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TOWN OF NORTH HEMPSTEAD
BOARD OF ZONING APPEALS
PUBLIC HEARINGS

PUBLIC HEARING

Wednesday, June 8, 2022

10:12 a.m.

BOARD MEMBERS PRESENT:

- DAVID L. MAMMINA, Chairman
- LESLIE FRANCIS, Vice-Chairman
- PATRICIA A. GOODSSELL, Member
- DANIEL D. DONATELLI, Member
- JAY HERNANDEZ, Member

ALSO PRESENT:

- DEBORAH ALGIOS, Town Attorney
- VIRGINIA WAGNER, Secretary
- NICOLE L. BASILE, Reporter

1 Proceedings

2 CHAIRMAN MAMMINA: If everyone would, please, rise and
3 join Vice Chairman Francis in the Pledge of Allegiance.

4 (Whereupon, the Pledge of Allegiance was said.)

5 CHAIRMAN MAMMINA: Thank you, everyone and good
6 morning.

7 Welcome to the Zoning Board of the Town of North
8 Hempstead. What I'd like to do before we get started is just
9 go through a little bit of the way we conduct business here in
10 case you have never been to a zoning Board or maybe you've been
11 to zoning boards before and we may do things, you know, a
12 little bit differently here, you know, than they may in another
13 municipality.

14 So, the way that -- that this work is, as each case is
15 called on the calendar, we'll ask for the applicant -- okay? --
16 the person whose case it is, to come on up and -- to the
17 podium. Everyone will give their name and address. Okay?

18 I understand that in the first case we have someone who
19 is -- who is a translator for that, which is -- which is fine.
20 We've had that plenty of times before so, you know, that's
21 certainly understandable, and I would assume that both people
22 would put their name and address on the record.

23 SECRETARY WAGNER: Yes.

24 MS. ALGIOS: Yes.

25 CHAIRMAN MAMMINA: Okay. So, we would ask for both,
26 the translator and the applicant to just put your name and

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2 address on the record, because this is an official record the
3 same way if you were in court, you know? This is a
4 quasi-judicial proceeding. So, at that point, the podium then
5 belongs to the applicant. The applicant will put their case
6 onto the record, the Board will ask whatever questions that we
7 may have of the applicant and -- if you'll excuse me, I left
8 one step out.

9 After I call the case, I will ask if there is anyone
10 else in the room who is interested in the case. Might be for
11 it, might be against it, you know, just a show of hands so that
12 we know if someone else wants to speak, that they would then
13 also have the opportunity to speak.

14 So, after the applicant is done with their
15 presentation, we will then invite people to come up one at a
16 time, a husband and wife or, you know, boyfriend and
17 girlfriend, you know, that doesn't -- doesn't matter. I want
18 to be politically correct and anybody can come on up if they're
19 all together. Each person would give their name and address.

20 And the only thing that we ask is that people speak
21 only one at a time, because it's very difficult, you know, for
22 our reporter doing her job and then, you know, people -- this
23 can get very emotional at times -- and for her to keep track of
24 what different people are saying if they're talking over one
25 another. Even the Board has to be careful not to do that.

26 So, people will come up one at a time and then when

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2 that part is done, the applicant -- and typically, only the
3 applicant, it's very rare where we give anybody else a second
4 chance other than the applicant, because the applicant then has
5 the ability to either support what somebody said or refute what
6 somebody said, and the Board then gets to ask questions of the
7 applicant based on testimony that may have been given by the
8 people regarding the case and, at that point, the hearing is
9 done and when the hearing is completed, the Board will do one
10 of four things. Okay?

11 We will either approve the application; we will deny
12 the application; we may reserve the application, which would
13 mean that the Board wants to take a look at the property again,
14 there may be a Building Department folder that we would like to
15 see; or we may continue the application.

16 If we continue the application, that means we're asking
17 the applicant to provide the Board with a piece of information.
18 It could be, you know, a document from closing on the property,
19 you know, it -- you know, it may be some compromise, you know,
20 that we might offer, you know, regarding a piece of
21 construction, and then we would want to get drawings back, you
22 know, on that so that when we send it over to the Building
23 Department, the Building Department sees that it's -- that it's
24 what the Zoning Board has -- has offered.

25 So, it's -- it would be one of those four things. If
26 anybody has a question about that when you come up, you can

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ask. I think it's fairly straightforward. We virtually never have a second hearing. I mean, there are other municipalities where you can go back two, three, four, five, six, seven, you know, times on an application. We do not do that here. Today is your day.

So, with all of that said, what I'm going to ask everybody to do is hold up all your electronic devices that we all have now and please put them on silent. Okay? You don't have to turn it off. If you need to make a phone call or take a phone call, I mean, we're all ladies and gentlemen, you can stand up, you know, quietly make your way across to, you know, the doors and go on out into the lobby.

If you just want to stretch your legs, you know, you can do that, you know, as well. But it's very distracting for our reporter who is trying to record all of this and then also, you know, for the -- you know, for the Board, you know, if your phone starts to play "Stairway to Heaven," you know, while somebody is testifying. You know, we've had it happen when the person's, who is testifying, phone goes off.

If there is someone else who is coming, please tell them that, as well, you know, and kind of try to witness them shutting it off.

Same thing is true with talking between each other. As a courtesy to the person at the podium, to the Board, if you have something you'd like to discuss, you can step on outside

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2 and that's okay, you know, there's nothing wrong with that.

3 And again, if there is anyone else who is coming, you
4 know, and you want to bring them up-to-date regarding any
5 thoughts that you might have, again, we do have the ability --
6 you can do that. The Board does not mind at all. That's fine.

7 So, I think I've covered everything, Deborah.

8 MS. ALGIOS: The three-minute time limit.

9 CHAIRMAN MAMMINA: Oh, yes. Yes. Yes. We do a
10 three-minute timer on people who wish to speak either in
11 support or -- or in opposition to an applicant. That doesn't
12 mean that, you know, at three minutes on the dot we're going to
13 say, okay, done, you know, sit on down. You know, if you need
14 a little bit more time, that's okay, you know, but generally,
15 we try to keep it to three minutes, you know, depending --
16 because especially depending upon how many people want to
17 speak.

18 I mean, we don't have a huge crowd here today, but
19 sometimes we fill this room. If you do speak, we ask that we
20 try not to repeat each other when you're using your three
21 minutes, because if something is on the record multiple times,
22 it doesn't -- within a transcript, you know, and if there
23 should be, you know -- you know, a legal action regarding it, I
24 don't want to get into that, because I never do it. But it
25 doesn't matter how many times something is on the record, you
26 can just stand up and say, I agree with the previous speaker,

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2 you know, and that's fine. The record will show -- you will
3 give your name and address and it's going to show that, you
4 know, Ms. Smith is, you know, also in agreement with the
5 previous speaker.

6 So, I think I've got it all now. So, with that said,
7 Ms. Wagner, do we have any modifications in today's calendar?

8 SECRETARY WAGNER: No, Chairman. We do not.

9 CHAIRMAN MAMMINA: Okay. So, no modifications. So,
10 all of the cases will be heard today. So, please call the
11 first case.

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1 APPEAL #21239

2 SECRETARY WAGNER: First appeal, Appeal Number 21239,
3 Xiu Qing Luo, 15 Second Avenue in Westbury; Section 11, Block
4 109, Lot 360 in the Residence C/New Castle Overlay District.
5 Variances from 70-100.2(A)(2), to legalize fencing in a front
6 yard.

7 CHAIRMAN MAMMINA: You've heard Appeal Number 21239,
8 Xiu Qing Luo.

9 (A discussion was held off the record.)

10 CHAIRMAN MAMMINA: All right. So, we are going to
11 start again. We did call Appeal Number 21239. So, if you
12 would, please, you know, come on up and each one of you can
13 give your -- your name and your address.

14 THE INTERPRETER: I'm her interpreter Sarah Chung from
15 Eiber.

16 MS. ALGIOS: Can you just translate the name and the
17 address of the applicant?

18 THE INTERPRETER: Xiu Qing Luo; X-I-U, Q-U-I-N-G,
19 L-U-O. Address is 15 Second Avenue, Westbury, New York 11509.

20 CHAIRMAN MAMMINA: Okay. Please proceed.

21 MS. LUO: I come in here because my home put the fence.

22 MS. ALGIOS: Why don't you -- why doesn't she tell you
23 in Chinese and then --

24 CHAIRMAN MAMMINA: And then she'll tell us.

25 MS. LUO: So, I have installed fences near my home, and
26 I have been there for five years. And the reason why I put the

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fence is because I feel unsafe near my neighborhood, because there is a lot of people un-pouring and also young people who are drunk, walk around my neighborhood.

So, there are a few instances that after I finish my walk, I went home and some people, there were stalkers follow me at home and who say something pretty unpleasant to me. So, that's why I feel really unsafe near my neighborhood.

So, there was another incident that after midnight that I try to throw garbage away in my backyard and there was a young guy who came to me and he claimed he was trying someone he want to get into my -- my home, but I went in and he came knocking on my door. And we only have three women live in our -- our home. So, I -- I don't want to open the door, and I called -- I called 911.

So, we got the fence that someone can't walk in our -- my backyard and they just come in at their own free will.

And also, my -- they -- someone came into my back door to steal my snow removal and also someone actually broke in my side door and took my computer and my cell phone.

CHAIRMAN MAMMINA: Do you have any police reports on any of this?

MS. LUO: So, the -- the snow, that I don't have a police report but from the break-in, I do have a police report, and I was told by police if I feel unsafe, then I'm free to move away. But when the police come, because my -- my language

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barrier, so I couldn't express myself very well.

VICE CHAIRMAN FRANCIS: Can she provide us with a copy of the police report?

MS. LUO: There is no police report. The police just show up and just talk to me. We just had a conversation.

VICE CHAIRMAN FRANCIS: Okay.

MEMBER GOODSELL: Can you tell us, Ms. Luo, what company put the fence up for you? Did your family do this yourself?

MS. LUO: I hire a Chinese contractor to install the fence, and I saw most of my neighbors, at least half of them, they already have the fences installed.

MEMBER GOODSELL: Did the contractor talk to Ms. Luo about a permit for the fence?

MS. LUO: I was -- I don't have a permit.

VICE CHAIRMAN FRANCIS: Is IT a contractor from Nassau County or is he from Queens?

MS. LUO: From Queens. Chinese contractor.

MEMBER DONATELLI: And when was the fence put up?

MS. LUO: So, it was a year after the pandemic. So, last -- more than a year.

MEMBER DONATELLI: So, perhaps 2021?

MS. LUO: Roughly around that time.

VICE CHAIRMAN FRANCIS: So, contractors who work in the Town of North Hempstead, whether they're fence contractors,

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whether they're plumbers, they have to be licensed by the Town. So, I'm going to assume that this contractor was not licensed by the Town. So, that's the first problem.

The second problem is that he put the fence in a location that violates Town code. We don't allow fences in the front yard and in her situation, on her property, the fence is directly on the front property line, which we never allow.

So, one of the things that we would propose, me as one Board member, is to allow her to move the fencing back to the building line, the front building line rather than have the fence in the front yard, and she would have the absolute right to move the fence back to that location.

CHAIRMAN MAMMINA: May I add one thing from what Mr. Francis said that you can translate? By keeping the fence where the fence is, that actually gives someone the ability to be hiding behind that fence when she tries to go in her front door of her house. If the fence is moved back to the front line of the house, when she gets home, she can see that no one is in front of her house, so she would safely be able to enter, you know, her house.

And the thought that the fence is not in the front yard is the Town Board wanted to try to keep it green all the way down the block, but we do understand that in certain communities, you know, there are security issues and we try to work, you know, along with the applicant. But I -- I -- at the

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risk of repeating myself, I think that this actually takes her situation and makes it -- makes her more vulnerable.

MS. LUO: So, the question is, how much -- what is the distance that I can move back to my home?

VICE CHAIRMAN FRANCIS: To the front building line of the house.

Now, if she really wants to create kind of a fencing, for lack of a better word, on her front property line, she is absolutely allowed to plant evergreen shrubbery, like, arborvitaes. She can plant them across the whole front of her yard and that would give her some privacy, and it would be consistent with what the Town looks for, in terms of front yards.

MS. LUO: So, right now, I'm installing in my front yard -- the fence was installed. So, it was like a four -- like a one-foot -- about one-foot distance from the sidewalk. So, that is my -- my property.

VICE CHAIRMAN FRANCIS: Right. Right. And that's what we're talking about. Now -- yeah. The code does not allow fences in that location.

MS. LUO: So, how much more that I have to move it to?

VICE CHAIRMAN FRANCIS: She would have to move to where I indicated: Back to front building line of her home. The front wall.

Now, if she wanted to do the planting, that would give

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her some privacy, but I would --

MS. LUO: So, which means I have to remove my fence?

VICE CHAIRMAN FRANCIS: Yes.

CHAIRMAN MAMMINA: I think your contractor should do that for you at no cost.

VICE CHAIRMAN FRANCIS: Yes.

CHAIRMAN MAMMINA: He put the fence up illegally, you know, and we get many people who come in and say, jeez, the contractor told me I didn't need a permit. He should pay for whatever fencing is no longer necessary.

VICE CHAIRMAN FRANCIS: Not only should he pay for the removal of the fence, he should reimburse her for the cost of that fence.

MS. LUO: But the evergreens -- so, I saw most of my neighbors, they have a fence installed at that location where I installed.

VICE CHAIRMAN FRANCIS: Yes. So, our --

MS. LUO: I have those pictures.

VICE CHAIRMAN FRANCIS: Yes. So, our staff researched the fences in her -- in her block. All of those fences are illegal. All of them were put up without a permit or, in the alternative, they were put up prior to the passage of the fence law.

MS. LUO: But they have -- they haven't received any letters. So, I have a picture I can show you.

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2 VICE CHAIRMAN FRANCIS: Well, if she wants to give us
3 the names and addresses of those houses, we would be happy to
4 pass that on to Code Enforcement and Code Enforcement can do
5 the same thing they did to her, which is issue tickets.

6 MS. LUO: No. I don't want to -- I don't want to kill
7 my neighbor.

8 VICE CHAIRMAN FRANCIS: But it doesn't change the fact
9 that those fences are illegal.

10 MS. LUO: So, my neighbor is here today that would
11 like to support that -- my case.

12 VICE CHAIRMAN FRANCIS: Absolutely. Absolutely. Do
13 you want to have him come up now?

14 MS. LUO: Yes.

15 VICE CHAIRMAN FRANCIS: Okay.

16 MR. LAUREN: Good morning.

17 VICE CHAIRMAN FRANCIS: Give your name and address,
18 sir. Come right to the podium.

19 MR. LAUREN: My name is Freddy Lauren. I live at 11
20 Second Avenue, 11150.

21 VICE CHAIRMAN FRANCIS: Just a little bit louder.

22 MR. LAUREN: My name is Freddy Lauren. I live at 11
23 Second Avenue 11150. This is my neighbor and she's a good
24 person, but I understand what you're saying and I explain -- I
25 explained to her she had to move it back, you know what I mean?
26 And it's a see-through fence, you know what I mean? So, I'll

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2 show her where she has to move it to, the corner of her house.

3 VICE CHAIRMAN FRANCIS: Yes.

4 MEMBER GOODSSELL: Yes.

5 VICE CHAIRMAN FRANCIS: Right. The front wall of the
6 house.

7 MR. LAUREN: I'll explain it to her.

8 VICE CHAIRMAN FRANCIS: Thank you, sir. Thank you for
9 coming out and supporting your neighbor.

10 MS. LUO: Yes. So, the gentleman previously is my
11 neighbor on my left, and I have another letter from a neighbor
12 from the right, and she is senior citizen so she could not
13 attend today. But I have a letter from her and also a copy of
14 her ID, and I'd like to present to the Board that she said that
15 she has no problem with me putting the -- the fence, and she
16 approved that what had happened was true.

17 SECRETARY WAGNER: This will be Exhibit 1.

18 VICE CHAIRMAN FRANCIS: Now, you know, one of the
19 things that we're proposing is that she move the fence back to
20 the front wall or the front building line of the house.
21 Normally, a fence in that location would be 4 feet -- legally 4
22 feet. We would allow her to put a 5-foot fence at that
23 location to give her additional privacy and security.

24 MS. LUO: So, she has to move back?

25 VICE CHAIRMAN FRANCIS: Yes.

26 MS. LUO: Okay.

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2 VICE CHAIRMAN FRANCIS: I'm sorry. Go ahead.

3 MS. LUO: However, I cannot find the contractor who
4 installed the fence for me originally.

5 VICE CHAIRMAN FRANCIS: Okay. Well, you know, I don't
6 know what to say about that, but certainly you can get a new
7 contractor to move the fence.

8 And the reason that we're offering her the ability to
9 vary the zoning law with regard to the fence at that location,
10 making it 5 feet as opposed to 4 feet, is she has demonstrated
11 a need to increase her safety in that house, and so we -- even
12 without the police report, I believe what she's saying.

13 So, I would, you know, as one Board member, again, I
14 certainly would encourage my fellow Board members to allow her
15 to have a 5-foot fence at the front building line of her house
16 for those reasons. It would also, by removing the fence at the
17 property line, it -- it lessens the impact.

18 Now, I recognize that there are other fences. The
19 reason for the rule is that we want to lessen the impact of
20 kind of like a barricaded look, you know, in terms of
21 residential properties. We don't want to look like we're
22 living in, you know, Fort Apache with all of these fences going
23 across the front of houses. So, that's one of the reasons the
24 Town Board did not allow or does not allow fences in the front
25 yard like that.

26 So, if she has nothing else to offer, what we will do

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2 is reserve decision on -- on her case. She can think about
3 some of the things that we've raised, including planting
4 arborvitaes along the front property line and moving that fence
5 back to the front building line.

6 MS. LUO: So, since moving -- I'm removing the fence to
7 the back, that I have some financial difficulty and so, is
8 there any way the Township can impose penalty on me?

9 VICE CHAIRMAN FRANCIS: We would allow her 90 days to
10 move the fence -- to remove the fence, I should say. Yeah. I
11 mean, we -- as I said before, we have not made a decision today
12 with regards to the fence. So, she doesn't have to go home and
13 do anything right now. She doesn't have to do anything today.
14 So, she can wait until we render a decision and then at that
15 point, if we decide, as a Board, that the fence has to be
16 removed, then she'll have 90 days to do that.

17 Did she get a -- is she in court with regard to the
18 fence now?

19 MS. LUO: No. No.

20 VICE CHAIRMAN FRANCIS: No? Okay.

21 THE INTERPRETER: So, she doesn't need to do anything
22 today?

23 VICE CHAIRMAN FRANCIS: No. Not right now.

24 MEMBER GOODSSELL: Not right now. We will talk about
25 this.

26 MS. LUO: Thank you.

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2 VICE CHAIRMAN FRANCIS: Thank you for your coming out
3 and thank you to your neighbor for coming out.

4 SECRETARY WAGNER: The next possible date that they
5 could make a decision would be June 22nd at the next Board
6 meeting. June 22nd. She can call the Board of Zoning Appeals,
7 and we'll let her know whether it's been approved or not.
8 That's the next possible date.

9 MS. LUO: June 22nd, this month?

10 VICE CHAIRMAN FRANCIS: Yes.

11 CHAIRMAN MAMMINA: Yes. So, we'll reserve decision on
12 the application and our next hearing, as Ms. Wagner had said,
13 is on the 22nd of June.

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1 APPEAL #21233

2 SECRETARY WAGNER: Next appeal, Appeal Number 21233,
3 Eva Sehic, 118 Quaker Ridge Road, Manhasset; Section 3, Block
4 145, Lot 101 in the Residence A Zoning District. Special
5 exception under 70-229.A, to legalize an addition that is not
6 in compliance with prior BZA Appeal Number 15145.

7 CHAIRMAN MAMMINA: You heard Appeal Number 21233, Eva
8 Sehic. Okay. Is there anyone in the room interested in the
9 application, other than the applicant? Seeing no hands.

10 So, please give your name and address and if you're
11 both going to speak, that's absolutely fine. Just speak one at
12 a time.

13 MR. SEHIC: She will speak.

14 CHAIRMAN MAMMINA: Just speak one at a time. That's
15 the same drill as before. My wife does all the talking, too.

16 MS. SEHIC: Good morning. Eva Sehic, 118 Quaker Ridge
17 Road, Manhasset, New York 11103.

18 CHAIRMAN MAMMINA: Just as loud as you can. Pretend
19 you're my mother yelling at me.

20 MS. SEHIC: Not hard to do. So, we are -- can I start?

21 VICE CHAIRMAN FRANCIS: Yes, please.

22 CHAIRMAN MAMMINA: Yes.

23 MS. SEHIC: So, we are here because there was a
24 previous BZA appeal in our property, which was 15145 back in
25 1994. Obviously, we weren't the owners at the time. It was
26 another previous owner. We purchased the property in March of

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2020. The Certificate of Occupancy was given to this property back in December, so about 26 years after the actual BZA appeal. I'm not sure why that long period of time had passed between the CO and the BZA, but be that as it may, the survey at that time did show, you know, the property as it is today when the CO was given.

So, when we purchased the property, after our lawyer did all the legal documents, including the CO, we purchased with the understanding that everything on the property was legal. Right? So, then we tried to do a renovation and at that point, they notified us that, one, the shed was built a little bigger than originally, you know, appealed for and approved for, so it was -- it was done for 9 feet and now it's 13.185.

There's some other things, which we are not appealing here today, you know, they're not part of this appeal, but there was a patio that was illegal, et cetera.

So, anyway, that's the crux of the story. The shed is now 13.185, 6.6 feet from our neighbor, which basically is in violation of the 10 feet rule. You know, it was previously approved for 9 feet, so now we have this additional 4 feet that are outside.

MEMBER GOODSSELL: Can I ask -- can I ask what -- what is that space being used for?

MS. SEHIC: It's a shed.

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MEMBER GOODSSELL: It's a shed. And it's attached to the house?

MS. SEHIC: It's attached to the house, and it's part of -- the way that's it's built, actually, it's part of our -- it's a shed and it's also the inside our house. It's the pantry.

MEMBER GOODSSELL: Okay. So, there's access from the inside to this particular --

MS. SEHIC: No. There is no access. Only outside. But it's -- the wall is -- is also the pantry wall. So, it's, you know --

MEMBER HERNANDEZ: So, it's part pantry and the structure itself that protrudes. Part pantry from inside of the house and part shed.

