foot height and a variance. HMV Records, Exhibit 12, height variance of 20 feet. They're all slightly different due to their location in that center and the grade of the center -- the grade of the land. Exhibit 13, Victoria's Secret, 23 feet above grade. Exhibit 14, three signs, Bath and Body, 27 feet above grade. Express, 26 feet above grade. Structure, 23 feet above grade.

So the proposed sign is consistent with the signs that are there now and the signs that have been there in the past. There is no other feasible method to erect this sign in that location at a variance. It does not have an adverse impact on the environment. And the practical difficulty, it is self-created but not determinate.

That's my speed version of the application, Mr. Chairman, due to the late hour, and my partner has a case coming up, and she told me to be quick.

CHAIRMAN MAMMINA: I've seen many many, many, many applications in this shopping center, and there is a very

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specific design to this shopping center which carries a band of signage around it. Signs consistently have been very simple in their design. They've been aesthetic in their design. Typically, we get a backlit letter or something as simple as what's being proposed here.

I don't have any recollection -- I hope I don't eat these words -- of ever rejecting the height on any of these. We have gotten applications where they had multiple signs, and, yes, we've toned down how many signs were being proposed, but that signage band has always been something that has been held to.

While, of course, there's no guarantee that this shopping center will be owned always by the same family, but it has been owned by the same family for many, many, many decades, and it is probably the nicest shopping center that we have in the Town of North Hempstead in terms of aesthetics and quality of stores and that sort of thing.

The applicant, themselves are very cognizant of what they have in there, and I don't see any reason why this sign would be looked at any differently than the other signs that we've seen in the past. As one Board member, I don't have any issue with the variance.

MEMBER HERNANDEZ: Mr. Chairman, unless anyone else has any other questions or comments, I agree with everything you have said and Mr. Migatz has said. That shopping center has a band which is intended to be used exactly for the posting of the sign on it, and this sign is consistent with the vast majority of the others that are in that shopping center. So given those circumstances, I move that we grant the application.

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

MEMBER DONATELLI: I second.

CHAIRMAN MAMMINA: Motion by Mr. Hernandez and seconded by Mr. Donatelli. Ms. Wagner, please poll the Board.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. The application is granted.

MR. MIGATZ: Thank you very much. Wish you a very Merry Christmas and Happy Holidays. See you next year.

ATTORNEY ALGIOS: Thank you to you, as well.

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Appeal #21156

SECRETARY WAGNER: The next appeal is **APPEAL #21156 RH 361, LLC (Orwashers Bakery); 377 Willis Ave., Roslyn Heights, Section 7, Block 259, Lots 4 & 5; Zoned Business-A/Residence B**

Conditional Use § 70-126(F) to construct a new bakery in an existing commercial space, a conditional use.

CHAIRMAN MAMMINA: You heard appeal 21156, RH 361, LLC (Orwashers Bakery). Please give your name and address.

MS. LEIS: Good evening Chairman and the Board. My name is Jessica Leis. I'm an attorney with Forchelli, Deegan & Terrana, offices at 333 Earle Ovington Boulevard, Uniondale, New York. I represent RH 361, LLC, which is the property owner. We have Adam Mann today who is one of the representatives of RH 361, LLC. I also have Keith Cohen and Todd Millman from Orwashers Bakery.

So we are requesting a conditional use permit. This is pursuant to code Section 70-126F to fit out a vacant 2,254 square foot first floor and basement tenant space in a mixed use commercial building that's to be occupied by Orwashers Bakery which is a retail food use.

So the Board is already familiar with this shopping center, which is located on the west side of Willis Avenue between Stratford Street North and Stratford Street South. You previously approved variances for the shopping center in 2019, as well as a conditional use permit for the Chopt fast food, casual restaurant and Barrys Bootcamp for the internal food use. So the other existing tenants are CityMD, Mixology, which is a boutique clothing store, Starbucks and CVS.

To tell you a little bit about

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Orwashers, it is an artisan bakery that was started in New York City in 1916 on the Upper East Side. It was started as a family-owned business and was kept in the family for three generations until Keith Cohen purchased the bakery in 2008. He's since grown and expanded the business, included in another location on the Upper West Side, and they have quite a robust wholesale business. One of their wholesale clients is actually the Chopt, which is immediately next door in the shopping center.

Our core value of the business is to source as many products locally as possible, and to that extent, they participate in farmers markets throughout New York City, Westchester and Long Island, including one in the Town of North Hempstead's Christopher Morley Park in Roslyn.

This proposed location would be their first brick and mortar on Long Island. They're proposing an eight seat bakery, expected to be open seven days a week from, approximately, 6:00 a.m. to 9:00 p.m. There will be anywhere from five to nine employees on site. The menu will include freshly made rolls, cakes and Detroit style pizza, handmade and baked on site. Also, additionally, will have items delivered from their wholesale/retail location which will be baked to order on site. As required by the Town, they do have a refrigerated walk-in garbage, which is legal. It's item 44 on their plans.

This proposed use will be harmonious with the greater surrounding uses in the shopping center and zoning district. It's going to complement the other uses within the shopping center and further granting the conditional use permit will not compromise the public health, morals and the general welfare of the neighborhood. And, also just to

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point out, since this is an unusual occurrence, but we welcome it, there were two letters of support that were submitted by residents that live within 300 feet of the shopping center in support. They said quite nice things about the business and their operation.

So if the Board has any questions, I do have the applicant available, members of Orwashers or the property owner.

MEMBER DONATELLI: Ms. Leis, can you tell us who was the previous tenant.

MS. LEIS: So that -- when they did the renovations in 2009, it was designated as a retail space. I'm not sure if Adam's on.

ATTORNEY ALGIOS: I just allowed Adam to speak.

(Whereupon, there was technical difficulty in allowing Mr. Mann to be promoted to panelist.)

MEMBER HERNANDEZ: Where in the shopping center is it located.

MS. LEIS: Just next to Chopt. It's facing Willis Avenue. It's between the CVS and the Chopt.

CHAIRMAN MAMMINA: Immediately to the left of CVS.

ATTORNEY ALGIOS: Adam, you have the ability to speak, now.

MR. MANN: Hi everybody. Thank you for the complements. Even though you might not have heard me, I was hearing you.

SECRETARY WAGNER: Adam, what was in that previously -- I know we had it

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proposed as dry retail on the site plan in 2019.

MR. MANN: Correct.

MEMBER DONATELLI: Do you recall who the prior tenant was or what they did.

MR. MANN: Prior to our acquisition, a portion of this space was -- since we acquired it, it had been vacant, but prior to our acquisition of the property that was some sort of a food use. The name will come to me momentarily. You had Willis Avenue Deli at the corner, but that didn't take up a portion of this space. It was Bon Appetite. That was the name of it.

MEMBER DONATELLI: Okay. Thank you. Does anyone else have any other questions.

MEMBER HERNANDEZ: I have no questions.

CHAIRMAN MAMMINA: No questions.

MEMBER DONATELLI: Mr. Chairman, I make a motion that we grant the application.

CHAIRMAN MAMMINA: We have a motion from Mr. Donatelli -- oops. We have an umm.

SECRETARY WAGNER: Yes. I just want to make sure with the restaurant conditions, correct.

CHAIRMAN MAMMINA: Correct. So we have a motion from Mr. Donatelli with restaurant conditions. Seconded by Mr. Hernandez. Please poll the Board.

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SECRETARY WAGNER: Member
Goodsell.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: Member
Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member
Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Chairman
Mammina.

CHAIRMAN MAMMINA: Aye.
Application is granted.

SECRETARY WAGNER: I just have to
say that shopping center looks great
now.

MR. MANN: Thank you. Happy
holidays.

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Appeal #21157

SECRETARY WAGNER: **APPEAL #21157**
- Target Corporation; 1400 Union
Turnpike, New Hyde Park, Section 8,
Block 235, Lot 56; Zoned: Business-AA.

Conditional use 70-114.1(B) to
construct alterations to convert an
existing commercial building to a retail
use with a grocery store and retail food
uses.

CHAIRMAN MAMMINA: You heard
appeal #21157, Target Corporation. Is
there anyone other than the applicant
who is interested in the application,
and if so, just raise your hand in the
chat. We can promote the applicant.
Thank you so much.

MS. PREVETE: Good evening.

CHAIRMAN MAMMINA: Good evening,
Diana.

CHAIRMAN MAMMINA: Name and
address, please, Diana.

MS. PREVETE: My name is Diana
Prevete. I'm an attorney with the law
firm of Albanese & Albanese, 1050
Franklin Avenue, Garden City, New York.
I represent the lessee. Which is
Target, and also the owner of the
property which is Lake Success Shopping
Center.

We're here today on behalf of
Target to seek an amendment to the
conditional use permit that was granted,
approximately, almost two years ago,
now. We're using the former Sears
building as the proposed new Target
store, and we need conditional use
pursuant to 70-114.1(B) of the code.

The property's located at 1400
Union Turnpike, New Hyde Park, New York.
Available today, I should say, is
Nicholas Popehn (phonetic). He's the

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Senior Development Manager for Target. Kevin Lyon, the architect, had to leave, but if there are any questions about the plans or any architectural questions, we'll get them answered for you since he had to leave for another meeting. Also available is Mr. Robert Eschbacher (phonetic), who did the trip generation analysis for the Target, and he can provide you with a very short opinion with respect to the effects on parking and traffic.

I will try to make this brief since we were here almost two years ago for the application. At that time, we were proposing to use the cellar and the first floor as a Target. I will go into the differences between the previous application and this application in a minute. I do want to state, though, for the record, that I'm respectfully requesting, in order to abbreviate this, that the Board incorporate the minutes of the public hearing for the original Target application, which was held on February 5, 2020, under appeal #20841 into the record of this hearing on the appeal because the background is going to be the same. So I don't have to restate that for the record. Is that permissible?

CHAIRMAN MAMMINA: Yes. That's acceptable. I'm sorry.

MS. PREVETE: Thank you. I do want to state also for the record, and I submitted these as an exhibit, that we have consents from Christine Janke, J-A-N-K-E, 149 Patton Boulevard -- these are neighboring property owners -- Carlos Cerrone, C-E-R-R-O-N-E, 46 Joseph Street; Estelle O'Brien, 85 Joseph Street; Romeo Savocchi, S-A-V-O-C-C-H-I, 54 Joseph Street; Robert Griner, 178 Celler Avenue; Marie Canzanare

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(phonetic), 17 Celler Avenue; Josephine Riley, 183 Bregman Avenue; J. Greene, 17 Joseph Street; Anu Panth, P-A-N-T-H, 64 Somer Street, and then from an LLC, which is across Union Turnpike, 1 Ring Road, LLC, 1596 Union Turnpike.

I also submitted for the Board the decision that was granted on the previous application dated February 5, 2020. So you be that for the record.

Just a little bit about the process that has gone here for the past going on close to three years, now. Target and Lake Success, the owner of the shopping center, began meetings with the Town Commissioner of Planning in March of 2019, to confirm the process for obtaining zoning and building approvals to replace Target in the old Sears building. At that time, they were negotiating a lease, and they were planning for a small format Target store to include only the cellar and the first floor of the building. At that time, the owner was actively marketing the second floor for use by another retail tenant. So there would have been two tenants in the building. An application for building permit was filed in early August of 2019, to obtain a Notice of Disapproval for the Target use of the cellar and the first floor, and that disapproval was issued September 19, 2019.

The application to the BZA for Target was filed in September of 2019, and the hearing, which was originally scheduled for November 13, 2019, was actually held on, as I said, February 5, 2020.

The Board granted the application on February 5, 2020, and then, approximately -- about a month later on March 5, 2020, the owner of Lake Success, filed a permit to basically do interior alterations and clean out the

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cellar and the first floor of the building. That permit was issued December 9th of 2020.

Unfortunately, as we all know, in the middle of March, which was, approximately, five to six weeks after the application was grated for Target, we had the COVID shutdown. As a result of the Pandemic, the owner was not able to actively market the second floor to obtain a second retail tenant.

In the first half of 2020, Target advised the owner that Target was interested in taking not just the cellar and the first floor, but also the second floor of the building. Once the decision was made by Target, they began to prepare amended plans. The owner who's on board, since he hadn't been able to really market the building to a second retail tenant, and this appeared to be a solution for both Target and for the owner of the shopping center.

The Building Department re-opened, roughly, late 2020, early 2021, and Target finished their amended plans and then submitted an application to get a new Notice of Disapproval, which included cellar, first floor and second floor. That Notice of Disapproval was issued July 9, 2021, and then in September of 2021, I filed the application to the Board of Zoning and Appeals to amend to conditional use permit.

In general, nothing's really changed as far as other conditional use permits for other tenants in the shopping center. You have Shake Shack, Bagel Boss, Ivarone Market, Ivarone Restaurant, Pizza, Japanese Sushi, Red Mango, Wild Fig. Deli King, previous occupants to where Shake Shack is now, was granted conditional use permit in '96, under appeal 15466. I believe the Board has that decision in its files.