MEMBER GOODSSELL: Can I -- can I also tell you it is amazing to us how many times we approve this and to our surprise, someone builds that. So, this is not the first time we've seen this.

MS. SEHIC: Yes. Well, imagine our surprise when there was a CO that was approved three months before we bought the property and come to find out --

MEMBER GOODSSELL: And I can tell you that your prior homeowner legalized it because the open permit turned up and so that's why it took so long to issue. He never bothered. But -- so, it's been there -- well, at least when you bought it, it

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was there when you bought it. Is that correct?

MR. SEHIC: Yes. Correct.

MEMBER GOODSSELL: And it was used for the same purpose when you bought it, when you saw this house?

MR. SEHIC: Yes.

CHAIRMAN MAMMINA: And I guess I'm -- I'm not an attorney; I'm an architect. I'm not a title company, but the only thing that I can say, and I don't think I'm saying anything that's -- that Deborah will get mad at me for saying, but I could see this being missed, you know? The attorney I don't think is -- I'm surrounded by -- almost by attorneys.

MEMBER DONATELLI: Deborah might not get mad at you, but we might.

MEMBER GOODSSELL: Not even me. I would not have missed this. Not even me. Couple of attorneys here. We would have all missed this.

CHAIRMAN MAMMINA: To look at something so closely to see that little nuance, I mean, had the attorney handed it to me and said, look at this against a Zoning Board decision or even to look through the Zoning Board decision, I can understand it, you know? I can see it. So, if you want to talk about pulling it over --

MEMBER HERNANDEZ: Yeah. I was looking -- I was looking at the detail plans to see if I could find -- again, I'm not an attorney or an architect, but I've built

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2 a few houses in my life -- a lot more than a few. And I
3 can see how someone could say, well, we already have a
4 foot-and-a-half here, why don't we make it four so we can
5 make it a nice pantry. Knock this window out, you know,
6 make it an opening and have a nice pantry.

7 So, I could see where someone would do something like
8 that and say, we'll take it back to the Building Department
9 afterwards and update the plans. And unfortunately, that
10 second part never really happens and it's wrong; it should
11 always go back.

12 And again, I like to say that whenever I have done
13 that, I have gone back and had it approved but, obviously, your
14 predecessor didn't.

15 Now, we do drive by the houses. I happen to know this
16 neighborhood very well. I live in pretty much the same
17 neighborhood, so I've seen your house many, many times and,
18 quite honestly, it's not noticeable. It's also not noticeable
19 that -- which they didn't pick you up for and actually we're
20 going to add it, is that you don't have enough combined side
21 yards. You need to have a certain amount combined side yards
22 and you're a little bit short.

23 So, I will make a motion that we grant this particular
24 variance and also include, you know, the combined side yards in
25 it so you don't have to present back here again, because the
26 Building Department may pick it up when you go back the second

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time. All right?

MS. SEHIC: Thank you.

MEMBER HERNANDEZ: So, I make a motion that we grant
it --

MS. SEHIC: Thank you. We don't know about the
combined side yards. First time we're hearing it.

MEMBER HERNANDEZ: Yeah. So, we'll just put it in
there so you don't have to come back.

MS. SEHIC: Thank you. We appreciate it.

MEMBER HERNANDEZ: No. It's just the combined. It's
the aggregate side yard. You need to have a certain amount
together.

MS. SEHIC: Understood.

MEMBER HERNANDEZ: It's called aggregate, technically
speaking not combined, but we'll throw that in the same
variance so you don't have to come back. So, that's a motion.

MEMBER DONATELLI: I will second the motion; however, I
would also add that the survey is showing hedges, which I also
think would go to decrease the visual impact of any side yard
-- visual impact for any side yard.

CHAIRMAN MAMMINA: So, the maintenance of those hedges
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MEMBER HERNANDEZ: Is critical.

CHAIRMAN MAMMINA: -- would be part of the motion.

MS. SEHIC: Yeah. The hedges -- the hedges are -- will

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be there.

MEMBER HERNANDEZ: Yeah. And they need to be kept trimmed so you can get through obviously.

CHAIRMAN MAMMINA: Ms. Wagner, please poll the Board.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: I am going to vote Aye, but I just want, for the record, to state that the reason I'm voting Aye is that we don't find that by keeping this addition, that will create an undesirable change in the neighborhood. We don't think you can achieve this except through a variance because we are not asking you to take this down and remove it. We don't find this to be a substantial deviation, although it wasn't you, somebody added 4 feet in. It was not you. The 4 feet is not substantial in the grander scheme of things. We don't think it's going to have an adverse affect on your neighborhood, and we understand that even though a homeowner created this difficulty, that you did not create this. So, therefore, I am going to vote Aye, that we approve your variance.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

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2 SECRETARY WAGNER: Chairman Mammina?

3 CHAIRMAN MAMMINA: Before I vote Aye, just for
4 everybody else sitting here and for the applicants, essentially
5 what was done by Ms. Goodsell is that there are five points of
6 law for an area variance that you have to meet. You don't have
7 to meet them all for an area variance, but she put those points
8 of law on the record for you so that the record is clear from
9 that perspective. A use variance is four points and you must
10 meet all four.

11 So, we have a little bit of discretion, and she did a
12 very nice job of that, as she would, and I vote Aye, also. So,
13 you are granted.

14 MS. SEHIC: Thank you. Have a good day.

15 CHAIRMAN MAMMINA: Okay. Be on your way and enjoy.

16 SECRETARY WAGNER: Next appeal, Appeal Number 21234,
17 Gus Chimos, 49 Chapel Road, Manhasset; Section 3, Block 221,
18 Lot 238 in the Residence A Zoning DISTRICT. Variances from
19 70-30.B to legalize an addition that is too close the street
20 (both primary and secondary front yards).

21 CHAIRMAN MAMMINA: You heard Appeal Number 21234, Gus
22 Chimos. Is there anyone in the room interested in the
23 application, other than the applicant? I assume you are not
24 here to speak against it. I'm just joking. Seeing no hands.

25 Please give your name and address.

26 MS. CHIMOS: Helen Chimos, 49 Chapel Road, Manhasset,

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New York 11030.

MR. CICCARI: Jerry Cicciari, architect of record.
120 Hayrick Lane, Commack, New York 11725.

CHAIRMAN MAMMINA: Good morning.

MS. CHIMOS: I would like Jerry to speak on my behalf,
because he knows all the codes and whatever.

CHAIRMAN MAMMINA: Okay. That's fine.

MS. CHIMOS: Thank you. Hopefully.

MR. CICCARI: Mr. Chairman and members of the Board,
we have an unusual condition here that should have been picked
up several years ago. I would like to review the order of
what's gone on and why they're here today.

This all started in -- when the Mister and Missus
bought the property in 2013, decided to do some renovation
work, hired another architect and proceeded to get a permit,
permit number 15109723 in November of 2015. That's the first
instance that we're here and the problem is coming up: The
average front yard setbacks on both streets. It should have
been picked up then. Wasn't. Permit went through, they
started, they put the job off for a few months -- for a few
years. That's right.

Then in 2016, with the previous architect, two
omissions letters were submitted. Those are the other two
times this should have been picked up and denied and brought to
the Board's attention and it wasn't. So, a permit was issued

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and work starts.

CHAIRMAN MAMMINA: May I ask a question, and I don't like to interrupt. Just so I get the two different architects --

MR. CICCARI: I'm coming to that.

CHAIRMAN MAMMINA: But I'm saying, so in 2016 an omissions letter was sent to the previous architect?

MR. CICCARI: Yes. Yes. Because that was the architect of record then.

CHAIRMAN MAMMINA: Was there a relationship with that architect still?

MS. CHIMOS: So, we still had a relationship up until this year -- actually, until December of 2021.

CHAIRMAN MAMMINA: So, when did the new architect --

MR. CICCARI: January of this year.

CHAIRMAN MAMMINA: So, the new architect is really new?

MR. CICCARI: Yes. I'm getting to that. There's a crossover.

MS. CHIMOS: Really new. We're still testing him out.

CHAIRMAN MAMMINA: Please.

MR. CICCARI: In December of '21, everything was ready to move forward again. They updated some of the plans and paperwork in the Building Department. What came about in January of this year, is that the previous architect could not help them out with revising the plans and making some changes

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2 that they made during the course of construction. She called
3 my office to see if I could help out and that's where the
4 transition from one architect to myself happened. There is a
5 letter and I have it with me that was dated January 31, 2022,
6 put into the record for the change of architect. It's in the
7 folder. You want a copy of it?

8 UNKNOWN SPEAKER: It's up to you if you want to submit
9 it.

10 MR. CICCARI: No. I know it's in there. And that was
11 the official change.

12 What happened at that same time, I'm working on the
13 drawings because they made some changes. I took it, as an
14 architect with 40 years' experience, that it's an amended plan.
15 We changed the window, we -- we eliminated some work, we
16 updated the plans, but that became another problem, because the
17 Building Department refused, unless I went and filed for
18 another permit. They said that they wanted the new drawings
19 under the new architect to have its own permit and that's not
20 happened yet. What happened is why we're here today. They
21 denied my plans, because of this average front yard setback on
22 both streets. So, now it's come to pass that the setbacks on
23 both street frontages is a problem, but I can show you -- and I
24 want to submit two surveys -- that show that that structure has
25 been around since 2013. And then the other survey I have to
26 submit is 2015, showing the exact same addition on that same

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2 side -- south side of the house. I will also submit from
3 Google -- Google --

4 SECRETARY WAGNER: The first exhibit you want to submit
5 is --

6 MR. CICCARI: A survey showing the towns date of
7 August of 2013.

8 SECRETARY WAGNER: This will be Exhibit 1.

9 MR. CICCARI: Showing the addition on the house.

10 SECRETARY WAGNER: The second survey will be Exhibit 2.

11 MR. CICCARI: Second survey dated July of 2015 showing
12 the same addition in the same place.

13 The third exhibit I want to present to you is a picture
14 from 2012, a Google image, showing the -- it was a screened-in
15 porch. Mister and Missus wanted to add a master closet on top
16 of that porch and subsequent, we determined that the foundation
17 work on that porch was insufficient to support a second floor.
18 So, they made a change in the same footprint area to build it.
19 Only we're at this point of in between this, now that we can't
20 -- the building inspector will not do a framing inspection,
21 because he doesn't have a plan that's approved.

22 CHAIRMAN MAMMINA: There's a lot of moving parts here,
23 and I may ask you to go through them again, but -- so, are you
24 saying, though, that the screened-in porch was taken down and
25 then it was rebuilt in the same location?

26 MR. CICCARI: In the same exact location.

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2 CHAIRMAN MAMMINA: When?

3 MS. CHIMOS: It was -- the cement was poured in
4 December of 2021, and we did have the inspections for the
5 footings and the cement work. Those were all approved. The
6 inspector came out and approved all that. We were allowed to
7 proceed with framing and so they framed it, it's built. We
8 have not had a framing inspection, because a subsequent -- a
9 final framing inspection, because a subsequent plan submission
10 set off this --

11 CHAIRMAN MAMMINA: I ask a question only because if you
12 have something that's -- that's not complying and you take it
13 down, you've lost the noncomplying.

14 MS. CHIMOS: So, as far as we know, it was compliant.
15 We have a CFO.

16 CHAIRMAN MAMMINA: No. No. If that front yard --
17 under the existing building code, if you have something that's
18 nonconforming in your house and it was built 50 years ago and
19 you take it down completely, you lose the nonconforming. It's
20 gone. So, you need to build to what is now the code, you know,
21 on -- on that. I'm just saying that to put it on the record.
22 Doesn't mean that this isn't wonderful.

23 MR. CICCARI: But it was never brought up.

24 CHAIRMAN MAMMINA: Yeah. But here's the thing and you
25 know as an architect, the building -- it is not up to the
26 Building Department to make sure that your homework is correct.

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2 Okay? That obligation belongs to me under license, it belongs
3 to you under your license, it belongs to the other architect
4 who drew it under their license and, again, just so that the
5 homeowner understands.

6 MS. CHIMOS: Understood.

7 MR. CICCARI: Okay.

8 CHAIRMAN MAMMINA: And again, this doesn't -- it
9 doesn't affect our deliberation, you know, on this if something
10 is done with a permit, without a permit. We might say, you
11 know, how did that happen if the Building Department makes a
12 mistake but that -- that doesn't belong to the Building
13 Department. So, that's all.

14 MR. CICCARI: All right. We are asking the Board --

15 CHAIRMAN MAMMINA: Can we just hang on one second?
16 Okay.

17 MR. CICCARI: So, we understand that and we understand
18 that when we got involved, submitted the paperwork, nothing was
19 said. Nothing was brought up, other than the fact that the
20 plans examiner reviewed my plans and issued this omissions
21 letter to bring with us today, so.

22 MEMBER HERNANDEZ: So, this letter was based on the new
23 plans?

24 MR. CICCARI: Yes.

25 MEMBER HERNANDEZ: And they're treating it as if
26 everything was new, although it was originally in the previous

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MR. CICCARI: Yes. Right. The difference of professional opinion is, I think these are just amended plans. The Building Department said no.

CHAIRMAN MAMMINA: I agree completely. You know, I don't see any reason why you can't change applicants, but we are not here for that.

MEMBER HERNANDEZ: And it's irrelevant.

CHAIRMAN MAMMINA: The Building Department does an excellent job and that's -- that's their right, and you're not challenging, you know, that. Not that that would matter.

MR. CICCARI: No. We want your blessing so that we can get a final framing inspection so that the job can be finished interior and closed out expeditiously.

CHAIRMAN MAMMINA: And as crazy as it sounds for the young lady, they may have done you -- they did you a favor by making you -- that -- the change in the applicant; otherwise, you wouldn't have come before us and this could have been picked up at the final inspection after -- after everything was completely built and then you'd be losing sleep, you know, over it. Not that you're not losing sleep now.

MS. CHIMOS: We already are.

MR. CICCARI: They already are.

MS. CHIMOS: We already are. I -- I understand -- I understand everything you're saying. I fully understand. I

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just want to say, like, I went around to the neighbors, I submitted, you know, the neighbors all signed. It's been an extension that's been there for the entirety of -- since everybody in the neighborhood remembering it. There's neighbors living there for about 50 years. It's not really offensive. It -- we do -- we are in a cul-de-sac, right, as you see? You've seen everything, so --

CHAIRMAN MAMMINA: There you go. Now we're talking. Lets get to -- let's get the shape of the land.

MS. CHIMOS: So, we're on a cul-de-sac, we have two front yards according to the zoning code. It does not stick out offensively in this part of the neighborhood. Most people do have those, like, three-season covered porch rooms. Some people have extensions; some people don't.

VICE CHAIRMAN FRANCIS: Your property is also irregular in terms of it's -- because of the cul-de-sac.

MS. CHIMOS: Yes. Correct.

CHAIRMAN MAMMINA: If the property were square -- squared off, rectangular --

MEMBER GOODSSELL: You wouldn't be here.

MS. CHIMOS: I do understand that.

CHAIRMAN MAMMINA: -- then you probably wouldn't be here or the -- or the variance would be much smaller.

VICE CHAIRMAN FRANCIS: It would be minimal.

MS. CHIMOS: Yes. And so, we also understand that it

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seems even our front windows are right at the extent of what the property line should be. So, we're not even past those front windows. We're even further set back from those front windows. So, it doesn't extend any further past our house. Even the front steps are in that, I guess right on that buildable allowable space, I guess, right? If I'm -- if I'm not mistaken.

MEMBER HERNANDEZ: As I mentioned in the previous case, I live in the same neighborhood and your house is very consistent with the other houses in the neighborhood. That's a very standard -- the sun rooms that were built in the 1930s when they built this community were either put on the right side of the house or directly behind the house, and they all have the same issue, especially the corner houses that have the cul-de-sacs; because if you notice the way your property -- if you look at the survey, the sun room doesn't go to the back of the house, because if it did, then it would be really close to the sidewalk -- no sidewalk, sorry -- the street. There's no sidewalk there. So, therefore, they make it shorter to try to keep it away, but still close.

Your house is totally consistent with everything else around you, so it's not an issue that it stands out. It's not an issue that any neighbor is going to look at it and say, my God, what did they build next to me? Yes, it's new, but it's consistent with what was there, and I'm one of those people

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that have been around for over 30 years in the neighborhood. It was probably there from day one. It was probably a screened-in porch. At some point somebody heated it at one time or incorporated it into the heating system of the house and finished it as a complete full year-round use.

Now, because of the foundation, you have to remove it. I removed mine completely and built a whole new extension in the back of my house. Mine was in the back of the house. Okay? So, it's something that we all have had to do over the years as our families grew. I don't think it's a significant change. I don't think it's going to have any impact on the community whatsoever. And unless anyone else has any other questions, I move that we --

MEMBER DONATELLI: No.

MEMBER GOODSSELL: The front yard variance is de minimis. It's consistent.

MEMBER HERNANDEZ: It's consistent. I mean, it's all the same with all the other houses. It's not that you -- we have people who come who want to go 10 feet forward. No. I'm not going to let you go 10 feet forward, because when you look down the street, you're going to see one house do this and that's what we are trying to avoid. Levitt built it this way; we can't ask, at this point, to move it back, unless you knock it down. If you knock the house down, then we're gonna make you move it back again.

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2 MS. CHIMOS: We love our house. We don't want to knock
3 it down; we just want to modernize it.

4 MEMBER HERNANDEZ: Some people have knocked it down,
5 believe it or not. Unless there's any other questions, I move
6 that we grant the application as requested.

7 MR. CICCIARI: Mr. Chairman --

8 CHAIRMAN MAMMINA: We granted it. You don't have
9 to submit anything else.

10 MEMBER GOODSSELL: Exactly. I will second Jay's motion.

11 MS. CHIMOS: Thank you very much.

12 CHAIRMAN MAMMINA: We have a motion. We have a second.
13 Please poll the Board.

14 SECRETARY WAGNER: Member Goodsell?

15 MEMBER GOODSSELL: Aye.

16 SECRETARY WAGNER: Member Hernandez?

17 MEMBER HERNANDEZ: Aye.

18 SECRETARY WAGNER: Member Donatelli?

19 MEMBER DONATELLI: Aye.

20 SECRETARY WAGNER: Vice Chairman Francis?

21 VICE CHAIRMAN FRANCIS: Aye.

22 SECRETARY WAGNER: Chairman Mammina?

23 CHAIRMAN MAMMINA: Aye. The application is granted.
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1 APPEAL #21235

2 SECRETARY WAGNER: Appeal Number 21235, Gene
3 D'Alessandro, 2 Preston Street, Port Washington; Section 5,
4 Block 43, Lot 31 in the Residence C Zoning District. Variances
5 from 70-50.B, to legalize an enclosed porch that is too close
6 to the street (both primary and secondary front yards).

7 CHAIRMAN MAMMINA: You've heard Appeal Number 21235,
8 Gene D'Alessandro. Is there anybody in the room interested in
9 the application, other than the applicant? Seeing no one.

10 Please give your name and an address.

11 MR. SAHN: Thank you. Good morning. Michael Sahn,
12 Sahn, Ward, Braff, Koblenz, 333 Earl Ovington Boulevard,
13 Uniondale, New York. I'm just gonna interrupt. The sound is
14 very awkward from this.

15 CHAIRMAN MAMMINA: Just move it away from you, Michael.
16 We've had a lot of problems.

17 MR. SAHN: Because I feel like I'm talking with
18 feedback, so I apologize if it sounds muffled.

19 CHAIRMAN MAMMINA: It's not you.

20 MR. SAHN: I'm pleased to present this application this
21 morning for Mr. D'Alessandro who is present in the hearing room
22 with me and available to answer any questions that you may
23 have.

24 Before I begin on substance, I have one additional
25 certified mail card to submit.

26 As indicated in the legal notice, this is an

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2 application of variance of Section 70-50.B, to maintain an
3 enclosed porch at the premises situated at 2 Preston Street in
4 Port Washington. This property is designated as Section 5,
5 Block 43, Lot 31. It is in a Residence C Zone, as indicated on
6 the survey, and the plans submitted with the application that
7 were prepared by the architect Paul Russo. This is a corner
8 lot with 60.9 feet of frontage on Preston Street and 100.832
9 feet on Allison Street. There is a survey prepared by Joseph
10 Nicoletti Associates dated September 27, 2019; last revised
11 September 21, 2021. That is in the Board's file.

12 As shown on this survey and on Mr. Russo's plans, the
13 premises are improved with a two-and-a-half-story brick and
14 framed dwelling that has certain accessory structures,
15 including a deck, a patio and, as noted, there is an accessory
16 two-story dwelling on the premises. The lot area is 6,399.6
17 square feet. Mr. D'Alessandro purchased the premises as is,
18 just as a new exists in February 2007 with the benefit of two
19 Certificates of Existing Use that were issued by the Building
20 Department in 2004, and I have copies of those that I'd like to
21 submit. One certificate is number 2004033, the other is
22 2004032, and I would like to submit them for the record.

23 UNKNOWN SPEAKER: They'll be Exhibits 1 and 2.

24 MR. SAHN: Actually, they're on one combined sheet of
25 paper.

26 UNKNOWN SPEAKER: Exhibit 1.

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2 MR. SAHN: In Certificate 2004032, the occupancy was
3 noted as a two-story single family dwelling with a rear wood
4 deck and in Certificate 2004033, the occupancy was noted as a
5 one-story single family dwelling (rear). So, this was the
6 documentation at the time Mr. D'Alessandro purchased the
7 property and, as I indicated, this is the condition that
8 existed at the time.

9 Subsequent to that, Mr. D'Alessandro applied for
10 and received rental registration permits from the Town for
11 the accessory dwelling, which is noted on the property and
12 is shown on the survey. In or around 2020 when he applied
13 again for the rental registration, the building inspector
14 who came to the premises and inspect at that time, noted
15 the requirement to file plans to maintain the existing
16 structure, which included the enclosed deck that faces
17 Allison Street. That was not previously noted. That
18 triggered the -- for Mr. D'Alessandro to hire Mr. Russo who
19 prepared the plans and those plans resulted in the issuance
20 of the Notice of Disapproval that was originally dated
21 February 21, 2022, and then we updated it for April 29,
22 2022. The variance indicated in the Notice of Disapproval
23 is Section 70-50.B regarding the two setbacks for the
24 corner lot. The enclosed porch has a setback of 6.5 feet
25 on Allison Street, where 20 feet is required and the front
26 setback is 24.7 feet, where 25 feet is required.

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2 This is a very, very unique piece of property on this
3 corner lot. I presume some of the Board members are familiar
4 with it personally. Both streets are very substandard and very
5 narrow. When you travel down Preston Street in a westerly
6 direction and you come to the corner with Allison, it's a right
7 angle and it's a very hard turn to make, because the streets
8 are so narrow. It actually would not allow two cars to travel
9 simultaneously around the corner, in my opinion, because of the
10 very tight radius of the street. I submitted by e-mail a
11 series of photographs of the area and the subject premises, but
12 I have additional booklets of photographs that I would like to
13 submit and review with the Board.

14 UNKNOWN SPEAKER: Exhibit 2.

15 SECRETARY WAGNER: And these are the same?

16 MR. SAHN: The same that were submitted by e-mail.

17 So, very briefly, and I don't know whether the Board
18 has had an opportunity to see the photographs before, but
19 within this booklet of photographic exhibits, we start with a
20 number of aerial photos that show the property. They were
21 taken from Google Earth and they show the location of the
22 property in relation to the surrounding parcels. You'll note
23 that another unique feature of this parcel is that immediately
24 to the west is the Carlton Bay Condominium development, and
25 this house is to the east of the pool area of Carlton Bay. So,
26 there are no homes immediately abutting to the west on the

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2 other side of Allison Street that could be affected by this
3 property. The other factor is that the corner of Allison and
4 Preston has a very old home -- we have a photograph of that --
5 and it's at a higher elevation, but it's very well hidden by
6 shrubbery that exists on the subject premises.

7 Subsequent to the aerial photos, we have several photos
8 of the premises. You'll see the first one is the front of the
9 property. Very well-maintained home and the front has very
10 well-maintained shrubbery and lawn area. The enclosed porch is
11 on the left side of that photo. You can see it coming out from
12 the main part of the home.

13 The next photo is taken more from a corner view and
14 from that corner view, you can see that there is very dense
15 tall arborvitae shrubbery along Allison Street and that
16 actually blocks, in its entirety, the view of this enclosed
17 porch.

18 The next photo is the driveway for the existing home on
19 Preston, which is on the easterly side of the home. And then I
20 have photographs that I took from Allison Street, looking back
21 at the subject premises, and you'll see along Allison there's
22 also shrubbery that essentially hides the home from viability.
23 A little bit further in a northerly direction on Allison, there
24 is some wire-type fencing similar to chain link where there's a
25 little bit of a break in the shrubbery, and I took this
26 photograph to show from that break how you would -- would see

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the existing property. But, again, you would have to be on Allison Street, walking there to actually see this and get very close to the property line to take -- to take the photograph and see the premises.

The last photograph in this exhibit is of the adjoining home immediately to the east or adjoining homes, I should say, immediately to the east on Preston, and -- and I think those indicate that the subject property is very well maintained.

So, based on this unique situation, we would respectfully submit that the granting of this relief would not change the character of the neighborhood, is not a substantial variance, has no adverse impact on the environment of the area and albeit that on the one side yard the setback is only 6.5 feet compared to the 20-foot requirement, in this particular circumstance, respectfully, the Board should not view that as substantial in the sense that it's been existing, it wasn't a self-created situation by Mr. D'Alessandro and the impact of that side yard variance is fully mitigated by the existing shrubbery on the premises.

That's essentially our presentation. Again, Mr. D'Alessandro is present and available to answer any questions that you may have.

MEMBER DONATELLI: I do have some questions. Do we know when this -- this enclosed porch was built?

MR. SAHN: No.

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2 MR. D'ALESSANDRO: I have no idea.

3 MR. SAHN: No. Mr. D'Alessandro, do you want to
4 give your name and address?

5 MEMBER DONATELLI: Yeah. Please, name and address.

6 MR. D'ALESSANDRO: I reside at 51 Chowning Drive in
7 Hampton, Virginia.

8 VICE CHAIRMAN FRANCIS: Just restate your name for the
9 record.

10 MR. D'ALESSANDRO: Gene D'Alessandro. I bought --
11 purchased the property in 2007 as it exists now. I do not know
12 when that enclosure was built.

13 MEMBER DONATELLI: But that enclosed porch was there at
14 the time that you purchased it?

15 MR. D'ALESSANDRO: Absolutely; yes.

16 MEMBER DONATELLI: Did you have an attorney at the time
17 that you purchased it?

18 MR. D'ALESSANDRO: I did. There was a -- when I
19 purchased the property, it had a clean title and it had a
20 existing Certificate of Occupancy. So, there was no reason to
21 think that that -- there was an issue, that it was not in
22 compliance.

23 MEMBER DONATELLI: Okay. And -- and your attorney will
24 tell you, and he actually touched upon them, the five factors
25 that we are required to consider in -- in reviewing these kinds
26 of variances. Do we know what the cost to remove this -- this

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enclosed porch might be? Do you have any kind of estimates?

MR. D'ALESSANDRO: I do not.

MEMBER DONATELLI: Is the enclosed porch, is it prefabricated or was built on the spot; do you know? Do you have any indication?

MR. D'ALESSANDRO: I know it's on a concrete slab. I do know it has an enclosed kind of wall, windows going around it.

MEMBER DONATELLI: What's it made out of?

MR. D'ALESSANDRO: A wood structure frame.

MEMBER DONATELLI: Wood?

MR. D'ALESSANDRO: I believe so. As far as I know.

MEMBER DONATELLI: And windows.

And by the way, for the record, if you saw somebody who was lurking around for quite a bit of time yesterday, that was me because I was trying to piece together --

MR. D'ALESSANDRO: Okay. So, you might know better than I do what it's actually constructed of, because I mean, you see it's surrounded by windows.

MEMBER DONATELLI: No. The other thing I will say is, you don't get to Preston Street unless you want to go to Preston Street, because it's hard to get to otherwise.

MR. D'ALESSANDRO: Right. Correct.

MEMBER DONATELLI: One of the things I love about this job is it -- it shows me the nooks and crannies of the Town of

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North Hempstead that perhaps I -- I ignored before or I didn't really know as well as I might have, but...so, Preston Street is definitely one of those you have to want to go there.

MR. D'ALESSANDRO: Right.

MR. SAHN: And I will add similarly for Allison.

MEMBER DONATELLI: And Allison.

MR. SAHN: I have been on Preston Street previously. I know other people who reside there, but I never really understood that at the end of Preston, there's actually another street, Allison Street, that you can make a right turn on. Because as you head in a westerly direction, it looks like Preston Street dead ends at the D'Alessandro property.

MEMBER DONATELLI: Right. No. It's a very interesting part of town, and I acknowledge that -- that we've actually had some applications behind your -- this property on Charles Street, and we know that some of the lots there are substandard size and there are -- many of them predate the code.

MR. D'ALESSANDRO: Right. The -- the most current survey took over eight months, because they couldn't get the numbers to match right because all the property lines in that area are skewed so much that they didn't understand why the -- I guess, I don't know the exact nuances and numbers exactly, how surveys go, but they couldn't get the numbers to match correctly and they had to go back to the town and actually pull records and it took over eight months to get that survey

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completed.

MEMBER DONATELLI: I would also just put on the record, again, as Mr. Sahn indicated, that part of what we consider when we consider this kind of variance is, at least in my mind, it's significant that both streets are narrow. That means, that in my mind and I have not -- I don't want to prejudge this matter, I, for one, have not rendered an opinion yet on this, but one of the things that we consider when considering this kind of variance is that the streets are narrow and so any kind of an encroachment onto a front yard setback can be very impact, because of the narrowness. If the streets were broader, that, in my mind, perhaps would make it a little bit easier to consider. But, again, I don't want to prejudge anything. But this -- this is of some concern to me.

MR. SAHN: I would -- of course, appreciate your comments. I would point out this is what the Town code would call the secondary front yard.

MEMBER DONATELLI: Right.

MR. SAHN: The primary one is almost in compliance. The 6.5 feet is measured at the narrowest point between the edge of this enclosed porch and the property line. As you look at it, because of the skewed nature of the property, it's not a clean rectangle. At the other end, which is the southerly end, the dimension is not noted but it does appear to be larger and there is also additional area, it seems from the survey,

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between the property line and the edge of the curb.

So, albeit that can't be counted for setback purposes, it does mitigate, I would suggest, impact of the encroachment. That, plus the substantial hedges and the other factor being there's no residence on the opposite side of Allison that could be impacted by this.

MEMBER GOODSSELL: Mr. Sahn, would it also be fair to say that if the Building Department required the removal of this porch, you still wouldn't meet setback, the current setback requirement to Allison Street?

MR. SAHN: That's correct. That's correct. And you'll also note that the house -- the property -- let me go back. The property itself is not rectangle and the house is not parallel to Preston. It's built on an angle.

MEMBER GOODSSELL: It sits on its own -- yes.

MR. SAHN: So, you have a lot of different variables that contributed to this.

And again, just to emphasize, the point from the time Mr. D'Alessandro purchased, he applied for and 100 percent did his best to comply with the code, got his rental registrations and, for whatever reason, the Building Department never picked it up from the time he bought it until 2020, and that -- that's what prompted this.

MR. D'ALESSANDRO: Over -- over the past 13 years, I've had four separate rental inspections every two years and never

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brought it to my attention. And again, I know it's not their responsibility to, but I was not aware of it prior and neither -- it seems like, neither were they.

MEMBER DONATELLI: And certainly -- I mean, whatever was missed by your attorney, or by your title company, or by your surveyor, whatever was missed at the time of purchase, you may or may not have been aware of it. But this is a fairly substantial encroachment and so anyway, I have no further questions.

Does anyone else have any questions? All right. So, Mr. Chairman, I would ask that we reserve decision on this.

CHAIRMAN MAMMINA: Okay. Any issues with reserving decision?

MEMBER GOODSSELL: No problem reserving. Although, I would like to know, as a homeowner, how one makes a three-point turn? You just can't turn around on either of those streets.

MR. D'ALESSANDRO: No. Just keep going from one end to the other.

MEMBER GOODSSELL: Just keep going. When going down a narrow street, just keep going. Thank you very much for coming up from Virginia to answer our questions.

MR. D'ALESSANDRO: Thank you.

CHAIRMAN MAMMINA: We will reserve decision on the application and this may or may not be decided today or at our

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2 next meeting is the 22nd of June.

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SECRETARY WAGNER: Next appeal, Appeal Number 21228,
Richard Schefer, 144 Luquer Road, Port Washington; Section 5,
Block 76, Lot 435 in the Residence B Zoning District.
Variances from 70-39.C, to legalize additions that are too big.

CHAIRMAN MAMMINA: You heard Appeal Number 21228,
Richard Schefer. Is there anyone in the room interested in the
application, than the applicant? Seeing no one.

Please give your name and address.

MR. SAHN: Thank you, Mr. Chairman, members of the
Board. Michael Sahn, Sahn, Ward, Braff, Koblenz, 333 Earl
Ovington Boulevard, Uniondale, New York. Again, my pleasure to
appear before you on behalf of this application. Mr. Schefer
is in the hearing room and present and can answer any questions
that the Board has in connection with the presentation.

I'd like to begin by noting that we have submitted,
either by e-mail or actual documents, consents to the
application from all of the adjoining owners but one. Those
were obtained by Mr. Schefer himself and those are the owners
Bond, Pettish, Hoffman, Winetraub, Addler and Laversa.

As indicated in the hearing notice, this is an
application for a variance of Section 70-39.C concerning the
parcel property located at 144 Luquer Road in Port Washington.
There are plans in the file for this application prepared by
John Amisano, the architect. The property is Section 5, Block
76, Lot 435. It is a Residence B District. The property is

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1 rectangular in shape with dimensions of 75 feet in the front
2 and rear and side lot lines of 101 feet on each side.
3 Therefore, the property has 7,567.50 square feet in lot area.
4 It is situated at what is similar to a T-shape intersection
5 with Willow Road. And there are similarly-shaped parcels to
6 the east and west of the subject property, except for the two
7 corner lots on the opposite side of the road at the
8 intersection with Willow. The premises are improved with a
9 one-and-a-half-story framed residence with a garage. There is
10 a wood deck at the rear, an open porch at the front and those
11 improvements are shown on the survey in the Board's file
12 prepared by Ferrantello, dated September 5, 2015, and that was
13 updated on September 22, 2016. The applicant purchased the
14 premises in April of 1980.
15

16 I have, again, photographs of the subject property and
17 the adjoining that were submitted by e-mail, but I have
18 additional copies that I'd like to submit in the booklet form.

19 UNKNOWN SPEAKER: Thank you, sir. Exhibit 1.

20 MR. SAHN: So, in this booklet, we have a number of
21 aerial photos taken at different elevations, so to speak,
22 showing the subject area and the location of this piece of
23 property, again, at the intersection with Willow Drive,
24 somewhat on a skewed T-intersection, and you'll note that there
25 are similar homes in the surrounding area. This home is
26 situated so that there is a garage and a driveway on the

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2 westerly side. There's a lot of shrubbery around the property
3 and that is further shown by the exhibits -- photographic
4 exhibits under tab two, where you'll see the abundant
5 shrubbery, very tall and very dense at the front of the
6 property and at the sides of the property.

7 We also have a photograph of the adjoining property to
8 the east and a photograph looking at the intersection of Luquer
9 Road and Willow Road, and you can see the home immediately
10 catty-cornered, so to speak, on Willow.

11 And the last photograph is of the property immediately
12 to the west and that, again, is screened by the shrubbery at
13 the side property line. The Building Department issued a
14 Notice of Disapproval dated March 7, 2022. This was issued,
15 again, pursuant to the plans that were submitted to maintain
16 second floor additions, finished cellar, cathedral ceilings,
17 and a rear wood deck. In accordance with the Notice of
18 Disapproval, the floor area is calculated at 3,614 square feet,
19 where the code would allow 3,400 square feet.

20 What is very unique, is that the floor area calculation
21 resulted from interior alterations that the applicant made back
22 in the 1980s and '90s when he had first purchased the home.
23 None of those alterations changed the footprint of what he
24 bought. None of the alterations changed the roof line of what
25 he bought. What he did is he finished off unfinished portions
26 of the attic that was there when he bought the home.

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MEMBER HERNANDEZ: The attic was there?

MR. SAHN: The attic was there and he finished it off.

MEMBER HERNANDEZ: How about access to the attic?

MR. SAHN: I'm sorry?

MEMBER HERNANDEZ: How about the access to the attic?

MR. SAHN: He added stairs to the attic.

MEMBER HERNANDEZ: He added thick stairs to go to the
attic?

MR. SAHN: Yeah. He did that as interior alterations
not believing that he needed a variance to do that. Came a
time where he and his wife decided that might be appropriate to
have this checked and filed to maintain these interior
alterations. The Building Department inspector looked at it
and said, well, because the attic is now finished, we -- the
Building Department is going to call that floor area, hence,
the application before you today.

MEMBER HERNANDEZ: How large is that finished attic --
the finished section of the attic?

MR. SCHEFER: Maybe 300 square feet.

MEMBER HERNANDEZ: Three hundred square feet.

MR. SAHN: Yeah. Perhaps 300 square feet. Perhaps.
We have the plans in the file.

MEMBER HERNANDEZ: That's what I'm trying to figure
out. I'm looking at the plans and I'm having a real hard time.
That's why. I apologize for asking the questions.

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2 MR. SAHN: No. Mr. Schefer, do you want to give your
3 name and address, just so we have that on the record?

4 MR. SCHEFER: Yeah. Sure. My name is Richard Schefer,
5 S-C-H-E-F-E-R. I live at 144 Luquer Road, Port Washington, New
6 York.

7 MEMBER HERNANDEZ: I can't find -- I can't find --

8 MR. SAHN: So, I agree with you. It's a very -- it's a
9 very unique type of plan. The area of the habitable --
10 habitable floor space is crosshatched, and I don't know that it
11 actually says on this plan that particular square footage.
12 Let's see the table.

13 MR. SCHEFER: We have area F, which is over the master
14 bedroom.

15 MEMBER HERNANDEZ: Which plan are you looking at?
16 Please give me the plan number.

17 MR. SAHN: This is sheet number 2.

18 MR. SCHEFER: 2A 101.

19 MR. SAHN: I may have an additional printed set.

20 MR. SCHEFER: Okay. So, up in the right-hand corner
21 there's a chart and in that chart is area number F, which is
22 191 square feet.

23 CHAIRMAN MAMMINA: The sheet number is 2A 101?

24 MR. SCHEFER: Yes. Excuse me, I made an error. I made
25 an error.

26 MEMBER DONATELLI: Mr. Sahn, is the architect here with

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you today?

MR. SAHN: No. He couldn't attend today.

MEMBER DONATELLI: My question and I think the question of some of the Board members is, it would be helpful if we could see a cross-section of the premises showing the stairs leading from the second floor to the attic. So, it's hard for us to gauge exactly where the stairs lead to the attic and the height of the attic at the space where the stairs come into the attic.

MR. SAHN: We're looking to see if we have -- if we can show that.

CHAIRMAN MAMMINA: He doesn't have it. It's not there. In my opinion it's not there.

MR. SCHEFER: Page S, as in Sam, FP 202.

MEMBER GOODSSELL: Got it. We can see that, but we're looking for the cross-section.

CHAIRMAN MAMMINA: Yeah. That's an elevation.

MR. SAHN: There is a clouded area on the right side that says "new stairs maintained."

MEMBER DONATELLI: If you take a look at section 1, Page 400, that would be a cross-section. It would be helpful if we could somehow superimpose the steps -- the stairs on that cross-section.

CHAIRMAN MAMMINA: Yeah. Or 603 shows a master bedroom below and then it shows master storage above that's got 9 feet

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of a ridge.

MEMBER HERNANDEZ: That, as a finished space, becomes a third floor.

CHAIRMAN MAMMINA: If you go to your 603, the last sheet, that's a section through there. And it even shows where the shelves are, you know, floor plan and then it says "master storage room maintained."

MR. SAHN: Mr. Chairman, I don't see a 603 in our set.

MEMBER GOODSSELL: You sent it to us. It looks like this, Mr. Sahn.

CHAIRMAN MAMMINA: Well, I have it here. If I could go off the record for a second.

(A discussion was held off the record.)

MR. SAHN: So, I've dealt with Mr. Amisano also on different applications.

CHAIRMAN MAMMINA: Wonderful man.

MR. SAHN: Considering the Board's comments on the plans, you know, perhaps the best thing would be -- because we want to give a full presentation and have the Board understand it --

CHAIRMAN MAMMINA: Sure.

MR. SAHN: -- is to continue the application and bring Mr. Amisano with us at that continued date with whatever further plan revision, and he can express that not only verbally but in the form of a plan.

1 APPEAL #21228

2 MEMBER DONATELLI: That would be helpful.

3 MEMBER GOODSSELL: Mr. Sahn, if I could just state --

4 MR. SAHN: Please.

5 MEMBER GOODSSELL: -- your office is so sufficient that
6 in the e-mail that you sent us concerning Mr. Schefer's plans,
7 you sent a 100-page brief that related to Northwell Health and
8 part of the Board's confusion is that we have to take that out
9 to get to the plans. We do have them. Most of us have them.

10 MR. SAHN: Well, it does call into question the
11 efficiency.

12 MEMBER GOODSSELL: That's true. Your office is
13 tremendously efficient, so.

14 MR. SAHN: Sometimes, as you know, these e-mails and
15 attachments get linked and the computer does things we don't
16 even know.

17 MEMBER DONATELLI: Yeah. We're all dealing with the
18 new reality, but around Page 43, 44, your application jumps to
19 Northwell Health --

20 MR. SAHN: Yes. Got it.

21 MEMBER DONATELLI: -- and continues for about 100 pages
22 and then it goes back to here.

23 MR. SAHN: Well, my apologies for burdening the Board
24 with reading something you've probably read already, but I do
25 think if we continue --

26 CHAIRMAN MAMMINA: I think if Mr. Amisano can -- I have

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2 no problem with continuing. I'm not even sure if you have to
3 come back, you know. Maybe if we could get a -- one very
4 simple clean drawing without all of the dimensions and all the
5 other stuff on it that illustrates what the Building Department
6 is saying is the variance. That's all. A simple, simple
7 drawing. Not something that's going to be a million dollars to
8 draw, you know, just show us a section right through where that
9 is and the part that the Building Department is saying is
10 underneath the -- above the heights that it still counts as
11 floor area.

12 MR. SCHEFER: Well, may I add that the Building
13 Department is considering the house -- the entire house as a
14 one-story extension and that the -- all the attic area, the
15 whole gable roof, they're considering it as floor area -- gross
16 floor area.

17 So, while I have these rooms carved out in the attic on
18 both ends of the house -- on each end of the house, the unused
19 portions of the attic which are triangles that go from 5 feet
20 down to zero, they're all included in the gross floor area.

21 CHAIRMAN MAMMINA: Okay. I understand. I understood
22 that from -- just from the text. So, I mean, maybe he can
23 hatch those differently. I mean, John will know what we think,
24 I think; if not, he can reach out to the office. If the office
25 needs to then reach out to me, you know, they can. If it was a
26 different forum, you know, Mr. Sahn, that I can't do that, but

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I would just say have Mr. Amisano call me, you know, and I'll -- and I can explain what the issue is, but I'm sure that you can do that.

MR. SAHN: And I would add if, when you receive that from him, there are more questions and you would like us to come back, we will come back in person.

CHAIRMAN MAMMINA: Not a problem.

MR. SAHN: And I'll bring Mr. Amisano.

CHAIRMAN MAMMINA: Not a problem.

MEMBER DONATELLI: So, before we -- we conclude on this matter, I was just advised by staff that they're seeing if Mr. Norgent is available and so maybe we want to just perhaps wait a little bit of time and perhaps second-call this and he might be able to shed some light on this.

SECRETARY WAGNER: Well, you have some time.

MR. SAHN: Well, I have an appointment at one o'clock that I have to be in court, so I'm a bit tight.

CHAIRMAN MAMMINA: Okay. So, we'll continue it.

MEMBER DONATELLI: We'll just continue then.

CHAIRMAN MAMMINA: We'll continue it, you know, and --

MS. ALGIOS: Do you have a couple of minutes?

MR. SAHN: Sure. Okay. I don't want to overburden your calendar, but if he's readily available, fine.