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They're also, as I said, Shake Shack was granted a conditional use permit under appeal 19870 in October of 2014. Red Mango was granted a conditional use permit in 2011 under appeal #19116. So the shopping center has had many food uses throughout the years. Those are just a few of the more recent ones.

The proposed Target, as you know, is in the old Sears building which is at the most western end of the shopping center. The total square footage now with the cellar, first floor and second floor is 117,829 square feet. As you know, I usually submit copies of the tax map, which I have here. I'm not going to go into a whole lot of detail. You'll have that. It says Exhibit C. You also have a copy of the zoning map as Exhibit D, and this property is in a Business-AA district.

I have also submitted photos of the shopping center so you can get an idea of the existing tenants in the shopping center, and I also have photographs, as Exhibit E, of the building which has been altered slightly as far as the façade is concerned, and they've been doing some interior work as far as the basement, and, essentially, cleaning out the premises. We don't have any permits yet to actually do the interior for what Target is proposing.

The conditional use that we're requesting in this amended application is for 7,779 square feet of grocery section with a small area for food staging and storage in the cellar level. Both the retail food and the food staging and storage is in the cellar.

As far as background on Target, the only thing that's really changed is that Target has added, instead of having 1800 some-odd stores, they're now up to 1900 stores, domestically. The Board knows there are Targets in Westbury.

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There's also one in Port Washington, and there's one in Elmont. Those are the closest ones to this proposed location.

As far as differences between the 2020 approval and what's being proposed in the current application, the grocery section in the 2020 approval, was on the first floor instead of the cellar, and it was 6,048 square foot. It is now being proposed through the cellar instead of the first floor. It's slightly larger with 6,697 square feet and a 1,082 square foot food storage and staging area. So that makes a total of the 7,779 square feet.

In the 2020 approval, a Starbucks was proposed and approved for the first floor with 1,057 square feet and 12 seats. Under this application, there's been a slight modification which, actually, is less intense. The Starbucks continues to be located on the first floor except that now it's only going to be a 590 square foot freestanding kiosk with no seats. It's smaller and there's no seating proposed for the location on the first floor of Starbucks.

The total square footage, under the 2020 approval, there was 78,441 square feet proposed and approved with the cellar and the first floor. Under this application, there's 117,829 square feet. So that includes the third floor. So there's the increase.

As far as the grocery section is concerned, it is the same operation as what was approved in 2020. It's going to be a typical grocery store; packaged foods, packaged meats, produce, paper products, cleaning products, frozen food. Target does have a commissary that provides the food products. They also have on-line food ordering, and they will have a pickup area for Target personnel if people order on-line to

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bring the groceries out to the parking area.

They propose to have 23 to 35 dedicated employees for the grocery section, and that includes full-time and part-time. There will be four to seven in each shift during the time that the store is open. Anticipated hours of operation are the same as for the store. They anticipate 7:00 a.m. to 11:00 p.m. seven days per week, but that could be slightly modified, but that would be the max of store hours for this Target.

As far as total employees for the Target store with the three floors, now, it's, approximately, 195 to 230 part-time and full-time employees. So that's 50 to 60 employees per shift. Previously, with the small format, it was only 150 employees. So it's gone up fairly substantially, because it's gone up to 230 part-time/full-time employees.

As far as waste and garbage disposal, as we have with the 2020 application that was approved, there is a refrigerated trash room located at the rear of the store near the loading dock area. Waste will be handled by dumpsters. Putrescible waste will be placed in the dumpsters located in the refrigerated trash room on the first floor. They also have a recycling policy, so cardboard and other recyclable waste will also be stored for pickup.

Target's waste hauler is Waste Management. They're going to sign a contract with them for this store. What will happen is Target employees will roll out the containers from the refrigerated trash room on the day of pickup just before the scheduled pickup by the waste hauler. Naturally, as with all conditional uses, Target is going to be sensitive to any neighboring property owners, so the scheduled pickup will not

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be too early or too late as far as the garbage pickup is concerned.

The deliveries have not changed from the small format store to the current proposed three floors. Typically, Target gets deliveries each day of the week. Maximum, two tractor trailers, one is usually dry goods and the other one is, generally speaking, the food product delivery. As far as additional trucking that gets delivered, there will be some refrigerated trucks that bring in the food products that are going to be sold in the grocery area, but, typically, there won't be more than one delivery per day. They also do have deliveries from local vendors. Those will, generally, be not tractor trailers, but box trucks.

As far as expert testimony, I would just ask that you recognize Mr. Eschbacher, Robert Eschbacher. He's done the trip generation analysis, and he will do a very quick conclusion on his opinion with respect to his analysis of trips for this new three floor Target.

CHAIRMAN MAMMINA: Thank you, Ms. Prevete. Any questions for Ms. Prevete before we move onto Mr. Eschbacher.

MEMBER DONATELLI: Just very briefly, there were two issues that were before us in the prior applications. One was the sign on the outside of the store, and the other one was a access to the Starbucks. Ms. Prevete, if you would, please, I see on Page 24 there's a notation where you're showing elevation s with the sign, and that is not part of this application. Would you just confirm that, because I know that that was an issue that we were still grappling with.

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MS. PREVETE: Yes. As far as the signs are concerned, the proposed sign elevations have been changed. They've been resubmitted to the Board. I've been informed that they'll be a continued hearing on the sign elevations and the change panels on the façade of the building, the changed and revised signs for the façade of the building that will be heard on January 19th. They are not part of this application.

MEMBER DONATELLI: Thank you. And the second issue, if you would, please, just address the Starbucks. I believe, in the prior application, Starbucks had an entrance and exit to the outside of the building, and that is not contemplated in this application.

MS. PREVETE: The Starbucks does not have does not have -- did not have, in the previous application, an outside door to get access from the outside. Everything is interior. You had to go through the Target store, and that has not changed. In fact, the location of the Starbucks has moved more to the interior of the first floor. There is no access. You have to go into the Target store to get access to the Starbucks. There's no exterior entrance.

MEMBER DONATELLI: Thank you for that clarification. No further questions.

CHAIRMAN MAMMINA: And, yes, Mr. Eschbacher will be recognized as an expert. He has appeared before us many times, and, as you said, in the past, he was the traffic consultant for this project.

MR. ESCHBACHER: Good evening,

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Chairman Mammina and members of the Board. My name is Robert Eschbacher of VHB Engineering. My office is located at 100 Motor Parkway in Hauppauge. I'll be very brief.