CHAIRMAN MAMMINA: I also don't want you to be late to your next appointment. And I don't know, and I may be speaking

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out of turn, I don't know that there's anything that's pressing, you know, for your client now where he's got a closing tomorrow.

MR. SAHN: No. No. No. Still there. Still long-time Port Washington resident.

CHAIRMAN MAMMINA: Okay.

MR. SAHN: Family has lived in Port and Sands Point for many years, so.

MS. ALGIOS: So, now, if Ginny can't reach Glenn, what was the decision? Are you coming back?

MR. SAHN: We would submit a plan.

MS. ALGIOS: So, my only problem with that and why I think it might -- in this situation with the questions the Board was asking why it might be wise if you come back with your architect, is because if the Board has questions, now they don't have your architect there. So, you know, by looking now at the plans, more questions may be raised and might actually be beneficial to have the architect here, but I mean, that's up to you, but I --

MR. SAHN: I have to be here on the 22nd for other cases.

MS. ALGIOS: So, I mean, we can adjourn to a date certain.

MR. SAHN: I have no problem coming back the 22nd. I'm not sure if we need new notices if we're continuing and we have

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the consents from our neighbors.

SECRETARY WAGNER: So, continue and they will come back on the 22nd. Okay? See you on the 22nd. And you're still going to submit a plan, though, before that, right?

MR. SAHN: Yes. Okay. Thanks so much. Have a good day.

CHAIRMAN MAMMINA: So, we will continue this hearing to the 22nd of June.

MEMBER DONATELLI: Sorry. Did we have any members of the public who wanted to speak?

MR. SAHN: No. We had consents from all the people around us.

1 APPEAL #21212

2 SECRETARY WAGNER: Next appeal, Appeal Number 21212,
3 Marco Barrera, 24 Fairview Avenue in Port Washington; Section
4 6, Block 10, Lot 876 in the Residence C Zoning District.
5 Variance from 70-50.B, to construct additions and a portico to
6 an existing home that would be too close to the street.

7 CHAIRMAN MAMMINA: You heard Appeal Number 21212, Marco
8 Barrera. Is there anyone in the room interested in the
9 application, other than the applicant? We have two hands up
10 and you will have the opportunity to speak after the
11 presentation. Thank you.

12 Please give your name and address.

13 MR. BARRERA: Good afternoon. My name is Marco
14 Barrera, I'm 24 Patriot Lane, Westbury, New York 11590.

15 CHAIRMAN MAMMINA: Welcome.

16 MR. BARRERA: Thank you.

17 CHAIRMAN MAMMINA: Just take a deep breath and relax.
18 Okay? As if you're just talking to us sitting in the kitchen.
19 Okay?

20 MR. BARRERA: Yeah. I'm here, you know, I got the
21 house. Obviously, I'm trying to renovate, you know, the front
22 of the house. I want to build a portico, you know, over the
23 door, the entrance door. And in the back, I want to build a
24 small addition.

25 MEMBER DONATELLI: Mr. Barrera, before we get into the
26 details of your application, do you have an architect? Do you

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have an attorney? Did you consider having them come and address us?

MR. BARRERA: Yes. I have an architect.

CHAIRMAN MAMMINA: Is he or she here?

MR. BARRERA: No. No. No. But he's not here.

MEMBER DONATELLI: Okay. Because there are some legal standards that your architect and your attorney might want to address on behalf of your application. You can certainly, you know, speak to those issues yourself, but it might be -- you might want to consider having some assistance.

MR. BARRERA: Okay.

MEMBER DONATELLI: Are you prepared to put on your application today or would you prefer to have an attorney, or an architect, or both represent you?

MR. BARRERA: I think I'm prepared today.

MEMBER DONATELLI: You're prepared for today?

MR. BARRERA: Yes.

MEMBER DONATELLI: Okay. Please proceed.

MR. BARRERA: Okay. Like I said, in the front I want to build a portico over the -- in the front. I just, I want to put a small roof, you know? You know, the platform is already there. I just want to put, you know, a roof.

MEMBER GOODSSELL: And did the Building Department go over with you how close to the street a roof like that is permitted?

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MR. BARRERA: Yes. The architect submit the plans and the new drawings so that's why, you know, he said it needs a variance. That's why I'm here.

MEMBER GOODSSELL: The Building Department says 20 feet and you're asking for something that's only back, I think, 12.3 feet. So, did your architect discuss with you what -- how big it can be that we would approve or we would not approve?

MR. BARRERA: It -- I'm just putting a roof. It's already there. It's a building already there.

MEMBER GOODSSELL: I understand that. I understand that, but you -- you can't just put a roof there. You are asking us to give you a variance to put a roof there, bigger than what we normally allow.

MR. BARRERA: No. That's the addition in the back.

MEMBER DONATELLI: Yeah. But even in the front, when it comes to Orchard Street, your house already doesn't meet front yard setbacks and now you're looking with the portico to actually bring it out a little bit further.

So, my point to you before, and again, you do have a right to present your own case if you want to, but there are five standards that we must consider by law and those standards are pretty specific and so, you know, as Ms. Goodsell suggested, if you want to address your application not only for the portion that is on Fairview, but also the portion that is on Orchard, then you should do

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that, but then just try and address the five issues.

VICE CHAIRMAN FRANCIS: And the five issues are legal standards that you may not be familiar with and that's why Mr. Donatelli gave you the option of coming back with a professional who knows those five standards.

MR. BARRERA: Okay. So --

VICE CHAIRMAN FRANCIS: The bottom line is, we want you to put on the best case you can and if that means you have to come back, then that's fine.

MR. BARRERA: Okay. I want to come back with -- with the architect.

VICE CHAIRMAN FRANCIS: I think that would be best.

MEMBER GOODSSELL: We understand this is the addition you want, but what you're saying is not what we can consider, if that makes sense to you. We know you want this. We know the Building Department said no, but there's legal standards now when the Building Department says no; you have to put on some legal standards before we can even consider that.

VICE CHAIRMAN FRANCIS: Ginny, if we adjourn this, do we have to re-notice this?

SECRETARY WAGNER: If we adjourn this, we would have to re-notice, right?

UNKNOWN SPEAKER: No. We would just have to re-notice just by first class, not certified.

MEMBER DONATELLI: Okay. So, Mr. Barrera, we are

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2 mindful of the fact that you are not an attorney or an
3 architect and, as Mr. Francis said, we want you to put your
4 best case on. So, what we want to do is, if you've finished
5 with what it is you want to say, we can now hear from the
6 members of the public who raised their hands who want to speak
7 and then we can continue the hearing at the end to have your
8 architect address the five standards that we're required to
9 consider by law.

10 So, what you can do is, you can tell your architect or
11 your attorney, they will know what the standards are, and then
12 they can submit something to us and that way we'll try to deal
13 with the issue here today. Is that acceptable?

14 MR. BARRERA: Okay. Okay. Yeah.

15 CHAIRMAN MAMMINA: Is there something else you want to
16 say at this point?

17 MR. BARRERA: For the side door for, like, Orchard
18 Street, I want to, you know, like, move the door, you know,
19 higher because the steps going to the basement, it's not safe,
20 you know? Now, it has a little platform there, you know, to go
21 out. It's a side door now. It's going out. It's not safe
22 when you go to the basement, because they raise the steps,
23 because it's 9-and-a-half inches higher.

24 MEMBER HERNANDEZ: Right now the side door seems to be
25 at sidewalk level.

26 MR. BARRERA: Yes.

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2 MEMBER HERNANDEZ: And you said you want to raise it.

3 Do you have steps inside the house when you open the door?

4 MR. BARRERA: No. No steps. Just a little platform

5 that goes to the basement.

6 MEMBER HERNANDEZ: So, that door goes to the basement?

7 MR. BARRERA: Yeah. And to the kitchen, also. I have

8 two steps going up, you know, to the kitchen.

9 MEMBER HERNANDEZ: Okay. So, there are steps inside

10 the house going to the kitchen. Okay. So, when you walk in,

11 there's a small landing that you can either go down or you can

12 take two steps to go up. Now, if you raise the door, that

13 means you're going to raise the landing, right? That means you

14 have to change the angle of your stairs on the inside going to

15 the basement, right?

16 MR. BARRERA: Yeah. But I'm trying to move the

17 door, like, you know --

18 MEMBER HERNANDEZ: You're going to move the door

19 further away to allow it to continue straight up.

20 MR. BARRERA: Yeah. Yeah.

21 MEMBER DONATELLI: Yeah. No, I understand and I

22 assumed it was something like that. Okay. If -- if -- if you

23 have nothing further, then why don't we hear from members of

24 the public.

25 MR. BARRERA: So, and then in the back, I want to

26 build --

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2 MEMBER DONATELLI: And then you'll get another chance
3 to speak after.

4 MEMBER HERNANDEZ: Well, he wants to pick up at the
5 extension in the back first. So, let him speak about the
6 extension in the back.

7 You want a second story and an existing extension,
8 right, in the back and you're going to build on top of that?

9 MR. BARRERA: No. It's gonna be the first floor and
10 the second floor.

11 MEMBER HERNANDEZ: You're building two extensions, a
12 two-floor extension.

13 MR. BARRERA: Yeah.

14 MEMBER HERNANDEZ: So, go ahead, please, tell us.

15 MR. BARRERA: I'm trying to build, you know, a small
16 extension to make the dinning room a little bit bigger and the
17 bedroom upstairs, you know, a little bit bigger. That's it.

18 VICE CHAIRMAN FRANCIS: Okay. We're gonna hear from
19 the public to see what they have to say.

20 MR. BARRERA: Okay.

21 VICE CHAIRMAN FRANCIS: And then you can come back up.

22 MR. BARRERA: Okay.

23 MR. DREMLOCK: Good afternoon, my name is Robert
24 Dremlock. I live at 22 Fairview Avenue in Port Washington.
25 Our house is next across the street of Orchard Street and our
26 house actually faces Orchard Street a little with a Fairview

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2 address. I'm here this afternoon maybe with some questions and
3 some comments that may be helpful in guiding the Board in terms
4 of reaching a decision.

5 First of all, this is an oversized lot for this
6 particular neighborhood. So, most lots on Fairview are 40 by
7 125 on one side of the street. This particular lot is 60 by
8 125, so it's actually a much wider parcel facing Fairview. The
9 proposed addition seems to be pushing out toward the street in
10 two directions, and there's a lot of additional space if you
11 wanted to make additions to go in the other directions because
12 of the lot size. There seems to be a more than adequate amount
13 of space to build going in the other direction.

14 The second point I want to make is that this parcel was
15 or property was recently purchased and so, unlike a lot of the
16 other cases that have been presented before the Board today,
17 this isn't a situation that dates back 20 years ago where
18 someone may have overlooked something and now someone has come
19 here to clean up a problem. This is, more or less, someone who
20 has bought this property with, presumably, knowledge of the
21 existing situation, the requirements in terms of setbacks and
22 so forth. So, to use the phrase, this is a sort of
23 self-inflicted problem in terms of creating this need for a
24 variance. The -- the prior owner was a very good friend of
25 mine. He passed away about a year ago, and we spent a lot of
26 time together doing all sorts of things and we talked and we

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2 talked about this house and he said, you know, one day when I'm
3 gone, this house will pass and he says this is going to be a
4 tear-down and the reason why he said that is for the 25 years
5 that he lived there, he didn't put a dollar into the house. He
6 replaced a door, the side door that we were just discussing a
7 moment ago. He didn't pay for the door. He actually found it
8 and it didn't fit and his wife was very upset about the fact
9 that they had a door that didn't even fit, but that was sort of
10 the extent that he was gonna go in terms of making repairs to
11 the house.

12 So, the house -- the roof on the house is in disrepair.
13 It needs to be replaced. The siding on the house has been
14 there for, I'd say, 35 or 40 years. Probably some issues
15 there.

16 A prior owner, prior to the -- Mr. Frankfurter who
17 passed away -- was an engineer that worked for Grumman, and I
18 thought he was a smart guy until one day he told me that he
19 used lamp wire to put into the kitchen to do wiring. So, I'm
20 not sure what's going on as far as that's concerned, but it
21 troubles me that that's a potential problem.

22 MS. ALGIOS: So, Mr. Dremlock, your three minutes is
23 up, so if you could wrap up your thoughts.

24 MR. DREMLOCK: Yes. Wrap it up. Okay. So, I just
25 mention these things to give the Board a sense as to what's
26 going on. I think the neighborhood, you know, could stand to

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be improved, but I don't know whether or not what's going on with this particular situation is the direction that we want to go. Thank you.

CHAIRMAN MAMMINA: Thank you.

MEMBER DONATELLI: Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

MR. BRADY: Hi. Good afternoon. My name is Robert Brady, and I live at 23 Fairview Avenue, and I'm directly across the street from the property in question. I will be a lot shorter than three minutes. So, hopefully, I won't get dinged.

But the -- my concern is, one, as Bob had previously mentioned, is the condition of the property. It's gone many years -- I've lived there almost 20 years without any repair. If they are gonna do any extensions or any work to the property, I would hope that they would work to bring everything up to the code and then the other is, I don't know who is living there. I understand the property was bought in an LLC, but I do not -- I only see work vans in the back driveway, but I don't know who is actually living at the property. I don't know if it's a rental, or a flip, or any other type of circumstance. That would be my concern and that's pretty much it.

CHAIRMAN MAMMINA: And if it is a rental, it will require a rental registration certificate in order to use it in

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that matter.

MR. BRADY: Thank you.

CHAIRMAN MAMMINA: Thank you.

Okay. Then, Mr. Barrera, what we will do -- why don't you come back up. So, what we're going to do is we're going to continue this case so that you'll have the opportunity to come back with your architect or if you opt to hire an attorney and we'll -- yeah. If, you know, if -- if you can just have your architect address the five factors that are required here and submit any other documents along with that, that he would like to and, you know, in order to clarify our understanding exactly what is -- you know, what is there, you know, and I think, as I said to the previous applicant, if he or she has any questions, they can reach out to the zoning office and everyone there is extremely helpful and will share with them the direction of what the Board is looking for.

MR. BARRERA: Okay.

CHAIRMAN MAMMINA: Okay.

MR. BARRERA: Yeah. That's why I'm here, you know? I want to renovate the house. I want to do it the right way, you know?

CHAIRMAN MAMMINA: Sure. We understand.

MEMBER HERNANDEZ: Thank you.

CHAIRMAN MAMMINA: Thank you.

VICE CHAIRMAN FRANCIS: Thank you for coming out.

1 APPEAL #21212

2 CHAIRMAN MAMMINA: Thank you and thank you, gentlemen,
3 for coming out.

4 MEMBER DONATELLI: Thanks to the neighbors, as well.

5 SECRETARY WAGNER: So, you should send that information
6 to the Zoning Board office.

7 CHAIRMAN MAMMINA: Our next meeting is on the 22nd.
8 That doesn't mean that you have to resubmit by the 22nd, but
9 I'm sure that you want to get a decision on this, one way or
10 another, as soon as you can. So, if it gets here before the
11 22nd, we'll be able to consider it then at our next meeting.
12 Okay?

13 MR. BARRERA: Okay.

14 CHAIRMAN MAMMINA: Thank you.

15 VICE CHAIRMAN FRANCIS: Thank you, sir.

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1 APPEAL #21236

2 SECRETARY WAGNER: Next appeal, Appeal Number 21236,
3 Jenny Cheung, 124 Hillturn Avenue, Roslyn Heights; Section 7,
4 Block M7, Lot 36 in the Residence B Zoning District. Variances
5 from 70-40.A and 70-208.f, to legalize the front facade of a
6 nonconforming dwelling that is too close to the street.

7 CHAIRMAN MAMMINA: You heard Appeal Number 21236, Jenny
8 Cheung. Is there anyone in the room interested in the
9 application, other than the applicant?

10 Please give your name and address.

11 MS. CHEUNG: Okay. My name is Jenny Cheung, 124
12 Hillturn Avenue, Roslyn Heights, New York 11577.

13 CHAIRMAN MAMMINA: Good afternoon. And if your
14 husband's --

15 MR. CHEUNG: My name is Michael Cheung, C-H-E-U-N-G.
16 124 Hillturn Lane, Roslyn Heights, New York. And please bear
17 with me since I have my new, whatever they call it. It affects
18 my speech.

19 CHAIRMAN MAMMINA: That's quite all right. That's
20 quite all right.

21 VICE CHAIRMAN FRANCIS: That's fine.

22 CHAIRMAN MAMMINA: Take your time. Okay. So, whomever
23 would like to --

24 MR. CHUENG: Okay. Now, about 24 years ago we purchase
25 and move into this house. And then about seven years ago, the
26 siding, the cedar siding was crumbling. So, I tore it down and

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2 replaced it with the brick veneer. We didn't know that the
3 house had an infringement of the -- of the violation of the
4 code.

5 Then several months ago, we were told to move that
6 brick veneer in order to conform to the code, because I was
7 several feet too much out at the corner there. My appeal is to
8 let me -- allow me to keep the brick veneer, even though it
9 added about 2 inches of space closer to the street.

10 MS. CHUENG: What we're trying to say is, the extension
11 was there before. The extension family room, when we moved in,
12 the extension was there originally. We didn't change extension
13 at all. We just add a little bit of brick over there on top of
14 it.

15 CHAIRMAN MAMMINA: I understand that, I think, and,
16 Ms. Wagner, if I may ask you, only because this confused me
17 just a little bit, 26 feet had been approved?

18 SECRETARY WAGNER: There was a variance for the
19 extension, so I think that gave them something.

20 CHAIRMAN MAMMINA: That's what I'm confused about,
21 because it said building examiner maintained the original
22 disapproval, and I wasn't sure if the original disapproval was
23 for 26 feet and the house is now 24 feet. So, that wasn't just
24 the -- because when I first looked at it, I said it's just the
25 brick veneer or was it 2 feet plus the brick veneer?

26 MEMBER HERNANDEZ: So, it was approved at 26 and they

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built it at 24 or is it the other way around?

MEMBER DONATELLI: So, may I ask a question: When you changed the brick veneer, did you make your house any larger or smaller?

MR. CHEUNG: No. Just the outside brick veneer to replace the wood.

MEMBER DONATELLI: You just replaced one brick veneer with another brick veneer?

MS. CHEUNG: That's right.

MEMBER HERNANDEZ: It was something else, right? It wasn't veneer; you had wood?

MR. CHEUNG: It was cedar siding.

MS. CHEUNG: We took it off; right.

MEMBER HERNANDEZ: So, you have to count it to the outside of the brick. But we're having a problem, because it's a 2-foot difference in our paperwork. The paperwork in one place says that it was supposed to be 26 feet away and the house is actually at 24. So, we don't know if -- if you're having a 2-foot problem or a 4-inch problem. Right?

MEMBER DONATELLI: That's correct.

CHAIRMAN MAMMINA: Right. That's what I'm confused with.

MEMBER HERNANDEZ: I wouldn't have a problem with a 4-inch problem. When was the -- do you know when the original veneer was put on?

1 APPEAL #21236

2 MR. CHEUNG: Must have been 30, 40 years ago.

3 MS. CHEUNG: No. No. You're talking about the
4 paneling?

5 MEMBER HERNANDEZ: When was that front put on, the
6 brick?

7 MS. CHEUNG: You mean the veneer?

8 MR. CHEUNG: The original front was built that way.
9 That's the way it come with the house.

10 MS. CHEUNG: We bought the house in 1998; the extension
11 was there already.

12 MEMBER HERNANDEZ: '98 it was there. Okay.

13 MS. CHEUNG: Yeah.

14 MEMBER HERNANDEZ: You bought it in '98 you said,
15 right?

16 MS. CHEUNG: We bought it in 1998; yes.

17 MEMBER HERNANDEZ: So, somewhere in '67 and '98, either
18 it grew 2 feet or it was built 2 feet more and it wasn't picked
19 up.

20 CHAIRMAN MAMMINA: It got watered a lot. I think we
21 may have to see if that record exists or consider it on the
22 merits, which is what I think the plan examiner, you know, was
23 saying that we -- I'm reading this to say that we have to
24 consider it, at least today, on the merits, you know, of -- of
25 having --

26 MEMBER HERNANDEZ: Right. We can't approve the 4-inch.

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We need to approve the whole thing.

CHAIRMAN MAMMINA: Right. The whole thing.

MEMBER DONATELLI: Right sua sponte.

MEMBER GOODSSELL: This is, in effect, not quite a corner property, but it really is a corner property. It really is a corner property, and I think your setback comes -- it is a squared-off property. I was trying to figure out where the 2 feet came from, but it's not -- there's nothing here that shows a 2-foot mistake.

So, all I can think of is maybe there was a typographical error or I don't know, because I just -- I don't see a Certificate of Completion from this in my papers, but the permission to build, people in those days did not necessarily follow up for a final inspection and certificate. They got the permission; they built it.

So, having built it, your prior owners never called the Building Department and so, yes, it's not that many years ago --

CHAIRMAN MAMMINA: It's not that long ago.

MEMBER HERNANDEZ: Yeah. You have a Zoning Board; the Zoning Board approves it.

MEMBER DONATELLI: As one Board member, I'm very sympathetic to your situation because it's really, as far as you're concerned, just about the brick.

MS. CHEUNG: Just the brick.

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MEMBER DONATELLI: We have a problem with -- or a question as to the 2 feet and frankly, as one Board member, I would like to try to find an answer to that 2 feet, because while I understand that in your mind it's just the brick, in our mind, 2 feet is a very substantial difference from what was approved by the prior Board and by what is in front of us now.

And so, I guess my question for staff would be, is there any documentation that we have in the prior grant of the prior application that we can review, that might shed some light on this question?

CHAIRMAN MAMMINA: I would say that there is a probability that there is, only because the plan examiner pointed to it, you know, and usually they are pretty diligent on the going back to records even though it might just have been the written word.

MEMBER HERNANDEZ: The good thing is that because of the shape of the lot, which is basically a circular street going in front of it, that 24-foot frontage is only the corner of the property. So, it makes it a little more palatable.

MEMBER DONATELLI: Presumably, if you all didn't build the first structure, then nothing really has changed --

MEMBER HERNANDEZ: Nothing has changed.

MEMBER DONATELLI: So, again, we are not talking about anything worse than what's been there for the last 20 years.

MEMBER HERNANDEZ: At least 30 years.

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2 MEMBER DONATELLI: But I would need to reconcile, in my
3 mind, the question of the 2 feet.

4 MEMBER HERNANDEZ: Agree.

5 SECRETARY WAGNER: Do you want to continue it?

6 CHAIRMAN MAMMINA: Yeah. I think that's the best thing
7 for the applicant.

8 MEMBER GOODSSELL: You didn't do anything wrong. We are
9 looking at everything.

10 MEMBER HERNANDEZ: We will look into it.

11 MS. CHEUNG: We just got the house like that.

12 CHAIRMAN MAMMINA: Understood. Understood.

13 VICE CHAIRMAN FRANCIS: We will do our best to resolve
14 this for you.

15 MEMBER GOODSSELL: Continued means we are going to look
16 at more information.

17 MS. CHEUNG: Yes. I think all houses in area, the
18 circle houses, all like this.

19 MEMBER HERNANDEZ: Yes. They all have that corner that
20 extends.

21 MEMBER DONATELLI: Yeah. It's part of what adds charm
22 to a neighborhood, the curved streets, but it also creates some
23 headaches for us.

24 Yeah. So, I'm going to read -- walk you through the
25 five factors that we are required to consider and if you can,
26 just try and answer my questions as best as you can.

1 APPEAL #21236

2 Do you believe that the brick siding that we're talking
3 about, do you believe that that will reduce an undesirable
4 change in the neighborhood?

5 MS. CHEUNG: I don't think so.

6 MR. CHEUNG: No.

7 CHAIRMAN MAMMINA: Okay. Or will it be a detriment to
8 your nearby properties?

9 MR. CHEUNG: No. Not at all.

10 MEMBER DONATELLI: Do you believe that the variance
11 that you're requesting, is there some other way to achieve the
12 brick veneer, except by getting a variance through us?

13 MR. CHEUNG: That's the only way.

14 MEMBER DONATELLI: Good. Good answer. Is it
15 substantial? Is it -- the variance, that you're requesting?

16 MR. CHEUNG: Minor, I suppose.

17 MEMBER DONATELLI: I'm sorry?

18 MR. CHEUNG: Very minor.

19 MEMBER DONATELLI: Does the variance has an adverse
20 impact on the environment or on the houses near you?

21 MR. CHEUNG: No.

22 MS. CHEUNG: No.

23 CHAIRMAN MAMMINA: And did you create this problem? Is
24 it self-created?

25 MR. CHEUNG: No, I did not. I bought it with this
26 problem.

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2 MEMBER DONATELLI: Okay. All right. So, we've gone
3 through the five factors and you've answered them very well,
4 actually.

5 MR. CHEUNG: Thank you.

6 MEMBER DONATELLI: All right. So, we'll continue this.

7 CHAIRMAN MAMMINA: Yes. This will be continued. We
8 can do some research in the Building Department, you know, and
9 hopefully rectify this; and if we can't, then we'll look at it
10 as a variance, including the existing siding. Okay?

11 MR. CHEUNG: Okay.

12 MEMBER HERNANDEZ: Thank you.

13 CHAIRMAN MAMMINA: Thank you both.

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1 APPEAL #21237

2 CHAIRMAN MAMMINA: Okay. So, we'll call the next case
3 then.

4 SECRETARY WAGNER: Next appeal, Appeal Number 21237,
5 Faiza Zafar, 47 Winthrop Street, New Hyde Park; Section 8,
6 Block 327, Lot 20 in the Residence-C Zoning District.
7 Variances from 70-49(B), 70-50(A), and 70-101(H), to construct
8 additions that will make the house too big, and are located too
9 close to the street (both primary and secondary front yards);
10 and to place two A/C units in the front yard too close to the
11 street (secondary front yard).

12 CHAIRMAN MAMMINA: You've heard Appeal Number 21237,
13 Faiza Zafar. Is there anyone in the room interested in the
14 application, other than the applicant? Seeing no one.

15 Please give your name and address.

16 MR. STOUT: Good afternoon, Mr. Chairman, Members of
17 the Board. My name is James J. Stout. I live at 2 Greg Lane,
18 East Northport, New York 11731. I'm here representing Ms.
19 Zafar who is also in the audience with us, if anyone has a
20 question for her regarding this case.

21 We are here proposing a second-story addition on her
22 existing house. The house right now is an existing cape with a
23 brick veneer, typical of the houses in this area. Our existing
24 site is a little bit undersized. The square footage of our
25 existing sight is 4,780 square feet, just under the 5,000 that
26 would normally be required in this zone.

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Also, we are working with a piece of property that is an irregular shape. It is a corner lot and it tapers from the corner into a section as it travels west. So, that brings us to our first variance request, which is our front yard setback and our second front yard setback on the secondary street. We are looking at a front yard setback that is required of 25 feet on the -- on the main street. We are looking to reduce that to 19.9, which is a reduction of 5.1 feet.

On the secondary street, which is required to have a 20-foot setback, we have a setback of 8.6 feet, a reduction of 11.4. Since it is tapered on an angle -- that is our worse-case scenario -- that happens at the very back corner of the house.

Both of these setbacks are existing to the house. We are just looking to build directly over them. This house, like I said, was a cape to start with. It did have a front dormer at one point. So, about three-quarters of this second floor was already there with these existing setbacks.

Our other issue is that we are over our FAR. We are looking for an additional 37 square feet above what we are allowed, which would bring us to 2,427 square feet, which is going to be just over the 50 percent; about 51 percent. The one point I would like to make about that is if we had a 5,000-square-foot lot with that same footprint and our square footage, we would be about 48.5 percent. So, we're at a

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deficit, also, due to the size of the property.

CHAIRMAN MAMMINA: Yes. Mr. Stout, talk about -- a little bit about the shape of the lot.

MR. STOUT: Yes. We have an irregular-shaped lot. We're dealing with a piece of property that, again, is under the 5,000 square foot that we would normally see for the Residence-C Zone. The back of the property tapers all the way down to 49.3 foot in width and that is what, unfortunately, gets us to that 8.6 number. And like I stated before, that is existing with this house since it was originally built.

And the -- the other issue that we have today before you, as far as the variance is concerned, would be the location of two proposed condensing units for the A/C. That would be in that secondary -- what we're calling a secondary front yard. And the reason for their placement is, on the north side of our structure we have the 5-foot setback, which is too tight. We don't want to put them there, too close to the neighbor. The rear yard, we have steps coming out of the back from their sliding glass door into the backyard so they can have access to the rear. We have a basement window and a vent along the back wall.

Now, it would look like a great place to put this would be behind the existing garage. Now, the existing garage has a feature where it has a garage door on the front and also a garage door on the back, and my client does want to retain that

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feature of the garage, which if we put the A/C units there would render that useless.

So, that is why we are seeking to have that location in the front yard. We are certainly -- my client is willing to put some screening, some planting in front of those to mitigate the view from the street. And that is our case.

VICE CHAIRMAN FRANCIS: Is there a walkway directly in front of those A/C units?

MR. STOUT: Yes. So, any planting would be on the other side of the walkway.

So, if you would like, I could address the five points?

VICE CHAIRMAN FRANCIS: Please do.

MR. STOUT: We do believe that what's demonstrated here, with our drawings of the facade, that this will be in character of in keeping with the neighborhood. There are several houses on the block that have done very similar types of extensions. So, we believe that that is within keeping with the neighborhood.

My applicant wants to increase their usable living space. There is no other real feasible way of doing this, without setting back the second floor, which would not allow us to have the quality of spaces inside. It would also be a more expensive build. We are not building over the bearing walls of the exterior.

Also, we do not feel that it is that large of a

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request. I know the 8.6 is a large number but, like I've said, that is existing to this dwelling since it was first built and allowed to be built that way.

And as far as it being self-created, again, it is existing with this house due to the shape of the property and how it was originally allowed to be built. The only thing that would be created -- self-created would be the placement of the A/C condensing units.

MEMBER GOODSSELL: Mr. Stout, you mentioned that there is already a second-story addition that's approximately three-quarters there?

MR. STOUT: Approximately, yes.

MEMBER GOODSSELL: Can you point out for me, on the diagram that you have next to you, what portion is currently existing and what portion might be new?

MR. STOUT: Sure. Across the front, this portion, there is a front dormer on the house now. So, this is substantially there. This point, which is not in question which is happening way far back over the garage, that's going to be new.

MEMBER GOODSSELL: Okay. So, the garage is currently there. The attached garage, it's the portion above that would be new. Okay.

MR. STOUT: Correct. We are extending the ceiling height in this area here. There is a front wall of the second

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floor in this area. So, this area will still be -- will have that second floor. The best place to see would be along the sides, which would be this side elevation. A typical cape has the roof that comes up, comes back down and it would have a front dormer.

MEMBER GOODSSELL: And is that a cantilever or an overhang that I see? Is that currently existing or proposed?

MR. STOUT: Yes. That is proposed. That is the area probably from about this window back. This is the area that would be new construction of the second floor.

MEMBER GOODSSELL: Okay.

MEMBER HERNANDEZ: We were just looking at the back of the house. I guess you're squaring out the deck in the back of the house?

MR. STOUT: Yes. Yes.

MEMBER GOODSSELL: Again, it's a relatively small amount, 37 feet over.

And my question to my fellow Board member was, wasn't there a way to design that back so that it would be 37 square feet less? It doesn't seem that big in overage, but it does -- it is a cantilever in addition.

MR. STOUT: Right. And the reason for that was, we were trying to achieve a certain size for the -- try to squeeze four bedrooms out of this and to have them be a certain size. So, we toyed with it at a smaller size. The rooms were not to

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my clients' liking, so we decided to try to see if we could ask for that variance to have some bedrooms. It's really the two bedrooms that are across the back of the house that we are giving that extra square footage to.

MEMBER GOODSSELL: I'm familiar with that. I live in a house where we did cantilever and it does give extra space. I'm familiar with that. Usually, when we see new construction, one of the questions we ask is, was there a way to do this and conform with the square footage that your lot allows? And I realize that 37 square feet doesn't seem like a lot, but that was my question: Was there a way to do this without asking for 37 square feet? We can separately consider all of the other requests for a variance. So, it was really a personal preference then?

MR. STOUT: Did you want to speak?

MS. ZAFAR: Hi. I'm Faiza Zafar, 47 Winthrop Street.

So, during COVID, my husband and I both work at home. So, the idea is we are kind of in the kitchen, in the living room with the kids, and it's been insane. So, that was one of the reasons of -- we realized we actually need an office, like, two real offices to be able to work from home and to actually continue to be, you know, productive.

How's that? Sorry.

So, it is, you know, as we are all spending time at home, fortunately or unfortunately, during this time.

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2 MEMBER GOODSSELL: Can you give me the basic percentage
3 of what the 37 square feet is, how much over the allowable
4 square feet it is?

5 MR. STOUT: I believe it's less than one percent. It
6 comes very close to one percent.

7 MEMBER GOODSSELL: And in your opinion, is that a
8 substantial variance?

9 MR. STOUT: In my opinion, no, it is not.

10 And I'd also like to make a point that if we were not
11 on a substandard lot, that would not even be an issue.

12 MEMBER GOODSSELL: Mr. Chairman, I have no problem
13 granting the variance as requested, because all of these, we
14 seem to have very reasonable answers for based upon the size of
15 the lot, the shape of the lot, the location of the improvements
16 and the fact that I don't think they changed, as you said, the
17 character of the neighborhood. So, if you would like to
18 consider a motion that we grant the application as present, I
19 will make such a motion.

20 CHAIRMAN MAMMINA: Okay. Then we have a motion. Do we
21 have a second?

22 MEMBER DONATELLI: Second.

23 CHAIRMAN MAMMINA: Seconded by Member Donatelli.
24 Please poll the Board.

25 SECRETARY WAGNER: Member Hernandez?

26 MEMBER HERNANDEZ: Aye.

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SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye. And I just want to throw in, I mean, the motion was more than adequate, but, you know, we can see a lot of floor area ratio applications. I mean, this site is so unique even from the fact that it's only 89 feet deep and 49 feet at the back and a skewing angle and, you know, it's just got all kinds of juggling balls, you know, in the air. So, I mean, this certainly is unique. So congratulations.

MS. ZAFAR: Thank you very much. Thank you very much.

MR. STOUT: Thank you very much.

APPEAL #21240

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2 SECRETARY WAGNER: Next appeal, Appeal Number 21240,
3 David Geary, 8 Park Avenue, Garden City Park; Section 33, Block
4 133, Lot 1 in the Residential-C Zoning District. Variances
5 from 70-50.C, 70-51.B, 70-100.2(H), 70-100.2(4)(a)[5], and
6 70-100.2.A(2), to legalize fencing that is too tall along the
7 side property line, to legalize fencing located in a secondary
8 front yard (not permitted), to construct additions that are too
9 close to the side property line and the street, to construct a
10 porch that is too close to the street, and to locate two A/C
11 units that are too close to the side property line.

12 CHAIRMAN MAMMINA: You heard Appeal Number 21240, David
13 Geary. Is there anyone in the room interested in the
14 application, other than the applicant? Seeing no one.

15 And off the record.

16 (A discussion was held off the record.)

17 MR. PYZINSKY: This afternoon the Gearys are here
18 today. They'd like to add a second floor over their existing
19 house. In some areas it's nonconforming. With regard to the
20 front yard setback, we are going straight up from the framing
21 on a portion of the front on Park Avenue, north side. We're
22 also setting back the majority of it on the other side to
23 increase that front yard setback.

24 With regard to the side yard setback, the existing
25 house is 4.8 feet off the property line. Again, we are going
26 straight up from there. Because it's under 5 feet, we'll have

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2 to fire rate that wall and we're gonna take care of that, also.
3 We've also designed it with a hip roof to lessen the impact on
4 the neighbor to the east.

5 With regard to the porch, we are going out 5 feet for a
6 majority of the porch. The only part that goes out 6 feet
7 would be the portico entry area just to create that little
8 design feature of the reverse gable.

9 And with regard to the 3 foot to the air-conditioning
10 compressors, we are going to be at 2.6 feet off the property
11 line. That is adjacent to the neighbor's house, but that is
12 also their driveway side, so there will be a minimal impact and
13 also depending on which unit we go with, if we go with a
14 vertical unit at a regular price, we would be at the 3 foot
15 that's required.

16 Regarding the fencing, the fencing that's a 6-foot
17 section on the side yard, again, that's existing. It's a vinyl
18 fence. It's also adjacent to the neighbor's driveway and has a
19 minimal impact from the street visually and the 4-foot picket
20 fence, you know, I don't know what's more Americana. The
21 picket fence just can't be in the front yard, but it is also
22 open. Doesn't create any type of visual problems and the
23 Gearys have installed both previously. We are also going to
24 submit three consent forms from adjacent properties.

25 SECRETARY WAGNER: That will be Exhibit 1.

26 MR. PYZINSKY: Five points-wise, there is no

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undesirable change in the neighborhood, the benefit can be achieved by setting back the extensions but that would be a significant cost and loss of floor area. It's not substantial except for regards to the fence in the front yard, the picket fence, and there are no adverse effects on the neighbors. There are many homes built up like this on corner properties, and it's self-created with regard to a second floor, but we are going straight up from what's there.

MEMBER DONATELLI: My question is, would your overall plan for the front porch, would it be possible -- I see that you have it at a 5-foot wide front porch for the majority of the front of the house. Then it extends to 6 feet in the area that is directly in line with the pillars and then you show on the interior, the existing stairs up. So, would it be possible to cutback that front porch to a 4-foot width and then a 5-foot width where it meets the steps?

MR. PYZINSKY: The only problem with that is, by the time you build a 4-foot porch and then you add a railing, which is centered on the column, you're left with about 3 foot 3 of a porch -- of an area, which basically you get -- if somebody is sitting on a chair, you're going to landlocked. You won't be able to get by them.

So, that's why I think most of the Building Department allows a 5-foot encroachment. If anything, I can pull back the 6-foot part to maybe 5.6 to lessen the impact, but that was

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just a design feature to create that reverse gable that you see there.

MEMBER DONATELLI: Yeah. I, as one Board member, and I think I've gone on the record in the past saying that I think porches are a very nice amenity. They tend to make good neighborhoods and good neighbors, but, of course, we are concerned always with front yard setback, and it just seems to me that -- well, while we're not an architectural Board, I don't -- you know, we certainly acknowledge that there are some things that are added to a project that actually make it attractive, I wouldn't want to make it uglier. At the same time, I'm not entirely sure it would be uglier if we were to cutback that 6-foot section.

MEMBER HERNANDEZ: Dan, I tend to agree with you on these things, as well, because I know exactly what you mean about encroaching more and more. In this particular case, though, the only reason why I don't feel so offended by it is because it's open completely on all sides, except for the house wall.

We have seen many people that want to come up and do a portico with two closets next to it and those two closets, by necessity, closed features and that, I think, adds a lot of bulk.

In this case, it's just as wide as having those two closets except that because they are open, they may not feel as

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much as an encroachment to the front of the house, only from that perspective.

MEMBER GOODSSELL: I think part of the reason you don't see more front porches is because of the setback, because many of these houses were built without porches. A portico, which is simply a convenience so you can come out of the rain, is not a porch and there are fewer houses in these areas that have the setback. We are trying to keep the setback to a certain -- a certain minimum distance, which is the reason for the setback rule and the reason why you can bring a portico forward.

And so, the problem I'm having is that this house may or may not be appropriate for a front porch, although a portico is certainly permissible.

MEMBER HERNANDEZ: On the rear elevation, you're showing removing of an existing porch, but I guess, then, you're adding a covered porch. Is that -- I mean, is that what you have in the back of the house?

MR. PYZINSKY: Well, a porch, by definition, has a roof. So, there is a porch back there now which we are removing. It's a few steps down from the first floor, which is very awkward, so we are rebuilding a new one over it and we set it in to give you 5.1 feet to avoid the side yard variance. You know, the adjacent houses are only 23.9 feet as a setback, so I wasn't -- didn't really feel that this would be an encroachment that would take away from the neighborhood.

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2 MEMBER DONATELLI: I'm sorry. Did you address the five
3 factors in your presentation?

4 MR. PYZINSKY: Yes.

5 CHAIRMAN MAMMINA: You did. Did we catch them?

6 MEMBER GOODSSELL: We were kind of considering
7 everything all at the same time. If you would be so kind as to
8 repeat.

9 MR. PYZINSKY: Sorry. Sure. One thing I just wanted
10 to point out also is that house -- two houses to the east on
11 this side of the street have a 23.8 or 23.7 setback. So, I
12 would agree that if those houses added a porch at the permitted
13 5 feet based upon a front yard setback, they would be
14 significantly closer than we would be.

15 But regarding the five points, I don't believe they are
16 any undesirable change in the neighborhood. I've worked on
17 probably 40 houses in the immediate area and many are similar
18 in this area, going straight up with front porches. The
19 benefit can be sought by setting everything in significantly,
20 but that would really make them useless with the exception of
21 the second floor. The rooms are a modest size. We only have
22 the three bedrooms, washer and dryer, and two bathrooms. But
23 if we had set it on the side, there would be significant
24 structural changes involved and we really wouldn't gain
25 anything on that.

26 With regard to the construction of the additions and

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2 the porches, I don't believe they're substantial. With regard
3 to the picket fence, I would have a different opinion on that,
4 too. It's not something that's normally seen. If it was a 3
5 foot, it wouldn't be an issue but it's 4, it's white, it's open
6 picket, it's really charming. If it was a 4-foot chain link
7 fence, we might have a different opinion on that.

8 While it is self-created, we are going basically
9 straight up from what's there, and we are limiting the majority
10 of the porch to what is permitted right there.

11 Mr. Geary would like to make a few comments about that
12 porch in question.

13 MR. GEARY: Hi. David Geary, 8 Park Avenue, Garden
14 City Park 11040.

15 Regarding the front porch, I do feel that there is a
16 lot of space being a corner property, that it doesn't -- it
17 really does mitigate any kind of encroachment to our neighbors.
18 I agree with the Board Member Hernandez that says the lines of
19 sight do feel very open.

20 We also, additionally, did get consent from our
21 neighbor which is directly across the street, which would most
22 impact him and he agreed and consented regarding the form that
23 was submitted.

24 MEMBER GOODSSELL: Well, I can tell you one of the
25 hesitations I have is the front yard fencing, which we
26 generally do not allow, and I'm sure that you heard earlier

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today that we did have a front yard fence case and we were not enthused by the application. The front yard fencing, just as a policy, is generally not permitted, and I don't see the necessity of the front yard fence.

The other problem I'm having is, I understand there is a 6-foot fence along the side property line, but I'm sure that you are familiar with the fence rule in North Hempstead: Four foot in the front, five foot on the side, six foot in the back and this fence is too tall on the side property line. We permit you, as of right, a 5 foot. We don't permit as of right a 6-foot fence.

With respect to the other improvements, the variances are rather minimal and I do not really have an objection to them. I don't know how the other Board members feel.

MR. PYZINSKY: I'm sorry. With the fence law, 4 foot is permitted in the front?

VICE CHAIRMAN FRANCIS: Not at the front property line. At the front -- the building line.

MEMBER GOODSSELL: Not at the front line, the building line.

MR. PYZINSKY: Understood. Thank you.

MEMBER GOODSSELL: Yes. You can have a 4-foot fence in the Village of New Hyde Park, but not in the Town of North Hempstead. We have to remember where we are.

MR. PYZINSKY: I wake up knowing.

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2 MEMBER GOODSSELL: Well, Mr. Chairman, then, if there
3 are no other comments from the Board, I would make a motion
4 that we partially grant and partially deny the application and
5 I'll go through them one by one. I would vote that we deny the
6 application to maintain the front yard fence and we would deny
7 the application to maintain the 6-foot fence along the side
8 property line. Although, I would note that the homeowner may
9 have a 5-foot fence along the side property line as of right.

10 With respect to the other requests, I do not find a
11 24.4-foot setback to be that different from a 25.7-foot setback
12 for the primary front property line. So, I propose that we
13 grant the application for the second-story addition and grant
14 the variance for the property line on Park Avenue.

15 I do not -- I appreciate that the front porch is, in my
16 mind, bordering on substantial, but I vote that we grant the
17 application with respect to the construction of the front porch
18 and that's my motion.

19 Oh, and with respect to the air-conditioning units, I
20 also vote that we approve that variance because I find that it
21 is supposed to be a minimum of 3-feet setback, but I do not
22 believe the applicant can actually get a 3-foot setback and I
23 don't find 2.6 feet to be that substantial of a variance.