I was retained by the applicant to evaluate the trip generation differential between the proposed Target store and the previous Sears store on the site. Based on discussions with Commissioner Levine and his staff, I conducted empirical counts in October at a similar size Target store. This one in Commack, and then compared those to the industry data compiled by the Institute of Transportation Engineers for a typical retail use. The results presented in a memo to the Planning Department demonstrated that the Target trips were only marginally higher than the Sears. This was based on a conservative analysis. In actuality, the net differential will be somewhat lower after accounting for a reduction due to passed by trips, cars already traveling along Union Turnpike, and also due to the fact that many of the customers coming to Target will also be shopping in other stores in the center, but it will only be one trip rather than two independent trips.

In conclusion, based upon the results of that analysis, it is my professional opinion that replacing the Sears store with Target will not result in an impact on the local roadway system, and I recommend that the conditional use permit be approved.

I'd be happy to answer any questions you have.

CHAIRMAN MAMMINA: Any questions for Mr. Eschbacher.

MEMBER GOODSSELL: I have more of a comment to Mr. Eschbacher, and that is

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Target is at the end of the shopping center and to the west of the Target. The landlord has done a wonderful job, if in fact the landlord did it. They've repaved, remarked spots. I can't imagine that there wouldn't be enough parking. There is a parking lot there. You would only park in that lot if you were going to Target. I feel as if Target can only dream that there isn't adequate parking.

MR. ESCHBACHER: The parking requirements are the same, Sears and Target, yes.

MS. PREVETE: I'll just state for the record that Mr. Peck is here with me, and it is the property owner who has made those improvements to the parking area and to the building. He's a very good landlord, and he's a very considerate property owner as far as adjoining neighbors, and he'll continue to do so.

MEMBER DONATELLI: So Ms. Prevete, I have a another question for you. I'm looking at the SEQRA form that was submitted as part of the application, and I can't really believe that this was anything but an error, but it says that the Bald Eagle might be endangered by this project.

MS. PREVETE: That's probably an error.

MEMBER DONATELLI: To my knowledge, I don't know about a whole lot of Bald Eagles in New Hyde Park.

MS. PREVETE: I used the SEQRA EAF mapper, and I don't know why that came up that way, but it did.

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CHAIRMAN MAMMINA: I've gotten some wacky things.

MS. PREVETE: I apologize.

MEMBER DONATELLI: To your knowledge, Bald Eagles are not endangered by the project.

MS. PREVETE: No. Mr. Peck is here with me. He can state -- have you seen any Bald Eagles.

MR. PECK: We would love to see some.

MR. PREVETE: Just give me another few minutes. I just want to put in, for the record, standards of granting a conditional use permit under 70-225.B. The proposed use is consistent with the purposes of zoning as set forth in the Town Law and as permitted in this district. Grocery and food sale and retail use is a conditional use permit which is akin to a permitted use under common law and also applicable code sections.

Proposed use is of such a character, size, location and design and site layout as to be appropriate and in harmony with the surrounding properties.

The Target food uses are located within Target at the western end of the shopping center, and as has been pointed out by Ms. Goodsell, it has its own dedicated parking area, for the most part, and you've heard the analysis of Mr. Eshbacher. We believe that it is in harmony with the surrounding properties.

The proposed use will provide a desirable service facility and convenience to the area, and contribute to proper growth and development of the community and its general welfare. We have not had any type of negative

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comments. We believe that it will provide a desirable service and facility and convenience to the area and will contribute to the general welfare.

Mr. Peck has been in contact with the Lakeville Civic Association in the last week or so. In any of their meetings, they have found that everyone is anxiously awaiting the development of the Target and the opening of the Target, and at the 2020 hearing, they, actually, submitted a letter in favor of and supporting the application of Target.

The proposed use will not be hazardous or conflicting or incongruous to the immediate neighborhood by reason of excessive traffic, assembly of persons, vehicles, et cetera, et cetera. The applicant passed the trip generation analysis. You've heard Mr. Eshbacher's expert opinion. It is going to be a very negligible effect on traffic. As far as congregations or assembly of persons, this is a shopping center. If anything, people will be at the shopping center already. This will be a draw, and it will support the other tenants in the shopping center, but will not be conflicting or incongruous.

The proposed use will not be of such a nature as to be objectionable to nearby residential dwellings by reason of noise, lights, vibrations or other factors.

It's a shopping center. As I pointed out, Mr. Peck is very responsive to any complaints which are very few and far between as far as owners of neighboring properties. There have always been food uses in the shopping center. There have always been retail uses such as very large ones as Sears had been for many years, and we don't believe that there will be any objectionable -- negligible effect, if

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any, on neighboring property owners.

The proposed use will be harmonious use in the district in which it is to be situated and will not hinder or discourage appropriate use and development of adjacent uses.

As I said, this is a long-standing shopping center developed in 1949. This is going to be a harmonious use as retail. Even all of the food uses within the shopping center have proven over these many years.

I believe that the Board is familiar with case law concerning conditional uses and that it has been held consistently that conditional uses are those that can be considered permitted uses subject to the imposition of appropriate conditions which we are more than willing to accept any reasonable appropriate conditions.

That concludes the applicant's direct case. If this Board has any other questions, we'd be happy to address them, and if there is any opposition, we respect the right to rebut.

CHAIRMAN MAMMINA: Any questions from anyone.

MEMBER DONATELLI: No further questions from me.

CHAIRMAN MAMMINA: Then do we have a motion on this application.

ATTORNEY ALGIOS: I just want to note that there are no hands up. There is no one in the chat that's indicated that they'd like to speak.

CHAIRMAN MAMMINA: With that, would anyone like to make a motion regarding the application.

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MEMBER GOODSSELL: I will make the motion that we grant the application to finally let Target come into the shopping center with the standard food conditions that would be required for the food that's going to be on the premises.

MEMBER DONATELLI: I'll second that motion.

CHAIRMAN MAMMINA: We have a motion from Ms. Goodsell and a second from Mr. Donatelli. 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: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. So the application is granted.

MS. PREVETE: Thank you. Merry Christmas and happy holidays. I'll see you on January 19th for the signs.

CHAIRMAN MAMMINA: That's right.

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Appeal #21158

SECRETARY WAGNER: Next appeal is **APPEAL #21158 Packing Bowls, Inc.; 263-B Voice Road., Carle Place, Section 9, Block 663, Lot 16; Zoned Industrial B.**

Conditional Use § 70-187(P) to construct interior alterations for a new retail food use (a conditional use).