24 CHAIRMAN MAMMINA: Okay. So, we have a motion, a
25 complex one, but a motion. Do we have a second?

26 MEMBER DONATELLI: Second.

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CHAIRMAN MAMMINA: Second 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?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye. So, the application was
granted. Off the record.

(A recess was taken.)

1 APPEAL #21241

2 SECRETARY WAGNER: Next appeal, Appeal Number 21241,
3 Northwell Health Signs; 300 Community Drive, Manhasset.
4 Section 3, Block E, Lot 1108, zoned in the Hospital District.
5 Variance from 70-196.D, to erect more than one hospital
6 identification sign on a lot with the sign being larger than
7 permitted.

8 CHAIRMAN MAMMINA: You heard Appeal Number 21241,
9 Northwell Hospital Signs. Is there anyone in the room
10 interested in the application, other than the applicant?
11 Seeing no one.

12 Please give your name and address.

13 MS. JIMENEZ: Good afternoon. My name is Lyida
14 Jimenez, 71 Hanrahan Avenue, Farmingville, New York 11738.

15 CHAIRMAN MAMMINA: I think we've seen you on Zoom a few
16 times. Is that correct?

17 MS. JIMENEZ: You have.

18 CHAIRMAN MAMMINA: I remember.

19 MS. JIMENEZ: Good afternoon, Chairman and Members of
20 the Board. Today we are requesting a hospital identification
21 sign for Northshore University Hospital/Northwell Health at 300
22 Community Drive. The sign is an LED illuminated sign at 158
23 square feet in area with the dimensions of 3 feet by 53 feet
24 erected onto the new Monty building entrance canopy. We are
25 requesting this size today due to the size of the canopy
26 structure. The canopy structure is at a length of 61 feet. A

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sign, as per Zoning Resolution 70-196.D, allows 16 square feet in area and would not be legible on that canopy.

Due to the nature of the occupancy, identification is important. Northwell Health's branding is consistent throughout their facilities and locations. It was created as an entity to help the surrounding community. The five principal points on which this application is based is whether or not a desirable change will be produced in the character of the neighborhood or a detriment to nearby properties. The sign on the canopy is within the campus and will not be seen from the main road, or any other residences, or businesses. Whether the benefits sought by the applicant can be achieved by some method feasible to the applicant to pursue, other than area variance, the benefits sought by the applicant cannot be achieved due to the canopy properties.

Whether the requested area variance is substantial, the requested area variance is not substantial due to the size of the property and the area signage will be located where the area signage will be located.

Whether the proposed variance will have an adverse affect or impact on the physical and environmental conditions in the neighborhood or district, the proposed variance will not create an adverse affect or impact on the physical or environmental conditions in this neighborhood and district.

Whether the alleged difficulty was self-created, the

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difficulty was not self-created due to the size of the canopy.

Thank you for your consideration.

VICE CHAIRMAN FRANCIS: This is replacing an existing sign on the canopy, is it not?

MS. JIMENEZ: Yes.

VICE CHAIRMAN FRANCIS: Similar in size?

MS. JIMENEZ: Yes.

MEMBER HERNANDEZ: Do we have any elevations of the canopy? They're not in the file.

MEMBER DONATELLI: Do you have the photograph?

MEMBER HERNANDEZ: I have 18 pages, but I don't see it. This is on the building that's just being erected?

MS. JIMENEZ: This is on the Monty building.

MEMBER HERNANDEZ: On the Monty building. Okay. So, this is inside the property?

MS. JIMENEZ: Yes.

MEMBER HERNANDEZ: That circular garage?

MS. JIMENEZ: Yes.

VICE PRESIDENT FRANCIS: Across from the parking garage?

MS. JIMENEZ: Yes.

MEMBER HERNANDEZ: I have no problem with the sign. You only see it if you're in there. So, you really don't need a sign that large, but if that's what you want to put up --

MEMBER DONATELLI: This is not visible from the street,

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so I have no objection to this.

MEMBER HERNANDEZ: Anyone? No?

Okay. Mr. Chairman, this -- this sign, although it is large, it is completely within the campus, will only be seen if you are physically inside the campus. It is surrounded by other buildings. It's like a giant U shape where the sign is and can't be seen anywhere else outside of the campus. Given all of those reasons, I move that we grant the application.

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

VICE CHAIRMAN FRANCIS: Second.

CHAIRMAN MAMMINA: Seconded by Mr. Francis.

Please poll the Board.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye. Application is granted. Nice to see you in person.

MS. JIMENEZ: Thank you.

1 APPEAL #21224

2 SECRETARY WAGNER: Next appeal, Appeal Number 21224,
3 Tony Parmar; 8 Carey Place in Port Washington; Section 4, Block
4 36, Lot 175 in the Business-A Zoning District. Conditional use
5 of 70-126.D and variances from 70-103.A, 70-103.F, 70-103.M,
6 70-103.O, 70-125, and 70-134, to construct a new warehouse (not
7 a permitted use) to store automobiles (a conditional use) that
8 is too close to the rear property line on a vacant lot with not
9 enough parking and loading zones, parking within a front yard
10 and a drive aisle that is too narrow.

11 CHAIRMAN MAMMINA: You heard Appeal Number 21224, Tony
12 Parmar. Is there anyone in the room interested in the
13 application, other than the applicant? Seeing no one.

14 Please give your name and address.

15 MR. PIACENTINI: Good afternoon, Mr. Chairman and
16 Members of the Board.

17 My name is Anthony J. Piacentini. I'm an attorney.
18 I'm at 79 Elwood Road in Roslyn, New York. The
19 applicant/owner is here, Mr. Tony Parmar. The architect,
20 Mr. Fiore, is here. The New York State Real Estate expert
21 is here, Mr. Walsh; and I have my traffic engineer,
22 Mr. Mulryan here. This is a little unusual, this
23 particular property. I know it's classified -- it's going
24 for a use variance. I believe that my -- the applicant
25 uploaded photographs of the area in question, so I think --
26 I hope that you have those color photographs.

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MEMBER DONATELLI: We do.

MR. PIACENTINI: I have them here. I also have them here with me and, of course, they will be made part of the record. The -- there may be a slight mis-number here. This is really not, technically speaking, a warehouse. My -- my client, Tony Parmar, and I'll have him explain to you exactly what he does -- what he intends to do at this particular location. What he does is, he creates trucks that have LED information on them for advertising purposes. I would like to have these passed around to the Board members, please, on both sides.

SECRETARY WAGNER: Are these copies of photographs that were already submitted?

MR. PIACENTINI: I don't know that. If not, we will put them into the record.

SECRETARY WAGNER: Exhibit 1 and 2. One will be photographs.

MR. PIACENTINI: They are front and back.

Now, Mr. Parmar, the owner, has four trucks. Right now, for the moment, he has three, and if he is permitted to utilize this particular property, what he intends to do is to work inside the building to put the LED panels on these trucks, hook them up appropriately. I'll have him explain that to you in detail much more proficiently than I can. But it's necessary for him to do this in an enclosed space because the

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2 weather will totally destroy these LED panels. He would be
3 working on these trucks inside the building and there would be
4 some office space and some space for necessary materials he
5 would need, because there are times when the market does not
6 have these materials ready for them.

7 So, although we are calling it a warehouse, in my
8 opinion, it really is not a warehouse. It's more in the nature
9 of a commercial building.

10 Now, what's interesting to note, I'm sure that you
11 people are very familiar with this particular area, it's very,
12 very unique. It's designated as a B-A District; however, it is
13 loaded, for the record, with auto shops, at least seven or
14 eight of them, large commercial tree operation offices or
15 storage houses. It looks to be concrete facilities, huge
16 trucks parking all over the place. So, it's not really a
17 Business-A area that, you know, the community should be worried
18 about. In fact, most honestly, I'm not an expert in this and I
19 even wonder why this particular area falls into the category of
20 B-A, everything there is definitely not a permitted use and
21 probably has been there for many, many years. I don't
22 understand, was it the intent of the -- of the people who
23 enacted this particular zoning legislation in putting this
24 particular area in there? Was it their intent to rid the Town
25 of North Hempstead and Port Washington, in general, of all
26 these useful types of operations in the community? Not one

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2 store -- there's no stores. There's not one operation, there's
3 not one building in this area that meets the requirement under
4 permitted uses. It's just not an area that is possible for any
5 of these permitted uses to be there.

6 So, we start off with the proposition that is
7 impossible for us because of this particular area, the nature
8 of this area, in my opinion, it's almost industrial/commercial
9 to have any permitted use in there. It just doesn't work and
10 Mr. Walsh will be able to present some evidence to you to the
11 effect that it's not economically feasible for any of the
12 permitted uses to be in this area.

13 This area is so unique and so different from other
14 aspects of the business area, I mean, I think you're familiar
15 with Valley Road and Carey Place, and Harbor Road. There's
16 automotive shops. As I said, nothing but automotive shops,
17 trucks all over the place. I think if you have seen the
18 photographs, you can get a very, very clear picture of that. I
19 would like to, again, put these pictures into evidence to make
20 sure that you do have them.

21 This is the -- this particular photograph depicts the
22 spot that my client has purchased and wants to put up the
23 building. I don't know if you have it. You have it. Okay.
24 I'll submit all of them again. But I would like to point out,
25 because a picture -- I mean, I hate to say things that people
26 have said over and over again and sometimes not even know what

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they're saying.

CHAIRMAN MAMMINA: Sir, for the record, please submit them.

MR. PIACENTINI: You want me to submit them first before I --

CHAIRMAN MAMMINA: Yes, because they get marked in as exhibits.

MR. PIACENTINI: Right. You want me to submit them now or after I finish presenting them?

CHAIRMAN MAMMINA: The one you just showed, you know, that's going to be Exhibit 1 -- 2.

MR. PIACENTINI: Okay. This would be Exhibit 1, please.

UNKNOWN SPEAKER: This is Exhibit 2. The others were Exhibit 1.

MR. PIACENTINI: Right. I'm sorry. I'm sorry. Exhibit 2. Exhibit 2 is a proposed rendering of what the building would look like, ultimately.

Tony, I need you up here.

I'd like to offer this one as Exhibit 3.

CHAIRMAN MAMMINA: Can you maybe give it a quick explanation so that the record matches the exhibits?

MR. PIACENTINI: Yes. Exhibit 3 is 1 Carey Place, which is on the corner of Carey, which is approximately 200 or 300 feet away from the subject property. And I think you can

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see, when you look at that picture, the way that the property is being used, that it is not a permitted use; it would not fall under the category of the permitted uses and yet it's in operation there.

This, Exhibit 4, is 10 Carey Place, which is next door to the applicant's property. Again, that adequately depicts the area and why this area would never sustain a jewelry shop, Tiffany's, Gucci, coffee shop, a school. It just would not work in this particular area.

Same with -- this is Exhibit 5. This is 3 Carey Place.

No. 6 is 6 Carey Place. Again, I mean, these pictures are self-evident as to the nature of this particular area and how any of the permitted uses would not, by any stretch of the imagination, fit into this area.

The next picture is number 10, which is right next door to the applicant's property.

UNKNOWN SPEAKER: Exhibit 8.

MR. PIACENTINI: This is, again, another picture of number 10 Carey Place. It might be easier to submit all of them.

UNKNOWN SPEAKER: Would you like to just submit them all?

MR. PIACENTINI: Yeah. And then they can pass them around amongst themselves and look at them because this is the area, the area we're talking about, what we're -- you know,

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being used to put in a permitted use which this does not fit, most respectfully. I'm not challenging the zoning.

UNKNOWN SPEAKER: All of the photos, Exhibit 2 and including these packet will all be considered Exhibit 2.

MR. PIACENTINI: Thank you very much.

If the Board would like to take maybe just a minute to look at all these photographs, I think it would adequately explain to you, and for the record, exactly what the area looks like and why we believe that if a variance is granted in this particular case, we fit in very, very well with this neighborhood and there is no -- by any stretch of the imagination, can we fit into any of the permitted uses. It just doesn't work. It's not economically feasible.

So, I think if we look at it -- if we come to that perspective and we don't analyze this as being, you know, a use variance where we're really changing something dramatically, we're really not. We're not changing the character of the neighborhood. We're not doing any harm to the neighborhood. Whether or not it was self-imposed, in all good conscience, when my applicant -- when the applicant -- my client purchased the property, by looking at all these other commercial properties, by looking at all these auto shops, by these tree cutting businesses, it left him with a clear impression in his mind that he could put his trucks in this building and work on them. So, if you want to call that self-imposed, technically

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it's self-imposed, but it doesn't mean that you should automatically just not accept his application because of that.

Now, I will have the expert, Mike Walsh, talk about the economic aspects about it.

But what's very interesting at number 10 Carey Place, in 2003, the Board of Zoning Appeals in the Town of North Hempstead granted that particular applicant a variance, number 10, right next door. And they said, don't call it a warehouse, don't call it storage.

I'll read the decision. You may have it, I don't know. It says the --

CHAIRMAN MAMMINA: We have it.

MR. PIACENTINI: You have it. Paragraph third [sic] of the decision says, "The Declarant will be permitted accessory onsite indoor storage of construction materials, the vehicles and/or equipment to the extent depicted on their site plan. Such storage shall only be in conjunction with a business actually conducted at the premises and shall not include the storage of material and vehicles and/or equipment for any business not held in conjunction with the business actually conducted at the premises."

What I submit to this Board is, that Mr. Parmar will be conducting the business of actually creating these LED signs and putting them on the trucks, repairing the signs that are on the trucks, doing other maintenance required. That is his

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business. Therefore, the way the Board granted a variance of this particular applicant in 2003, I'm requesting that it's very similar to the application that Mr. Palmar is making.

CHAIRMAN MAMMINA: Just a quick question. I was here in 2003.

MR. PIACENTINI: Yes.

CHAIRMAN MAMMINA: I was here in 2003. I remember that application. Did we grant the use variance?

MR. PIACENTINI: Do you have the decision in front of you?

CHAIRMAN MAMMINA: No. That's why I said, please read it.

MR. PIACENTINI: I think we're getting bogged down in terminology. That's what I'm saying, most respectfully.

CHAIRMAN MAMMINA: No. It's not terminology. It's just law. You have four points of law.

MR. PIACENTINI: I understand that.

CHAIRMAN MAMMINA: Please let me speak.

MR. PIACENTINI: I understand that but --

CHAIRMAN MAMMINA: There are four points of law that you must meet all four. Is the hardship self-created and that's the end of the case? It's self-created.

MR. PIACENTINI: Well, I don't agree with you, most respectfully. I mean, you do have the authority to -- to take into consideration the nature of the area --

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2 CHAIRMAN MAMMINA: No, we don't, sir.

3 MR. PIACENTINI: And the fact that it may -- what you
4 may be calling it self-imposed and --

5 CHAIRMAN MAMMINA: Sir --

6 MR. PIACENTINI: A person of reason can personally say
7 that he has the right to do that.

8 CHAIRMAN MAMMINA: Sir, excuse me.

9 MR. PIACENTINI: Yes.

10 CHAIRMAN MAMMINA: Excuse me. No. We don't have that
11 discretion.

12 MR. PIACENTINI: Well, I think you do and under the law
13 under the Town of Zoning Appeals you do.

14 CHAIRMAN MAMMINA. No. The Town Board -- the Town
15 Board has that discretion. The Town Board can rezone this
16 area. They've opted not to.

17 MR. PIACENTINI: I understand that.

18 CHAIRMAN MAMMINA: You have to meet all four. You have
19 legal recourse, if you would like to. But my personal opinion
20 is you're not going to get anywhere, you know, in a court. You
21 must meet all four.

22 MR. PIACENTINI: I have seen cases -- I don't have them
23 in front of me -- where that fourth criteria, whether or not
24 they're self-imposed --

25 CHAIRMAN MAMMINA: Self-created.

26 MR. PIACENTINI: -- self-created is not a determining

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factor for a Board. I don't believe it is.

Yes, Mr. Donatelli?

MEMBER DONATELLI: We can't really give legal advice.

MR. PIACENTINI: I understand.

MEMBER DONATELLI: What I'm hearing is a disconnect between what this Board is saying and I think what you're saying. When it comes to an area variance, which has really been the majority of the cases today, then whether or not something is self-created is one of five factors and we can consider it, but it's not necessarily determined.

MR. PIACENTINI: Correct.

MEMBER DONATELLI: However, with the use variance, as the Chairman just indicated, there are four elements that must be met and if any one of them is not met, we do not have the discretion to grant the use variance. So, there are two different standards for two different forms of --

MR. PIACENTINI: Mr. Donatelli, I know that and I acknowledge that. I'm saying because of the uniqueness of this particular area. I know you're saying that we should have a change of zoning. All I'm saying is that the B-A classification does not suit this area and it's creating a tremendous hardship on my client who purchased the property in good faith looking at all the different properties out there and coming to the conclusion, why couldn't he do it?

CHAIRMAN MAMMINA: In good faith? In whose faith?

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2 MR. PIACENTINI: In his good faith.

3 CHAIRMAN MAMMINA: In his mind.

4 MR. PIACENTINI: Well, I think if you look at all the
5 auto body shops and the commercial tree trimming shops, you
6 would come to the conclusion, why shouldn't -- why should I be
7 prohibited from doing this little thing in the building?

8 VICE CHAIRMAN FRANCIS: Well, I mean, that's really a
9 question for the Town Board. I mean, you know, we could agree
10 or disagree with that point, but we have no power to vary what
11 the Town Board has said this particular area of the town is.
12 They have designated it as Business-A and that's it.

13 MR. PIACENTINI: I understand that. I'm not asking you
14 to change the zoning. I'm just saying that you -- because of
15 what I consider to be the discretionary authority that you
16 have, since we have such a unique situation here, that it
17 warrants your Board to exercise this discretion and be lenient,
18 because it's impossible for -- to meet -- to put any of those
19 other permitted uses in there. It's just impossible.

20 Now, does that property stay vacant forever or another
21 auto body shop come in so that it gets restored to the tax
22 rules? I don't know what the answer to that is.

23 CHAIRMAN MAMMINA: If an auto body shop is a permitted
24 use, that would be up to the Building Department to determine.
25 If they determine it's a permitted use, you know, they might
26 come in for whatever variances that they want. I'm not opining

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if it is or it isn't. I don't know when any auto body uses
went in there. It may have predated the zoning.

MR. PIACENTINI: All right. So, I'm going to ask
for --

CHAIRMAN MAMMINA: We can only look at right now,
today, you know, on this date, you know, in June and what the
denial says and, you know, what the law is that follows that
denial.

MR. PIACENTINI: And I would ask the Board, then, if
they are going to deny the application, which I assume you are,
that you would be quite specific with regard to the denial if
it is going to be based purely on hardship. Is that what
you're saying? Because I have to create a record if we do want
to go to the --

CHAIRMAN MAMMINA: We don't answer questions. You make
your case.

MR. PIACENTINI: Well, I think the courts are curious
about how you render your decision. You have stated that we
have to absolutely meet all four of the tests and if we don't
even meet one of the tests, we lose automatically. I'm saying
to you that I don't think that's necessarily correct, and I'm
willing to go to the -- to do an Article 78 proceeding and have
a court review whether or not a Board of Zoning and Appeals for
a town has the authority to deviate from that point in a
situation such as this.

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MEMBER DONATELLI: May I suggest this, Mr. Chairman?

MR. PIACENTINI: Yes.

MEMBER DONATELLI: First of all, a question: When did your client purchase the property?

MR. PARMAR: Last September.

CHAIRMAN MAMMINA: Please put your name and address.

MEMBER DONATELLI: I'm sorry. If you could just put your name and address.

MR. PARMAR: Tony Parmar, 8 Carey Place, Port Washington.

MEMBER DONATELLI: And when did you purchase the property?

MR. PARMAR: Last September.

MEMBER DONATELLI: September of 2021?

MR. PARMAR: Yes.

MEMBER DONATELLI: Mr. Chairman, I might suggest this: Perhaps Counsel could adjust the four factors; and Mr. Piacentini, do you have the four factors in front of you?

MR. PIACENTINI: Yes. I do, of course. I will call Mr. Lynch to give us his reasoning as to why the -- it's not economically feasible to not have this particular type of a building here.

MR. LYNCH: Good afternoon, Mr. Chairman, Members of the Board. It's Michael Lynch, not Walsh. I've appeared before this court many times in the past. I have prepared a

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report of my findings.

SECRETARY WAGNER: Was this previously submitted to the Board?

MR. LYNCH: No, it was not.

UNKNOWN SPEAKER: Exhibit 6. I'm sorry. Exhibit 3.

MR. LYNCH: So, I was out to the property and the area back on May 13th. I took a number of photographs of the subject property and the surrounding areas, photos that are similar to what the attorney submitted depicting the surrounding area of the subject property.

So, the property, as you know, is known as 8 Carey Place. It's a rectangular parcel on the south side of Carey Place, approximately 145 feet of -- east of Valley Road in the northerly tip of the hamlet of Port Washington. It's a small area of -- of the hamlet. It's primarily a mixed-use area north of Harbor Road, east of Valley Road and Carey Place itself which, again, is described as overwhelmingly auto repair-related. The parcel, as you know, is in a B-A zone, commercial zoning district. This property, at one time, was improved with a small residence that was demolished sometime before Mr. Parmar purchased it back in September of last year.

The building immediately to the east of the property, number 10, was a similar-sized property -- is a similar size property. That was also improved with an old house and Mr. Parmar is looking to construct a two-story building very

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similar to what was approved by this Board approximately 20 years ago.

As far as his construction, it's a two story with offices above -- two-story commercial. You see area variances for setbacks. We're looking to build this to -- pretty much to the rear property line. We are looking for front yard parking variances, and we are looking for parking variances, as well. He's looking to construct a 4,688 two-story commercial building. The ground floor would contain 2,250 square feet of space for storage of his -- his electronic billboard trucks. The second floor would be a small office area and remainder storage on the second floor.

So, the immediate surrounding area. And this, again, I know this goes to the use variance standards, this property is unique as far as the situation the applicant is in and it does not apply to a substantial portion of the overall area on Carey Place, or Harbor Road, or the easterly side of Valley Road. The majority of the parcels on Carey Place are auto repair-related. To the west of the property is a former auto towing business, as well as an auto repair shop. It's comprised of two parcels. One fronts on Valley Road and one on Carey Place to the east -- to the west of this. To the east is the aforementioned number 10 Carey Place, which, again, is what Mr. Parmar is basically looking to construct on his parcel.