CHAIRMAN MAMMINA: You heard appeal #21158, Packing Bowls, Inc. If there's anyone interested in the application, please put your hand into the chat, and you'll have the opportunity to speak after the presentation. Thank you.

MS. LEIS: Good evening again, Chairman and members of the Board. I'm Jessica Leis, an attorney with Forchelli, Deegan & Terrana with offices at 333 Earle Ovington Boulevard, Uniondale, New York. So I represent Parking Bowls, Inc., which the proposed use in the shopping center is going to be SoBo Cafe. I also have Chris Marzano (phonetic). He's one of the owners of the proposed SoBo Cafe.

So the subject premises is located the Plaza 200 Shopping Center along Glen Cove Road. It's just north of the Roosevelt Field Mall and within the Town's Industrial B district.

The applicant is proposing to convert a 1,279 square foot tenant space that was previously occupied by Frozen Deserts to a new SoBo Cafe. So this is a retail food use. It requires a conditional use permit pursuant to current Section 70-187(P). The Board is familiar with the shopping center having last approved a parking variance for the Veterinary Emergency Group practice in 2018. The other existing uses in the shopping center include retail stores, gyms, other restaurant uses such as Jersey Mike's and Greek Grill.

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So the proposed SoBo is a cafe that specializes in acai bowls, green bowls and fruit smoothies. Their focus is on fresh fruits and vegetables. Everything is made from fresh fruits and vegetable, No powders or artificial additives. They also make homemade granola.

Mr. Marazano and his partners already own one of the franchise locations in Oyster Bay. They purchased that about a year ago and after getting involved there they really enjoyed the brand and became brand ambassadors. So they decided to open their second location within Nassau and the ideal location near the Roosevelt Field Mall.

They expect it to be a busier site. Their hours of operation are anticipated to be 7:00 a.m. to 8:00 p.m. seven days a week with possible shorter hours in the winter months. They'll average anywhere from two to five employees at one time. As per the code, they do have a refrigerated garbage locker that's shown on the plans. The deliveries are expected to come in the morning. They do get fresh produce and fruit and vegetables up to seven day a week.

The proposed food retail use will complement the other existing uses within the shopping center. As I mentioned, although there are also some quick food retail uses, but there are two gym facilities so it's expected to be a complement to those uses as well. The change in tenancy is not going to result in any additional traffic or a greater parking demand since this was previously a food use in that location. The proposed cafe will be a desirable option to the community and will also contribute to the growth and development of the shopping center and the surrounding community.

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If you have any specific questions, as I mentioned, Mr. Marazano's on as well and is available to answer.

MEMBER GOODSSELL: My only comment is that use of this particular shopping center seems to have shifted over the years from retail discount stores to a lot of food stores. I'm quite surprised at how many food vending and food service stores there are in this shopping center. So I think this is in keeping with the --

CHAIRMAN MAMMINA: I think that plays off of what Jessica said in terms of playing off of Roosevelt Field and all of the other shopping that's around there. There are just so many food uses. Any questions from any of the Board members.

MEMBER DONATELLI: I have no questions.

MEMBER HERNANDEZ: No questions.

CHAIRMAN MAMMINA: Do we have a motion then.

MEMBER DONATELLI: I am prepared to make a motion that we grant the application.

CHAIRMAN MAMMINA: We have a motion to grant the application with standard food use conditions.

MEMBER DONATELLI: Yes. Of course.

CHAIRMAN MAMMINA: Mr. Donatelli. Second.

MEMBER GOODSSELL: I'll second.

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CHAIRMAN MAMMINA: Seconded by Ms. Goodsell. So motion by Mr. Donatelli and second, Ms. Goodsell. Ms. Wagner, please poll the Board.

SECRETARY WAGNER: I just wanted to check with Deborah. There's nobody in the chat.

ATTORNEY ALGIOS: No. There's nobody in the waiting room or in the chat.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye,

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. So the application is granted.

MS. LEIS: Thank you very much.

CHAIRMAN MAMMINA: That's a good corner. That's very visible.

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Appeal #21159

SECRETARY WAGNER: The next appeal is **APPEAL #21159 - 683 Old Country, LLC - Black Label Burgers; 683 Old Country Road, Westbury; Section 10, Block 206, Lot 25; Zoned Business-A and Residence-C.**

Appeal for determination, or in the alternative, variances from §§70-125 and 70-134 to install a walk-in cooler that is too close to the rear property line and is not a permitted use in the Business-A zone.

CHAIRMAN MAMMINA: You heard appeal #21159, 683 Old Country Road, LLC, Black Label Burgers. If there is anyone, other than the applicant, who wishes to speak, just sign up in the chat. Thank you. Mr. Tiron, you're finally on.

MR. TIRONE: Scott Tirone again, 75 Albertson Avenue, Albertson, New York 11507, and I'm here to represent 683 Old Country, LLC, and their application for a proposed walk-in cooler located at 683 Old Country Road in Westbury. The property's identified as Section 10, Block 206 and Lot number 25, and it is located in a Business-A and Residence-C zoning district.

Located at 683 Old Country Road is Black Label Burgers which is a family-run business. Next month, they'll be celebrating their fifth year in business, and online, I do have one of the co-owners Fabrizio Zaino, if there are any questions for the owner that comes up.

We are requesting an appeal of the determination of the building official, and then in the alternative, we request the variance for Section 70-125, which is the permitted use and Section 70-134, which the rear yard setback in a BA zone in the Town code.

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The Disapproval Letter does site 70-125, which is the non-permitted use and the reason for the (indiscernible) determination is if you look at the site plan, the property is a split zone and the rear portion of the property where the cooler is going is in Residence-C zone. It's not in the BA Zone. Same thing with the rear yard requirement, where, in a BA zone, the requirement is 20 foot for a rear yard, and the proposed cooler is at 15 feet.

The need for the walk-in cooler to be located outside is this is a slab building. It was an old Friendly's. 686 Old County Road, LLC, did convert it over to a burger restaurant, and the kitchen area is completely maxed out, and there's no place for a cooler within the confines of the building. Again, a basement would have helped us, but there is no basement in this building. So we did decide to put it outside.

The location that was chosen was chosen for a few reasons. One is it's the least visible area from the street. It also wouldn't take up any parking spaces. Anywhere else, would take up required parking. The cooler will also -- it's going to be primarily used for, again, storage of french fries, ice cream. The cooler is going to help us eliminate all of the deliveries we're getting now just because without the storage, we have many more trucks than we could if we were buying in bulk.