Opposite the property, you've got a tree surgeon,

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contractor's yard.

To the northwest, you have an auto upholstery shop. To the northwest at number 3 Carey Place is an auto body shop.

To the east of that is another contractor's yard. At the easterly terms of Carey Place is a multi-tenanted industrial building, two stories in height.

Further to the east of the property on Carey Place is another auto repair shop and then two doors to the west of the property is another auto repair shop at the southeast consent of Carey and Valley Road.

So, there a number of area variances associated with this.

Again, mostly with respect to parking, parking in the front yard. We require seven parking spaces. We're providing three. There was an engineering -- traffic engineering report that was prepared, indicating, again, that this property is adequately suited for this type of operation, that parking will not be an issue. Normal trip generation.

We are looking for a rear yard variance. Again, he's looking to build to the property line to the rear. The auto body shop to the south of this, at number 99 Harbor, is also built to the property line, as is number 10 that is recently -- again, is noted to the east of this, was also built to the rear property line.

So, there's five area variances. There's conditional

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2 use for parking that we're looking for and then, of course, the
3 use variance that Mr. Parmar can't realize a reasonable rate of
4 return if he were to build -- really, the only possible use
5 within a B-A zone that would be possibly feasible would be an
6 office use, because there are other office -- ancillary-type
7 offices associated with the commercial and industrial uses up
8 and down Carey Place.

9 So, really of the permitted uses within a B-A zone, the
10 only one that can be possibly considered would be an office
11 structure on this property. I analyzed what an office property
12 would realize in terms of its rate of return. Mr. Parmar
13 constructed the property back in September -- in October,
14 rather, for \$387,000. I estimated that a reasonably-sized
15 two-story office building on this property would contain
16 approximately 2,400 square feet and I've consulted with the
17 applicant's architect, as well as other contractors, and they
18 indicated that a suitably-sized two-story office building on
19 that site with an elevator, with a basement, would run a little
20 over a million dollars. I added some miscellaneous costs and I
21 came to a total cost of just under a million five. And again,
22 these are outlined in my report.

23 Then as far as office rent, what he would realize on
24 this property, again, building this and scouring comparable
25 areas of North Hempstead, in Port Washington for a new
26 construction of office space but considering that the area is

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2 really not suitable for office space, I came in with a figure
3 of \$25 a square foot. I took out other operating expenses
4 including estimated property taxes, management expenses, a
5 reserve for structural repairs, insurance, et cetera, and I
6 came up with an overall profit on this property of a little
7 over two percent. I then compared that to what Mr. Parmar is
8 looking to construct on the property, which, again, is a
9 two-story structure to store his trucks, as well as have a
10 small office.

11 Again, I consulted with the owner's architect, and he
12 came up with a rough figure of \$250 a foot to construct that
13 building, which would be approximately 937,000. I added in
14 some miscellaneous site costs, et cetera, and I came up to a
15 figure of just under a million 350.

16 I then compared warehouse-type rents, industrial-type
17 rents for what this proposed building would realize, and I came
18 up with a figure of \$15 a foot. Typically -- and just to back
19 up a minute, warehouse- or industrial-type rents right now in
20 Long Island, as they are across the United States, are one of
21 the hottest segments of the real estimate market, because of
22 electronic commerce, et cetera. Warehousing, and again, other
23 industrial-type uses is a very, very healthy segment of the
24 real estate industry as opposed to office use, especially in
25 this particular pocket of Port Washington. There would almost
26 be zero demand for this type of office building. It would be

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legal under the B-A zoning.

But at any rate, I came up with a return on an investment for a two-story building as Mr. Parmar is looking to construct and the rate of return on that would be roughly twice what it would be versus a conforming two-story office building. In fact, with an office building, you realize a return that's less than what you could realize on 10-year treasury builds to realize a return of maybe three percent with zero risk, essentially.

So, it's just not a reasonable return to consider one of the permitted uses and really the only permitted use that would make any sense whatsoever would be an office-type use but, again, based on my analysis and versus what is fitting for the area, which is a small building to house his electronic billboard trucks and a small office, which, again, is completely in keeping with the character and area -- pattern of development up and down Carey Place, as well as in the immediate area of Valley Road and Harbor Road.

I know we talked ability, the test for -- for use variances. I think I've covered the reasonable rate of return. Certainly, it's not going to be out of keeping with the character of the area. It's overwhelming in keeping with the character if this structure can be built.

Again, he's looking to basically mimic the building that was constructed approximately 20 years ago to the east of

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2 this on -- on Carey Place. As far as the property being unique
3 as to the present situation, it certainly is and it does not
4 apply to a substantial force in the surrounding neighborhood,
5 as I think I've demonstrated.

6 And as far as the hardship being created, again,
7 that's, I think that's up for debate, because in his eyes and
8 in the way he was -- when he purchased the property, he felt
9 that the area was overwhelmingly industrial in nature and this
10 type of use fits in perfectly for the type of use that he was
11 looking to move forward with and that's why Mr. Parmar
12 purchased the property. So, we don't feel that it was a
13 self-created situation.

14 And as far as the area variance standards, again, it's
15 completely in keeping with the character of the surrounding
16 areas, the mixed use of the area. It will not have any adverse
17 impact with surrounding property values. Again, it's -- it
18 will only -- in fact, it will only help raise the surrounding
19 property values. It's going to have a newly constructed
20 two-story building -- commercial building on its property as
21 opposed to what was formerly there.

22 As far as -- again, it will balance under the area
23 variance. We don't feel it was self-created. It will not
24 create any adverse physical impact to the physical or the
25 environmental conditions in the area, and he cannot move
26 forward on this without the benefit of the area variance.

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There is no other alternative for the use variance that's requested for this application.

So, at this point, I can answer any questions if the Board may have any.

MEMBER DONATELLI: I do have a question, Mr. Lynch.

MR. LYNCH: Sure.

MEMBER DONATELLI: I was trying to listen very carefully to your presentation, and I simply appreciate your analysis to the first point, but you indicated that you might estimate a two percent rate of return if it were an office building verses perhaps double, meaning, four percent rate of return.

MR. LYNCH: Yes.

MEMBER DONATELLI: If the applicant is allowed to build that.

MR. LYNCH: Yeah.

MEMBER DONATELLI: The way I read the first of those four factors is it's not if you're allowed a greater rate of return over the permissible use versus the proposed use, but the standard, instead, reads that the property is incapable of earning a reasonable rate of return, not a higher rate of return.

MR. LYNCH: Right. Right. And I analyzed that a return of two percent is not reasonable considering the investment that would be involved.

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Again, we can buy 10-year treasury building with virtually zero risk and realize a three percent return.

MEMBER DONATELLI: Okay. And how would you -- you mentioned several times that you thought that the property was unique, but you really haven't defined how this particular parcel is unique. I understand and -- and believe me, I'm speaking for myself, as well as I think the other Board members, we've all visited Carey Place several times; we've had several applications there. I think most of us, if not all of us, are very familiar with it. But is there something about this particular parcel that makes this particular parcel unique as opposed to the other parcels on Carey Place?

MR. LYNCH: Yeah. It's unique with respect to the allowable uses that can be put forth on this and an office building, which would really be the only possible use of this property that would make any sense would be completely out of character with the area. The overwhelming majority of the surrounding uses and properties up and down Carey Place are auto-related businesses or contractor's yards. That's why it's unique. The uses that could be put forth as permitted under the B-A zone makes this property unique.

MEMBER DONATELLI: Is there something -- the zoning applies to all of the properties on Carey Place.

MR. LYNCH: Correct.

MEMBER DONATELLI: The zoning is what it is. Is there

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something about this particular parcel that makes it unique,
other than the zoning which applies to all the parcels?

MR. LYNCH: Well, it's unique -- as it is right now,
it's a vacant parcel of land. There is one other vacant parcel
on the site that I understand is listed as a contractor's yard
just to the northwest. So, it's unique -- in the definition or
the standard under -- under the use variance is that it does
not apply to a substantial portion of the neighborhood.

So, there's one other vacant parcel from what I can
see, so I believe there's 10 or 11 parcels up and down that
front on Carey Place. So, I think if you looked at it that way
as, well, it is unique because, again, there's one other
presently vacant parcel on Carey Place -- and again, I argue
that as far as it being unique, it is unique as presently zoned
for what the uses could be put forth on this versus what is in
use up and down Carey Place, as well as the immediate
surrounding properties on Harbor Road and on Valley Road.

MEMBER DONATELLI: Yeah. I don't mean to be
argumentative, but that would not be my definition of unique.
If the zoning applies to the properties on Carey Place, my
question is, is there something in particular about this parcel
that makes it unique? Because, again, the zoning applies to
all the parcels on Carey Place.

MR. LYNCH: Yeah. But the uses are clearly
overwhelmingly industrial type-related uses and this, as

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permitted, can only be utilized for -- the whole area is zoned B-A. I'm not arguing that and, of course, if you take it strictly on what they're classified and their zoning, certainly it's not unique, because they're all zoned B-A, but the use of the properties are all industrial-type-related uses and the uses that can be put forth legally on this property, which would be, again, the only possibly sensible use on this would be an office, which would be completely unique for the nature and character of Carey Place.

MEMBER DONATELLI: I have no further questions.

MR. LYNCH: Thank you.

MR. PIACENTINI: I would like to have Sean Mulryan speak with respect to the parking and traffic.

MR. MULRYAN: Good afternoon. Sean Mulryan, Mulryan Engineering, 1225 Franklin Avenue, Garden City, New York.

So, I'll be talking about the area variances related to the proposed use. One of the things that was mentioned earlier, and I'll try to just expand on a little bit, is that the proposed uses put forth on this building is the storage of display trucks. They have LED screens on both sides or on all three sides with a small display above the cab of the truck.

So, the intent of the building itself is really to secure those vehicles when they are not in use. The way that the business runs, they are leased for a month, or for six months, or for whatever period of time, it's brought to

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2 whatever location, it's gonna be used for, whether it's driven
3 up and down the block or if it's parked in a parking lot with a
4 sign. This is a business that doesn't generate necessarily
5 local business, although does it, but also, it brings those
6 trucks out to various locations throughout the United States.

7 So, the trucks are either on the property or they're
8 out being used, which the client would like them to be out more
9 than they're in, I guess. As mentioned before, the supplies
10 that are used in this business are LED screens which are
11 somewhat susceptible to damage, wind, erosion, different
12 things. So, during the times when the truck is not being used,
13 it's being serviced within the building. The storage and
14 office space upstairs is generally a one-man office just to run
15 the business and the storage for the LED units, because the
16 entire side of the truck is not a singular panel. They're
17 individual panels that lock into a larger board that's behind
18 those panels. So, that's a little bit about the business model
19 that's here.

20 We are here for a parking variance. There are three
21 parking spaces in front of the building and there's also
22 additional storage for vehicles within the building such that
23 the trucks being in the building or on the premises of what the
24 application is looking to achieve. Based on a warehouse-type
25 use and an institute transportation engineer, we feel like the
26 parking in the front is adequate. There is access aisle with

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2 issues on the subject site, but again, this is not a business
3 that tends to cater to customers; these are workers that would
4 be in the building, or they're driving the truck, or working at
5 some facility or some statue in the office itself. So, if any
6 of the vehicles need to be moved to access the overhead doors,
7 they can do that. The lot does not have a provision of a
8 loading zone. Again, it does have overhead doors, so any
9 deliveries would be made to those overhead doors.

10 So, we believe that the -- although that is not a
11 standalone loading zone, they could back the truck in and get
12 off the street without interfering with the traffic flow. This
13 is a dead end block. It leads into a private property so you
14 can turn around, but it's not a thru street, so the traffic on
15 the street is strictly for the customers and the businesses.
16 Storage of vehicles is happening on that street. So, from a
17 traffic standpoint, any deliveries that may come to the
18 facility tend to back up, use the overhead door to access and
19 unload to the property.

20 So, we believe that the number of parking spaces
21 provided is adequate for the specific use that is being
22 proposed. The loading space which is not provided is actually
23 in the drive aisle in the parking lot and although it would
24 block the limited number of spots that we have, anyone that
25 would be on the property would tend to be an employee of the
26 business. So, those -- the overturn in that parking lot will

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be very low and those are the area variances that the applicant is looking for.

So, again, we believe that from an area variance standpoint, the parking variance, the number of spaces provided, any additional storage of vehicles within the building will be adequate for the proposed use. We don't feel that it will be a detriment to the community. As it's been mentioned earlier, it's very in keeping with the other businesses around the subject property in this area and we don't believe it's a substantial variance. It's very similar to the building at 10 Carey Place and the applicant cannot find any other means to get the requested relief, other than an area variance.

So, from the area variance standpoints, that's a brief summary of my report and I'd just highlight, once again, the area of the photograph here shows the nature of Carey Street. There is no on-street parking; there is essentially no curb. Most of the access in front of these sites is driveway, a lot of automobile uses. So, there's vehicles kind of on and off the front of the properties. There is a front yard -- parking in front yard is one of our requests. It's similar to the property at 10 Carey Place. This is 8 Carey Place, right next door.

So, again, it will not affect any sight lines for any cars. This is not a thru street, and we believe from the area

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variance standpoints, this is a good application and I'll be happy to try and answer any questions the Board may have.

MEMBER DONATELLI: Mr. Mulryan, I have a question. So, what -- and I don't know if Counsel wants to answer this or if you want to answer it, or even if the applicant wants to, but what does the business involve for the drivers of these trucks? Will they come to the premises and then park their personal cars and then drive the truck to whatever destination or is there some other way by which -- what is the business model?

MR. MULRYAN: I'd be happy to answer, but I think the applicant will be much more qualified to explain.

MEMBER DONATELLI: All right. Thank you.

MR. PARMAR: Tony Parmar, 8 Carey Street. I take the trucks, like, whether they are going to Chicago or Boston, so then I fly back and give it to a driver there or when in New York, I will be able to take the LIRR train and I usually pay for an Uber or taxi service for them to pick it up, because most of them don't drive a car here. So, I will be driving.

MEMBER DONATELLI: So, you would deliver the trucks?

MR. PARMAR: Yes. I deliver the trucks. They're very sensitive panels. A lot goes wrong, especially in the winter weather and it's hard. My hands start bleeding when I'm in the winter fixing these things outside, and we've had been -- tags and we've had people spray paint my vehicles and it damaged them. I don't have a choice of where to park these things, so

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I need a place to park them inside, and I can't find any place that's within my means to store the trucks.

So, I will take -- sometimes I take the trucks to New York City and then I take the LIRR back or the driver, I'll drive them back. So, sometimes they come here and don't park their car. It just depends.

MEMBER DONATELLI: How many employees do you have?

MR. PARMAR: I have one employee who is a 1099. I have one truck out in California right now, and I have one truck we are doing a campaign for another politician. So, we are working with them. They have their own driver.

So, my job is to make sure the truck is working. Sometimes I'm with the campaign to make sure everything runs properly. Sometimes it's large events and sometimes it's just ads. So, I'm involved a lot.

I'm a licensed CPA. I got into this a few years ago, and my son is on the spectrum, and I'm able to spend more time by doing this business with him with all the therapies he gets. I used to do a lot -- away. But I use other people, like, if I get a campaign in Dallas or Miami or something, we will get our 20 percent if I can sell that job.

So, like, nobody is big enough to have lots of trucks. You just have to be in the right location. And sometimes we could have a two-week campaign, sometimes we get a six-week campaign, and that's where the trucks go and I drive a lot of

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the trucks.

For instance, I'm here because of this hearing. Like, on Friday morning, I have to drive to California to work on a truck there, you know? That's my business. But I have to be back here, because my wife can't handle our seven-year-old by herself.

MEMBER DONATELLI: Thank you.

MEMBER GOODSSELL: Mr. Parmar, I have one other question for you. Someone once described these trucks to me as they're giant cell phone screens on the side of a truck and they're just as sensitive. Would that be fair to say?

MR. PARMAR: They require a lot of maintenance. Yeah. And the drivers who drive them change all the time and so they can't fix them. That's why I have to be involved a lot. But even if a driver is driving in Manhattan -- we do free events. We don't do anything here. It's mostly in Manhattan, but I live here and so you can't find reasonable real estate in Queens or anywhere over there that I can afford. But it's a lot of, like you said, they are really sensitive and the -- you have to change panels constantly and the weather doesn't help and just the environment. I've been spray painted a few times this year, so it's costing me a lot of money. They have to be indoors.

MEMBER GOODSSELL: Thank you.

MEMBER HERNANDEZ: Just one question so that I

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understand what you're proposing to put in this building.
You're effectively going to have in the building some of the
components. The smaller screens that are packed or whatever,
the parts underneath in order to change, fix, upgrade,
whatever, the trucks that you own?

MR. PARMAR: Yes. The panels. It takes two to four
months depending on the product. I have to store them.

But I also will fix other people's trucks because I
happen to know how. So, if I can have them available, one of
the problems with these trucks is, I just -- you have to store
enough supply because if I get -- like, I can get the same
size, but if I get a different component, the colors are going
to look different because it comes from that particular batch.

MEMBER HERNANDEZ: So, it's fair to say that what
you're doing is essentially assembling or -- or I don't know.
I don't want to say manufacturing, because you're not
manufacturing.

MR. PARMAR: I'm not manufacturing. I'm assembling.

MEMBER HERNANDEZ: You're assembling.

MR. PARMAR: Yes, sir.

MEMBER HERNANDEZ: You're assembling components into
larger components, I guess attached to a truck, and that truck
will then go out on the road for indefinite periods of time.

MR. PARMAR: Yes. Yes.

MEMBER HERNANDEZ: And then those -- again, if you send

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a truck to Boston, it's not going to come back overnight, obviously. But if it's midtown Manhattan, it may come back to spend the night in your facility?

MR. PARMAR: Yes. Yes. Yes, sir. And in January through March, our business is extremely slow. That's when we're fixing them and doing other things, upgrading them. And when you leave them outside, they corrode and there's more damage.

MEMBER HERNANDEZ: So, they need to be stored indoors?

MR. PARMAR: Yes. Yes.

CHAIRMAN MAMMINA: Mr. Parmar, I do have a few other questions, if you don't mind. Were you represented by an attorney when you purchased this property?

MR. PARMAR: Yes; I was.

MEMBER DONATELLI: Did you consult with that attorney about the zoning and did you let that attorney know what your intention was with respect to this parcel?

MR. PARMAR: I did. I did. I consulted several people and even the people who sold to me, they said that they had two lots -- they have two properties on sale. They told me they were going out of state and it made sense.

When I consulted the building next door, I said this is exactly what I need and it made sense. And it didn't occur to me. I understand there's rules, but there's a building next door and I said okay, this would work for me.

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CHAIRMAN MAMMINA: I think the key difference in what you're saying is neighbors opine now how you might be able to use a piece of property. Did your attorney or any other expert look into that piece of property and say it's zoned Business-A and this is not a use that's permitted in Business-A?

MR. PARMAR: I just learned of this term today. It's all commercial so I don't want that.

CHAIRMAN MAMMINA: If you're making an investment of this size, it would just seem to me that you would seek legal advice and that the attorney that closed for you wouldn't -- wouldn't -- I can't believe that they didn't do that for you, you know, so maybe --

MR. PARMAR: I did a little homework. I called the Town, Glen Norgent, I think is the name. I mean, I'm just telling you what I did.

MR. PIACENTINI: I understand. I don't know who his attorney was when he bought the property, and I don't know whether or not he also adequately informed his attorney as to the nature of his particular business.

But to get back to the four points that you rightfully say I'm required to present to this Board, I honestly believe at this particular point we have satisfied three of the points, in that we have adequately demonstrated through Mr. Lynch's expert testimony that the applicant cannot realize a reasonable return provided the lack of return is substantial as we've

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demonstrated by competent financial evidence. I think we've satisfied that test.

Test number two, that the alleged hardships relating to the property in question is unique. I understand Mr. Donatelli's reasoning that he -- his definition of unique is that it's not unique to this parcel and that it would be applicable to all the other parcels. However, it is unique, in that all the other parcels are in existence. They are all auto body shops or large industrial-type/commercial-type shops, which makes our particular property unique, in that we don't want to construct an auto body shop, because it's not a permitted use, it's not a conditional use; therefore, our property becomes unique by virtue of all the surrounding properties that we have to deal with.

So, I'm saying that you have to stretch the interpretation of unique so that it fits this particular property.

Thirdly, we are not changing the character of the neighborhood. I don't think there's any question about that, for the record. There is nothing but auto body shops and light industrial buildings.

The big issue, I guess for the Chairman, and I don't know if it's for anybody else, is whether or not you have the authority to grant this use variance, notwithstanding the fact that you may interpret this failure to get the proper

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1 information from his then attorney, maybe he didn't explain.
2 He got information from clerks that work in this particular
3 town hall that he could build this and his reasonable reliance
4 on what they say and I'm saying that you may have the inherent
5 authority because of the nature of this unique situation.
6

7 This is not a typical use variance and I think,
8 Mr. Chairman, you can appreciate that, that if you focus your
9 decision strictly on that --

10 CHAIRMAN MAMMINA: Before you put a word in my mouth --
11 okay? -- why?

12 MR. PIACENTINI: I'm sorry. Why is what?

13 CHAIRMAN MAMMINA: Why do I -- why do I have experience
14 saying that it's not when I've said it is and that there's case
15 law. Case law. I mean, can you deny that there's case law?

16 MR. PIACENTINI: I believe that there's a subject of
17 reinterpretation by the courts as to whether or not -- what
18 does exactly self-imposed hardship mean in this case.

19 CHAIRMAN MAMMINA: What is self-imposed hardship? What
20 is that standard? Self-created is what it is and self-created
21 is measured by did -- unless you're an American Indian that
22 owned this piece of land for all of time, it's a self-created
23 hardship. I mean, it just is. How is it not?

24 Now, of course, you have legal recourse, you know, but,
25 you know, I -- I don't know. I just -- I just don't see it.

26 VICE CHAIRMAN FRANCIS: I think there are cases --

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MR. PIACENTINI: I think self-imposed hardship means more than --

CHAIRMAN MAMMINA: It's not self-imposed hardship. Please stop calling it that. It's self-created.

VICE CHAIRMAN FRANCIS: Self- created. Self-created. And there are cases that say if you purchased the property, then you necessarily have self-created the hardship.