If you've been to the property, you'll notice that it is very well maintained. The Zainos, they take pride in it. The Town, also, in 1967 under appeal #8680 did require a buffer zone, two rows of evergreen plantings, and if you've been there, they are there, and I measured them, myself, on Monday. Even after trimming, they stand, currently, at 11 feet, and they continue to grow.

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The bushes are so thick that you can't even see the fence that's behind it. So the cooler will not be visible to any of our neighbors at all as it is behind that buffer zone.

I did e-mail Virginia. I don't know if you got any -- I e-mailed you a photo earlier, just if you could possibly put it up. It is a picture of where the cooler is going, and it does show the actual buffer zone, the evergreens that I was talking about.

SECRETARY WAGNER: What time did you e-mail it? You sent it today.

MR. TIRONE: Yes. I sent it today at 2:24.

(Whereupon, the secretary shares her screen.)

MR. TIRONE: There you go. So that would be the location right on the left corner where the curbing ends where the cooler would be installed. And, again, you can see the bushes. Behind, that is a PVC fence. It's pretty difficult to see it. It is a very thick buffer zone, so there is no worry about a neighbor actually seeing the unit. It's very well screened. And, again, that location where it's going is tucked behind the back of the building, so from the street, it's not really visible.

Again, the location was chosen because of the proximity to the back door so they can go and get the overflow of french fries and ice cream and bring them into the store, but it's also chosen because we didn't lose any parking spaces by choosing that location.

MEMBER HERNANDEZ: The separation to the left, your neighbor to the left

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is actually another parking lot.

MR. TIRONE: Right. To the left is another parking lot.

MEMBER HERNANDEZ: So from that side, they won't be able to see either. There's a fence back there as well.

MR. TIRONE: Directly behind there is the neighbor's rear yard, and if you did look at the overhead, we have at least 30 to 40 feet to their actual house. It's quite a distance. The unit is going to be very well screened. Again, these are evergreens. This is December, and you can see they're thick and green. They're not going to be able to see it.

CHAIRMAN MAMMINA: Where is the refrigeration equipment, itself, that will serve that walk-in box, compressors and --

MR. TIRONE: The compressor is roof mounted. Fabrizio is on the call. He can correct me if I'm wrong. I think the cooler, itself, is 7-foot-6 and the actual unit, itself, is, like, (indiscernible), but it's exterior on the top.

CHAIRMAN MAMMINA: What I'm concerned about is cycling on and off of that compressor for the neighbors behind. Does any kind of screening go up higher than the top of the unit.

MR. TIRONE. Right now, the bushes are -- they were recently trimmed and even after trimming, they're 11 feet.

CHAIRMAN MAMMINA: No. I'm saying. Noise will go out, or it will

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go up if it's baffled going up. The screen is "x" feet away. It's going to go 360 degrees. Having done my share of supermarket work, and, there, you have more than one compressor going at once, but, I mean, you can't hear yourself think when the compressors are going.

Do we have a picture of -- I'm assuming it's a prefab thing?

MR. TIRONE: Yes. It's a prefab. I sent the Building Department the specs. I could send them to Virginia if you need them.

CHAIRMAN MAMMINA: I'm really just concerned about the noise. I can't believe it's five years already.

MR. TIRONE: Yeah. January is five years. I know.

MEMBER GOODSSELL: While you are looking for that, I will, Mr. Tirone, will complement the owner. This was one of the neatest properties. It was immaculate.

MR. TIRONE: I've actually been in there when the building inspector has come for his public assembly and said he's never seen the inside of it as meticulous as it is. When I was there the other day, they were cleaning the hood. You're supposed to do it twice a year. He does it four times a year. On top of that, every night they clean. They take the screens out. The place is as meticulous inside as it is out. It's very well maintained. It's family-run, so there's pride in it from the owners. You go any day, you'll find one of the owners there. It will be Fabrizio or his brother Mario or sometimes both together, but there's always an owner on the premises there.

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ATTORNEY ALGIOS: The owner, Fabrizio, would like to address the Board. If you could just put your name and address on the record for the court reporter.

MR. ZAINO: Fabrizio Zaino, Black Little Burgers, 683 Old Country Road, Westbury, New York 11590.

You guys are worried about the noise going in a 360 direction?

CHAIRMAN MAMMINA: If you lived in back of it. That's what I'm concerned about.

MR. ZAINO: Yeah, yeah, yeah. That compressors doesn't go on as often as you think because it's a new -- before they used to use freon. Now they use an eco-friendly -- it's, like, propane.

CHAIRMAN MAMMINA: Yeah. I know what it is.

MR. ZAINO: So it's super efficient, which is nice and it saves on the electric bill, and it doesn't run as often because it doesn't have to be -- the reason why the compressor kicks on is that if it goes down to a threshold. That freezer -- I'm only going to get massive deliveries, and then transfer it from inside to outside. So it's not going to be open as often as, let's say, a walk-in box inside the restaurant.

CHAIRMAN MAMMINA: Okay, but that condensing unit, it still has to cycle on and off.

MR. ZAINO: Yeah. There's condensing units for air conditioners that's got to get cycled on and off.

CHAIRMAN MAMMINA: That's what.

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I'm asking. I know in New York City, if I'm doing something like this, and I know this is not New York City, I have to present to the Building Department a study of what the noise is going to be when there's any residential property within 25 feet of the piece of equipment. Again, I know this isn't New York, and I know we have a lot more open space here, and I'm not trying to create a problem for you, I just don't want to create a problem for the people who live in back of it.

MR. ZAINO: Yeah. I know. I can't see it being a loud issue. I mean, it's not like it's a compressor for a generator, which I completely understand. That's super loud. It's going to get kicked on very minimal throughout the day, and it can't be more louder than an air conditioner compressor. The older ones are louder because they're on a different system.

CHAIRMAN MAMMINA: They're not louder. They just come on more often.

MR. ZAINO: Yeah, that too.

MEMBER DONATELLI: Wouldn't the manufacturer have some specifications? I know we just went through the brochure rather quickly. I wasn't really able to get anything in doing that, but does the manufacturer have some specifications per se.

MEMBER HERNANDEZ: I just got it in the mail, if you want to look at it.

MEMBER DONATELLI: (Reviewing.)

MEMBER HERNANDEZ: Interesting. I don't see anything on decibels.

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MR. TIRONE: I scaled the closest residential house to where the edge of the compressor's going to be and it comes out to a little over 64 feet. I understand that noise travels, but, again, we do have those bushes there. We could let them grow taller in that location. He does maintain it. He did have them trimmed. We could let them go as tall as they want, if that's feasible, but we are, approximately, 64 feet from the closest neighboring property, and as Fabrizio said, we have a neighbor close by who has a pool filter, and people have central air units. There are other noise factors that do cycle on at night that are similar.

MR. ZAINO: Even on Old Country Road, there's massive trucks that drive down Old Country Road. They're not quiet.

MEMBER DONATELLI: I don't see anything that relates to the sound.

MR. TIRONE: There's two spec books I sent. One is for the actual cooler and one is for the actual rooftop --

CHAIRMAN MAMMINA: Refrigeration.

MR. TIRONE: Yeah. I sent both.

MEMBER DONATELLI: You said this runs on propane.

MR. ZAINO: Yeah. It's a R refrigerant. It's a propane refrigerant.

CHAIRMAN MAMMINA: It's not the propane that you come in --

MR. ZAINO: No, not at all.

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You're not cooking burgers on there, for sure. It's not the same propane.

CHAIRMAN MAMMINA: A similar type of a gas that's more efficient.

MR. ZAINO: Yup, yup, yup. Exactly. Super efficient.

CHAIRMAN MAMMINA: R404a. That's the refrigerant.

MR. TIRONE: This unit is literally right next to our air conditioning equipment, our exhaust hood termination to the roof. There are mechanicals that are there. I don't see this contributing more noise than what would be acceptable for an establishment of this kind.

CHAIRMAN MAMMINA: All right.

MEMBER DONATELLI: Certainly, it's a considerable distance from the nearest house. There are some issues, however, that are presented. The question of the determination and the split zoning presents some other questions that, frankly, and I know our Vice Chairman had to leave early today, but I personally, as one Board member, I think I would like to have his input on some of the issues for the determination as well as for the split zoning.

I don't, personally, have any issue with the location of it. I think that there is adequate screening, and I think that the nearest house is probably far enough away so as to really minimize any kind of noise intrusion, but I would like Mr. Francis to weigh in on the issue. I don't know how you all feel.

CHAIRMAN MAMMINA: It does raise a very interesting question that this is

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in a Residence-C.

SECRETARY WAGNER: Mr. Tirone, can you go into a little bit more detail about the appeal for determination? Are you just questioning the fact that they sited it in the Residence --

MR. TIRONE: I was questioning that they had sited the non-permitted use in a BA zone, but, technically, in this location, it's not a BA zone. It's an RC zone.

CHAIRMAN MAMMINA: That's worse, though.

SECRETARY WAGNER: Yes. Right. So in your opinion, is --

MR. TIRONE: I know it's not a residential house there, but as a residential zone, you are entitled to accessory structures. They were saying that you can't have an accessory structure in a BA zone. My argument was it's not technically BA zone. It's an RC zone.

CHAIRMAN MAMMINA: Let's take it to the RC, assuming that that's wrong. I saw that just to see if that was wrong. And you raise an interesting question. If I want to put a walk-in box in my backyard, can I do that.

MEMBER DONATELLI: The question would be whether that's an accessory use of a house in a Residence-C.

CHAIRMAN MAMMINA: I don't know.

SECRETARY WAGNER: I think that one of the questions that also needs to be answered is the disapproval of the cooler in the Buisness Zone.

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MEMBER HERNANDEZ: This is a disapproval of an accessory building, not the cooler.

SECRETARY WAGNER: Right, but whether that's something that is being debated here.

MEMBER HERNANDEZ: Virginia, take a look, so we're all saying the same thing because I know --

SECRETARY WAGNER: I know where the Residence zoning district line is, but the issue is, based on the prior decisions, it's somehow this property was allowed to have the parking area extend into the Residence zone, as well as part of the building extends into the Residence zone.

If the Building Department is taking the position that the prior approval -- somehow it was grandfathered that the Business Zone extended into the Residence Zone, the Board would have to, depending on how the Board wanted today go, could potentially look at this under the section of the code that allows the Board to extend the Business Zone into the higher restricted portion of the property, but then a determination would also have to be made on the disapproval as it is read now.

MR. TIRONE: The disapproval also talks about an accessory building. I don't know so much if it's an accessory building or an accessory structure. It's not a building because it really can't be occupied. It's a freezer. You wouldn't want to occupy it for any length of time. So I don't know, thoroughly, that it fits 70-134 as, again, it's not an accessory building, per se. It is an accessory structure as a shed would be to a house. This is an

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accessory structure, basically, to a business.

SECRETARY WAGNER: Within the Business District, you are allowed to have an accessory use, and that's why I'm saying that the difference between this and other applications in another Business District is that this is a use, not a building, but a use. So under 70-125, permitted uses, subsection S; accessory uses on the same lot and customarily incidental to any of the above permitted uses with exceptions for drive through facilities.

Here, it's really just -- is this considered an accessory use or an accessory building or both?

CHAIRMAN MAMMINA: A freezer wouldn't be reasonably -- something that's accessory to a (inaudible) use.

MEMBER DONATELLI: Even though it kind of stretches the definition, I think of it more as an accessory building than I do as an accessory use. It may not be a building that you want to inhabit for long, but it is a structure that you do enter. It is in the nature of a building.

CHAIRMAN MAMMINA: It's got a foundation.

MR. DONATELLI: The question that I see is we're really asked to make two determinations. As Scott indicated, if it's a Residence-C, and this is an accessory use to a Residence-C, that may be one determination. Another determination is if we are going to deem the parking lot as -- even though it is split zoned -- if we're going to deem it under Business-A, then is it an accessory building under Business-A?

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Does that make sense? But, again, because this is Westbury, I, personally, would like the Vice Chairman to chime in.

MR. TIRONE: And that would be at the next meeting then, January 6th.

CHAIRMAN MAMMINA: Fifth.

MEMBER DONATELLI: Can I just ask one other question, because, of course, any time you have a structure like this, I'm always concerned about safety. When you put a refrigerator out on the street, we all tape the door open to make sure that no miscreants or children or pets or anything will go in there and get locked in there. Is there any kind of concern with an outdoor structure, such as this, that somebody may be able to gain access.

MR. TIRONE: No. It absolutely will be locked, otherwise he stands to lose everything he puts in there. The freezer will be locked.

MR. ZAINO: Yeah, 100 percent. One hundred percent it will be locked. I actually have cameras that are going to shine right on that thing.

MEMBER DONATELLI: Is it an automatic locking thing, or is it something that must be unlocked once a day? Do you know how that works.

MR. ZAINO: Yeah. So it would be like a regular lock, like, you go into the door of your house. You go in. You unlock it, and then you lock it when you leave.