MR. PIACENTINI: And I'm saying that may be -- it may be that that is subject to interpretation depending upon the facts of the case, self-created, meaning if an ordinary person who looks at all these other properties and comes to the conclusion that, why can't he do what he wants to do with this particular piece of property?

CHAIRMAN MAMMINA: It is my opinion that we do not have that power. That belongs to the Town Board. They determine how the zoning in every part of the town is put in place.

MR. PIACENTINI: I understand.

CHAIRMAN MAMMINA: Your avenue is to approach the Town Board and you may have a very logical case for the Town Board, but we -- it's not that we don't like this man or you or that we are not compassionate to what this is.

MR. PIACENTINI: I appreciate that. And all I'm saying is that if you're going to render a decision denying the application, that you would be specific with regard to the

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points as to whether or not, in your opinion, we met them or not so at least if I decide to take an Article 78 proceeding, I can address the issue of what is a self-created hardship with the courts and see if they're willing to do a reinterpretation.

Because there was a reinterpretation in 2010 as to the differences between a use variance and an area variance for parking spaces and the Court said, we don't apply the use variance to parking spaces. So, they may reinterpret it.

CHAIRMAN MAMMINA: And I would agree with that. I would agree with them. They're two different animals, you know, one's an area variance and the other's a use variance.

MR. PIACENTINI: No. No. No. That's not what I'm saying. I'm saying that they were -- there was a time when they were applying a standard of use variance when it came to parking.

CHAIRMAN MAMMINA: Who is they?

MR. PIACENTINI: It was the Town of North Hempstead in 2010.

CHAIRMAN MAMMINA: That would be me, sir. And no, you find my name on there. Well, at least any time after 1991. That's how long I've been here.

MS. ALGIOS: Mr. Piacentini, so --

MR. PIACENTINI: Can I cite the case for you, please?

MS. ALGIOS: Yes. Yes. But I want to just -- I want to just take it even a step further. So, it appears you're

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saying that the Board has some type of authority that the Board doesn't feel that they do have.

MR. PIACENTINI: Yes.

MS. ALGIOS: Perhaps it might be in your own interest to continue this and maybe for you to brief this and to show the Board, you know, in writing, that there is some authority and submit that to them.

MR. PIACENTINI: I would ask the Board to look at the matter of Colin Realty Co., LLC versus the Town of North Hempstead cited by the Court of Appeals in September 10, 2014, cited 24 N.Y.3d 96, 21 N.E. 188.

CHAIRMAN MAMMINA: And what was that?

MR. PIACENTINI: I'm sorry?

CHAIRMAN MAMMINA: That was a use variance where we didn't grant the parking variance?

MR. PIACENTINI: No. No. No. I said that the Town of North of Hempstead Board of Zoning Appeals was applying -- I would have to read it again -- the formula for a use variance in making a determination as to whether or not to grant an area variance for parking.

CHAIRMAN MAMMINA: No. How could there be an area variance for parking?

MR. PIACENTINI: You want me to read it to you?

CHAIRMAN MAMMINA: You needn't read it. But you can put it in the brief. I'd be very curious to see that. I'm not

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gonna say that that's impossible but --

MR. PIACENTINI: It says, "In determining whether a variance from an off street parking requirement is an area or a use variance, one must look to the reasons for the restrictions and then adopt rules applicable to the use of area variance".

CHAIRMAN MAMMINA: But it's not -- it's not -- all due respect, I think you're interpreting --

MR. PIACENTINI: Listen, I'm not arguing. I'm talking to you as a lawyer. The Court may and courts have been known to change, correct? They can make an interpretation.

So, I'm just saying, if you are going to deny it, be very specific with regard to which of the four elements you were denying it on.

CHAIRMAN MAMMINA: You will get findings. By law, you must get findings. Okay? If we deny it, there will be findings. Of course there will.

MR. PIACENTINI: And I appreciate that.

CHAIRMAN MAMMINA: And that's why we're saying why don't you brief it. Okay? That's your choice.

MR. PIACENTINI: Let me see what I can do. Want to give me three weeks?

MS. ALGIOS: The Board doesn't meet again until June 22.

CHAIRMAN MAMMINA: Go until then. I want you to be thorough. Do you think I want to deny you? Of course I don't.

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That's not my job to say, how can I deny?

MR. PIACENTINI: No, I'm not saying it is. And I'm arguing, you know, I'm arguing as an attorney.

CHAIRMAN MAMMINA: Of course you are. You are doing an excellent job.

MR. PIACENTINI: Laws change. Laws change. Courts have the power to do that and I think the Court can also say that you also have the power. You just may not understand how to exercise it. That's up for the Court to say that.

The architect wants to say something to the Board for the record. What do you want to say? This is Mr. Brian Fiore.

MR. FIORE: Brian Fiore, 208 North Wisconsin Avenue, Massapequa. I'm looking at the CO for 10 Carey Place. It's a building. It's pretty much exactly what we're looking to build, very similar building. And it's listed as a two-story commercial building. We're calling our building a warehouse, but it's -- it has business office space, it's almost like a mixed use building. I mean, are we using the wrong terminology here calling it a warehouse?

VICE CHAIRMAN FRANCIS: You may be.

MR. FIORE: Should we be calling this a two-story --

CHAIRMAN MAMMINA: Hold on, please. Sir, we don't write the CO. That's not us. We don't write it. The Building Department does.

MR. FIORE: Correct.

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2 CHAIRMAN MAMMINA: And if we wrote the CO wrong and not
3 the way you wanted it written, you have the right to come back
4 here and then we would then decide, you know, what we think.

5 MR. FIORE: Right. I mean, we are calling it a
6 warehouse because it's storing trucks, but it's a two-story
7 commercial building with office space above. I mean, do we get
8 a new rejection based on the terminology and then come back
9 here and present this out as a use variance then?

10 CHAIRMAN MAMMINA: We are trying to give you the
11 opportunity to brief this and when you brief it, you can take
12 all the time that you would like. You can wait one meeting,
13 two meetings, three meetings, whatever you need --

14 MR. PIACENTINI: I will send a letter. Correct.

15 CHAIRMAN MAMMINA: -- and you can do a thorough job,
16 you know, and put that all together. Because there's also
17 parts, you know, of -- you know, of the decision regarding
18 that, you know, that have to be looked at, as well, that we're
19 very specifically, you know, putting into there.

20 MR. PIACENTINI: You're talking about the variance that
21 was granted for number 10?

22 CHAIRMAN MAMMINA: Yes.

23 MR. PIACENTINI: I was gonna ask about that because you
24 said you are familiar on that. Was that a self-created
25 hardship or not?

26 CHAIRMAN MAMMINA: What I asked you was, was this

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denied as a use variance, number 10?

MR. PIACENTINI: I'm not concerned with what was denied and what was granted. And what was granted is exactly what we're asking for.

CHAIRMAN MAMMINA: But then go and talk with the Building Department or you can then take what they said and say you disagree with it, come on over here and then we have the ability to compare the two, weigh them and see if we agree with them or not. That's what we're here for. We're here -- I don't want to use the word override, it sounds harsh. But, you know, we're here to say, you know what, you're right, they're wrong.

MS. ALGIOS: And, you know, it may also help you to take a look at the file for that application.

CHAIRMAN MAMMINA: That's right.

MR. PIACENTINI: I looked at the file. I looked at it and this is where I got the decision and I got the CO. And there's no indication that it was self-created or anything like that.

CHAIRMAN MAMMINA: How was it denied? It was denied. Read the denial.

MR. PIACENTINI: I'm sorry. There is no denial. It's granting the variance.

CHAIRMAN MAMMINA: Of course there is in the Building Department; there should be.

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MR. PIACENTINI: I'm not talking about the Building Department.

CHAIRMAN MAMMINA: No. No. No. But that's where you start.

MS. ALGIOS: Was there a Notice of Disapproval in that file?

MR. PIACENTINI: Yes. There was, of course. Otherwise, it wouldn't go to the BZA.

MS. ALGIOS: So, what was it approved for?

MR. PIACENTINI: But I'm saying the decision is exactly -- it granted that number 10 exactly what we want on number 8.

CHAIRMAN MAMMINA: You have to see what it was denied for.

UNKNOWN SPEAKER: What does the Notice of Disapproval read?

MR. PIACENTINI: I don't have that.

CHAIRMAN MAMMINA: If it doesn't say that it was a use variance -- they made the determination that it's a use variance. You're saying that it's -- you know what? Again, I don't want to tell you what you're saying, similar to I asked you not to tell me what I'm saying. So, I'm just going to leave it alone.

MEMBER HERNANDEZ: The building next door may look like the one you want to build, but the reason why they may have sent them here may not have been for the same reason why you

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2 are here. So, start by looking at why they were sent here and
3 what they sent to the Building Department for and it could be
4 language, it could be viewed on how you have named it and if it
5 looks exactly the same and they are denying it for different
6 reasons. You can question them as to why you're denying it for
7 different reasons.

8 MR. FIORE: Thank you.

9 MR. PIACENTINI: I'm just asking, I'm reading the
10 decision and the decision should speak for itself and the
11 decision clearly says that, "The owner will be permitted
12 accessory onsite indoor storage of construction materials,
13 vehicles and other equipment to the extent depicted on this
14 plan. Such storage shall only be in conjunction with the
15 business activity actually conducted at the premises and shall
16 not include the storage of material, vehicle or other equipment
17 for any other business."

18 And I'm saying, this is exactly what we're asking for
19 here.

20 MEMBER HERNANDEZ: And all we are saying is that the
21 reason why you were sent here may be for a different reason
22 that that building was sent here. And if that applicant was
23 not sent here for a use variance, you have a totally different
24 argument. And that's what you need to discuss with the
25 Building Department first.

26 CHAIRMAN MAMMINA: And read the transcript, also. It

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's a long time ago --

MR. PIACENTINI: The transcripts weren't in the file.
There was no transcript.

UNKNOWN SPEAKER: You can get that from my office, sir.

(Multiple parties talking simultaneously.)

CHAIRMAN MAMMINA: I can't pull word for word what was
said 19 years ago, but I'm saying --

MR. PIACENTINI: I take your recommendations, all of
your recommendations and we will pursue it. Thank you.

CHAIRMAN MAMMINA: These are recommendations to help
you.

MEMBER DONATELLI: One last recommendation is, you may
want to approach the Town Board. The Town Board determines
zoning, and we may personally on some level agree or disagree
with the applicant as to the nature of Carey Place or any other
street, but the fact of the matter is that if I were you, I
would certainly address it with the Town Board and see if they
are willing to revisit the zoning in that area.

MR. PIACENTINI: I appreciate that. Thank you. Thank
you very much for your attention.

CHAIRMAN MAMMINA: We will continue this.

MR. PIACENTINI: Yes. Well, here's what I'm going to
do: If I reach a point where I am not able to prove what I
asserted on the record, I will send a letter to the Board
saying that I cannot take any further action in connection with

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the application and the Board should just render a decision on this.

VICE CHAIRMAN FRANCIS: That's fine.

MR. PIACENTINI: In other words, I'm gonna do it. If I can't come up with something, I'm gonna tell you. I'm not gonna play a game here, either. I've been practicing law too long for it.

SECRETARY WAGNER: Mr. Piacentini, which appeal were you referring to regarding 10 Carey Place?

MS. ALGIOS: Can we just see it for a minute, the copy of the decision?

MR. PIACENTINI: That was in the building file.

CHAIRMAN MAMMINA: I think we'll agree to continue. We'll agree to continue.

MR. PIACENTINI: Yes. Thank you very much.

CHAIRMAN MAMMINA: We will continue this. Just call it a date uncertain, which just means that you've got the liberty to, when you feel you're fully prepared.

MR. PIACENTINI: Yes. I understand. I appreciate that, I really do. It gives me some time to do a lot of research. Thank you.

CHAIRMAN MAMMINA: Thank you.

SECRETARY WAGNER: Next appeal, Appeal Number 21242, Country Glen, LLC (02 BBQ); 125 Old Country Road, Carle Place; Section 9, Block 670, Lot 27 in the Industrial-B Zoning

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District. Conditional use 70-187.P, to construct interior alterations to convert a vacant retail space to a restaurant.

CHAIRMAN MAMMINA: You heard Appeal Number 21242, Country Glen, LLC, (O2 BBQ).

MR. MCNERNEY: You usually ask if anybody is here --

CHAIRMAN MAMMINA: I'm sorry. There is nobody here. There is no one here. The joke is there's a whole bus full of people waiting.

MEMBER DONATELLI: So, you've been paying attention then.

MR. MCNERNEY: I've been here before. Some of you don't know me. My name is Michael McNerney, 8 Shivery Lane, Nesconsent, New York. I am an architect. However, I am not the architect of record of this application. I do have Mr. Mark Whitenberg, the architect of record with me this afternoon. I also have the owners of O2 KBbq. They are Kelly Im -- Ms. Kelly Im and Mr. Sun Ho Chung. Also with me is Ms. Ashley Ross who is a spokesperson for the restaurant chain.

Briefly, we are seeking a conditional use permit to install the O2 KBbq restaurant in the former Red Robin at 125 Old Country Road. It is in the Industrial-B zone, Section 9, Block 670, Lot 27. The facility is approximately 6,500 square feet and, again, formerly occupied by Red Robin, now viewed by the Town as a vacant retail space, hence the need for the conditional use permit.

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Also, the restaurant's format is a little bit different than what you may be familiar with. And again, that's why we have Ms. Ross here to speak in just one moment.

I will tell you that -- they're anticipating 15 to 20 employees at their peak time of business. They do plan to be open seven days a week from 11:30 a.m. for lunch up until roughly 11:00 or midnight of closing. They have a small bar in the facility with approximately seven seats. The restaurant is designed to seat 165 people with the seven seats at the bar. The former Red Robin, for the record, was 180 seats. So, the use is a little bit smaller.

There are -- they do bring in trucks twice weekly, approximately three trucks twice weekly for deliveries. There is a loading dock at the rear of the facility if you're familiar with it. There's a loading dock -- it says a loading dock at the rear of the facility right back here. It will be used for deliveries. So, basically nothing ever is going to come to the front door --

And why don't, if I can, I'm gonna bring up Ms. Ross to just give you a brief. I'll hand these up for the Board. There's six copies here of some menus and some photographs of some interior renderings. But, again, I'll allow Ms. Ross to tell you a little bit about the unique format of the restaurant.

UNKNOWN SPEAKER: This will be Exhibit 1.

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2 MR. MCNERNEY: Yes, please. I'm sorry.

3 VICE CHAIRMAN FRANCIS: Ms. Ross, just give your
4 name and address.

5 MS. ROSS: Good afternoon. My name is Ashley Ross,
6 7000 East Boulevard, Whitenberg, New Jersey.

7 So, we have some pictures in your packets and exhibits.
8 It's -- the first picture will show you just a setup of our
9 general table once customers are seated.

10 The second pictures show just how the meat will be
11 presented at the grill. It's different types of meats that are
12 served at the same time. So, O2 KBbq is an all-you-can-eat
13 Korean barbecue restaurant. We often have various meats that
14 are grilled right in front of you along with Korean side dishes
15 and beverages. There's a big grill in the center of each table
16 that allows you to cook the different types of meats that
17 customers will order, and we offer several sides and sauces
18 that pair well with each meat.

19 So, customers come in, they are greeted and are seated
20 right away. Servers go around and explain how the whole
21 experience works for us, which is we do charge per person, so
22 it's a fixed rate per person.

23 They come in, it's all you can eat. So, from the
24 menu -- there's a copy of it -- on the left side are all meats.
25 So, it goes from chicken, pork, to beef -- we are still -- you
26 know, can be in and out with our seafood option, but for now we

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do have one squid in one of our locations -- along with all the sides are on your right side. That is fried dumplings, rice, lettuce, all of those sides are available, as well.

So, they get to place their first order and they will continue to order any time they want because it's all you can eat, it's unlimited. If people want a little bit more of each different type that they want, they will just order more of it at no additional cost. Servers cook the meat for you and are always checking in to see if the customers need anything or/and of course are happily full by the end of their experience.

Our design and vibe of the restaurant is a lively and fun atmosphere. So, O2 is definitely the go-to place for any birthdays, reunions, family gatherings, or any celebration. All the interior designs that we plan to do are in the packet, as well, towards the end. It is a very fun, lively atmosphere with all the TVs on the wall, as well, that will be showing music videos of Korean music or just pop music in general, as well.

VICE CHAIRMAN FRANCIS: You're making me hungry.

MEMBER GOODSSELL: Do you have any locations on Long Island now?

MS. ROSS: We do not. So, we have two locations so far. We have one in Bayside in Queens on Bell Boulevard and we have one in Guttenburg in New Jersey which is right next to Edgewater. That is a pretty poplar area over there, too.

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2 VICE CHAIRMAN FRANCIS: I didn't know. I work not too
3 far from Bell Boulevard. So, now I know where to go to lunch.

4 MS. ROSS: Yes. Please do. You have to try it
5 firsthand.

6 VICE CHAIRMAN FRANCIS: Absolutely.

7 MEMBER GOODSSELL: So, how much modifications is going
8 to be needed for the current space in order to accommodate the
9 seating?

10 MR. MCNERNEY: Why don't I let Mr. Whitenberg, the
11 architect, here today make his presentation.

12 MR. WHITENBERG: Mark Whitenberg, architect with an
13 office at 239 Laurel Road, East Northport.

14 What modifications to the restaurant? I've never been
15 to the old Red Robin restaurant and they removed all their
16 tables before I got there. They had a sizable kitchen in the
17 back. I believe the new tenant won't need as much kitchen.
18 It's more of a prep work.

19 And for the dining area, we reduced the size of the
20 tables in the bar area. The bar area is much smaller so that
21 we can put more dining tables inside there and each table is
22 mostly four seats or six seats. Each table has, like, a
23 rooster kettle in the middle, we will call it.

24 Each table will also have its own hood for exhaust and,
25 you know, I'm preparing a full engineering drawing to
26 accommodate that. I hope that answers your question.

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MEMBER GOODSSELL: It does answer my question, because it seems to be a big open space right now with -- with -- and I'm not seeing anything specifically like this. I don't know if you're familiar with a Benihana type of large table, but this seems to be slightly different. It is a big empty location right now. I mean, I personally am familiar with this site and I was curious to know what was gonna go in there.

MR. WHITENBERG: I've been to the restaurant in Guttenberg, New Jersey. It's more similar than the place in Bayside.

MEMBER GOODSSELL: Sure.

MR. WHITENBERG: But it sounds like you cook your own food a lot, the customer. But a lot of times the wait staff comes over and makes sure that the food is turned and cooked adequately.

MEMBER GOODSSELL: Okay.

MR. MCNERNEY: Any other questions for Mr. Whitenberg?

MEMBER DONATELLI: No.

MR. MCNERNEY: I think that completes our presentation.

VICE CHAIRMAN FRANCIS: I have just one more question for Ms. Ross. The cooking element at each table, what's firing the cooking element?

MS. ROSS: It's a gas stove. Yeah. Gas stove.

VICE CHAIRMAN FRANCIS: Thank you.

And one other thing, the distinction between lunch A

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and lunch B?

MS. ROSS: Lunch A --

VICE CHAIRMAN FRANCIS: You can tell I'm hungry.

MS. ROSS: Lunch A only has four options. It does have the chicken and two of the pork options. Lunch B offers beef, as well. So, it's -- it gets to preference and price difference for that. But, actually, a lot of times people come in for lunch and also opt in to take the dinner menu, as well, because the dinner option -- we call it the dinner menu, but it's available all day because it includes the steaks and the hot air options, as well. It includes more.

So, people come in and eat everything that's available to them. We try to let them eat as much as possible. It's very rare that they get to finish or try all 20 options, but they do definitely try to go for it.

MEMBER DONATELLI: My son could do it.

MS. ROSS: I'm sure.

MEMBER DONATELLI: The bar onsite, that will be just basically to entertain people while they're waiting for tables?

MS. ROSS: Most likely, yes. We don't assume that that will be the main attraction. People will just be waiting, grabbing a drink while the servers are going back and forth picking up drinks, as well.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER HERNANDEZ: Thank you.

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2 MEMBER DONATELLI: So anything else?

3 VICE CHAIRMAN FRANCIS: No.

4 MEMBER DONATELLI: So, I would make a motion that we
5 grant the application. I would -- with the stipulation that we
6 have the standard restaurant conditions.

7 MR. McNERNEY: There is no parking variance being
8 requested.

9 MEMBER HERNANDEZ: Just making sure, on the record.

10 MR. McNERNEY: Correct. We're on the record that we do
11 not need a parking variance.

12 MEMBER DONATELLI: So, I would note that it's going to
13 be slightly smaller than the existing round robin in terms of
14 numbers of seats in a restaurant --

15 MR. McNERNEY: That is correct.

16 MEMBER DONATELLI: -- as was testified to.

17 So, I make a motion that we grant the application
18 subject to the standard restaurant conditions.

19 CHAIRMAN MAMMINA: Do we have a second?

20 VICE CHAIRMAN FRANCIS: Second.

21 CHAIRMAN MAMMINA: Seconded by Vice Chairman Francis.
22 Please poll the Board.

23 SECRETARY WAGNER: Member Goodsell?

24 MEMBER GOODSSELL: Aye.

25 SECRETARY WAGNER: Member Hernandez?

26 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 Mammina?

CHAIRMAN MAMMINA: Aye. Application is granted.

1 Proceedings

2 SECRETARY WAGNER: Somebody wants to move SEQRA.

3 VICE CHAIRMAN FRANCIS: So moved.

4 SECRETARY WAGNER: So, SEQRA was moved by Vice
5 Chairman. We're adopting SEQRA. We have a motion by the Vice
6 Chairman. Second?

7 MEMBER HERNANDEZ: Second.

8 SECRETARY WAGNER: All in favor?

9 MEMBER HERNANDEZ: Aye.

10 MEMBER GOODSSELL: Aye.

11 MEMBER DONATELLI: Aye.

12 VICE CHAIRMAN FRANCIS: Aye.

13 CHAIRMAN MAMMINA: Aye.

14 (TIME NOTED: 3:34 p.m.)

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C E R T I F I C A T E

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

A handwritten signature in black ink, reading "Nicole L. Basile". The signature is written in a cursive, flowing style with a large initial 'N' and 'B'.

NICOLE L. BASILE