MEMBER DONATELLI: So you have to affirmatively lock it and unlock it each

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time. It doesn't lock automatically, is my question.

MR. ZAINO: No. There's actually a safety feature inside that forces you -- that if you do end up getting stuck in there, it's an emergency release. It's actually standard on all walk-in boxes.

MR. TIRONE: Yes, but Fabrizio, I think his question was you now grab something from inside the cooler and you go outside. When the door closes behind you, does it automatically lock, or do you have to put your key back in the lock.

MR. ZAINO: No. You have to got to put your key back in to lock it. I understand, now. It doesn't do that. That would not be good.

MR. TIRONE: But there is a safety device inside that you can't lock yourself inside, correct.

MR. ZAINO: Yup. Exactly.

CHAIRMAN MAMMINA: That's been kind of forever. There's a thing you can push, and it will open.

MR. ZAINO: Exactly.

CHAIRMAN MAMMINA: All right. I guess unless any of the Board members feel differently, I agree with Mr. Donatelli that we should hold this for Vice Chairman Francis, and in the meantime, and only because I raised it, I'm sure you can get some decibel information from the manufacturer, as well. It can just become part of the file.

In the meantime, this will give

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us an opportunity to take a look at the fact that it's in the Residence-C and what the Building Department mean, because it all comes into the determination, you know --

MR. ZAINO: Guys. Listen. I just want to say something for the record. I was supposed to be on this for July 14th and something got sited wrong somewhere from here, and it got pushed back to December. The only problem I see right now is that I'm bursting at the seams over there. I go through 3- to 4,000 pounds of fries a week. That's not even ice cream. Ice cream, I go through three gallon tubs, close to 60 a week. I'm bursting at the seams. Instead of getting, let's say, five deliveries a week, which is a lot of noise, because I'm getting huge trucks coming in. I'd rather limit that noise and have just the freezer once or twice a week.

CHAIRMAN MAMMINA: We hear you.

MR. TIRONE: On the January 5th, is it a reserve calendar, or do we come back again.

CHAIRMAN MAMMINA: You don't have to come back. We're not sure if we'll be in-person or not. Either way, you can still listen.

MR. TIRONE: In the meantime get, we'll get the research done on the decibels.

CHAIRMAN MAMMINA: Just send the decibel thing.

MEMBER DONATELLI: We've heard the need for urgency, and we'll do everything that we can to try to deal

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with this as quickly as possible.

MR. TIRONE: Thank you.

CHAIRMAN MAMMINA: Thank you. We will continue.

ATTORNEY ALGIOS: We'll continue this.

CHAIRMAN MAMMINA: Thank you all.

MR. TIRONE: Thank you. Happy Holidays.

MR. ZAINO: Thank you. Happy Holidays.

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Appeal #21159

SECRETARY WAGNER: Before the court reporter leaves, let's adopt the SEQRA. Should we do the re-openings on the record now, Deborah?

ATTORNEY ALGIOS: Yes. We should do those on the record.

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

CHAIRMAN MAMMINA: We have a motion. Do we have a second? Motion, Mr. Donatelli. Second.

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Second, Mr. Hernandez. All in favor?
Aye.

MR. HERNANDEZ: Aye.

MR. DONATELLI: Aye.

MEMBER GOODSSELL: Aye.

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Appeal #21133

SECRETARY WAGNER: SEQRA's approved. So we have two requests to reopen. It's been explained why -- actually, if anybody needs to know why --

MEMBER DONATELLI: I can certainly put something on the record.

SECRETARY WAGNER: Go ahead.

MEMBER DONATELLI: There are two issues, and both of them are pertaining to properties in Port Washington. The first one is **appeal #21133, 10 Hillcrest Road in Port Washington**. The name of the applicant is **Zdrojeski**, Z-D-R-O-J-E-S-K-I.

There was quite a bit of back-and-forth, and I think in rereading the transcript, I saw that the Board was really tending to one decision. Unfortunately, other matters intervened, and we put it on the reserve calendar, and I believe that our decision was for a denial; however, that's not really the substance of the conversation that was carried on in the transcript. I believe the Board intended another decision.

I don't know if you want to me to get into the merits at this late hour, or if you just want to vote on the motion to re-open, but it's my request that this matter be to reopened so that we can revisit that decision.

ATTORNEY ALGIOS: I don't think you have to get into the merits at this point. Once the matter is reopened, at that point, the Board can discuss the merits.

MEMBER DONATELLI: So I make a motion that we reopen appeal #21133 for the reasons stated.

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CHAIRMAN MAMMINA: Motion from
Mr Donatelli. Second.

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Seconded,
Mr. Hernandez. All in favor.

SECRETARY WAGNER: I think I
should poll the Board on this one,
Chairman, only because we need a
unanimous --

ATTORNEY ALGIOS: Yes. We need a
unanimous vote.

SECRETARY WAGNER: Member
Hernandez.

MEMBER HERNANDEZ: Aye.
SECRETARY WAGNER: Member
Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member
Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Chairman
Mammia.

CHAIRMAN MAMMINA: Aye.
Unanimous vote to reopen.

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Appeal #20694.8

MEMBER DONATELLI: The second matter that has come to my attention is also in Port Washington regarding **appeal #20694.8, Guysmore, which is 7 Harbor Park Drive in Port Washington.**

The application before us sited the need for two variances based on the Notice of Denial from the Building Department. I understand that the Building Department revisited that and determined that one of the variances was actually not required. The parking in front of the building was not subject to the issue of the variance, and in light of that and with an abundance of caution and wanting to really do due consideration to the application, I would make a motion that we reopen that decision and determine whether or not the variance should be granted for the one variance that is now required, not the two that was originally thought to be required.

CHAIRMAN MAMMINA: So we have a motion to reopen. Do we have a second.

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Seconded Mr. Hernandez. Motion by Mr. Donatelli. Please poll the Board.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Donatelli.

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MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Chairman
Mammina.

CHAIRMAN MAMMINA: Aye.
Unanimously approved to reopen.

(Whereupon, at 7:47 P.M., the
above matter concluded.)

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Appeal #20694.8

C E R T I F I C A T E

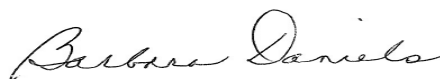
STATE OF NEW YORK)
 : SS.:
COUNTY OF SUFFOLK)

I, BARBARA DANIELS, a Notary Public for
and within the State of New York, do hereby
certify:

That the above is a correct
transcription of my stenographic notes.

I further certify that I am not related
to any of the parties to this action by blood
or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 27th day of December, 2021.



BARBARA DANIELS