

BOARD OF ZONING APPEALS
VIRTUAL ZOOM PUBLIC HEARING

Wednesday, June 22, 2022
10:32 A.M.

BOARD MEMBERS PRESENT:

DAVID L. MAMMINA, A.I.A. - Chairman
LESLIE FRANCIS, ESQ. Vice Chairman
PATRICIA GOODSELL, ESQ. Member
DANIEL DONATELLI, ESQ. Member
JAY HERNANDEZ - Member

ALSO PRESENT:

DEBORAH ALGIOS, ESQ. - Deputy Town Attorney
VIRGINIA WAGNER - Secretary
MADELINE TAVANI - Stenographer

1 CHAIRMAN MAMMINA: Would everyone please
2 rise for Vice Chairman Francis and the Pledge of
3 Allegiance.

4
5 (Pledge of Allegiance.)
6

7 CHAIRMAN MAMMINA: Okay. Good morning,
8 ladies and gentlemen. Welcome to the Town of North
9 Hempstead Board of Zoning Appeals.

10 What I'd like to do before we start is just
11 take a few minutes to talk about the way that we do
12 things in the Town of North Hempstead in case you
13 potentially appear before other Zoning Boards
14 and/or maybe you've never appeared before a Zoning
15 Board before. If you never appeared before a
16 Zoning Board before, we'd just ask you to stay
17 calm, relaxed and just talk to us.

18 So what we will do is ask, as Ms. Wagner
19 calls each one of the cases, we'll ask for the
20 Applicant to -- just the Applicant to stand up,
21 come up to the podium, and then I'll ask if there's
22 anyone else who is interested in the case. And all
23 we need is a show of hands on that so the Board
24 knows that we have someone else who wishes to
25 speak.

26 We have a relatively small group today, but
27 that doesn't necessarily discount if we get seven
28 or eight people that put their hand up. We're also
29 going to pass around a sign-in sheet so people can
30 sign in.

31 And once the Applicant is up at the podium,
32 they will give their name and address. We do have
33 a court reporter who is Zoomed off someplace. And,
34 you know, that way we have the record of everyone
35 who spoke. And anyone else who comes up to speak,
36 we'll also do the same thing. And we'll remind,
37 you know, if you -- if you don't. You know, if
38 there are two people who wish to speak about an
39 application simultaneously, you know, yes, they can
40 come on up together. Each one will give their name
41 and address, and the only thing that we will ask is
42 that we try not to talk over one another as we have
43 someone who is taking the record of this, and if
44 people are talking over one another, it's
45 difficult, you know, for the stenographer.
46 Sometimes the Board is guilty of that, and, you
47 know, we try very hard to avoid that.

48 So as each case is called and the name and

1 address has been given, the podium will then belong
2 to the Applicant. So the Applicant then can put
3 their case onto the record and the Board will ask
4 whatever questions it sees necessary to ask, you
5 know, in order to establish fully what our
6 understanding is. And, you know, and give the
7 Applicant the opportunity to respond to us.

8 When that is done, then if there's anyone
9 else who had their hand up, we'll just ask the
10 Applicant to have a seat wherever. And then, one
11 at a time, we'll ask for anyone else who wishes to
12 speak, either in support or in opposition. You
13 don't have to speak because you're here.

14 Sometimes people are here just to listen so
15 that they understand better, you know, what the --
16 you know, what the case is. So if someone wishes
17 to speak, they'll have the opportunity. The Board
18 will ask whatever questions it sees fit to ask, and
19 that the person in support -- you know, or in
20 opposition will then give us our -- our -- their
21 perspective.

22 The Applicant and, typically, only the
23 Applicant gets to speak two times. You know, if
24 not, we're doing point, counterpoint, point,
25 counterpoint. So the Applicant gets a second turn.
26 That's not always true, but it's true probably a
27 solid 95 percent of the -- you know, of the time so
28 that everybody, you know, has their fair chance.
29 The Applicant has the opportunity to respond to
30 something someone said negative or positively, and
31 at that point, the hearing is done.

32 You know, again, in terms of percentages,
33 99 percent of the time, there will not be a second
34 hearing. This is -- this is the day, and you
35 know -- and you know, we run the calendar in that
36 way. And the Board will then do one of four
37 things. We will either:

38 Grant the Applicant.

39 Deny the application.

40 We may reserve the application and/or
41 continue the application.

42 Okay. Everybody knows what grant or deny
43 means. If we are to reserve the application, that
44 might be just that the Board wants to go out and
45 take a look at the property again based on things
46 that somebody said, we may want to see it. The
47 Building Department might want to offer us a file
48 that we would like to see.

1 So there can be any number of reasons that
2 the Board could reserve. If we are to continue the
3 application, that could be by example if -- you
4 know, if the Board offers some kind of compromise
5 to the Applicant so that the Applicant then can --
6 you know, can make that compromise on their
7 drawings, assuming it's acceptable to them. We may
8 ask for a document, a closing document, some
9 photographs that would support something. So,
10 again, that could be for any number of reasons that
11 we would continue the case.

12 So what I will ask now, I mean everyone in
13 the world, you know, is addicted, and it is
14 necessary to have a cell phone. To have, you know,
15 an iPad, to have, you know, whatever it might be.
16 We just ask that you turn off the ringers, you
17 know, on them. You can, you know, have it buzzing,
18 you know. And if at any time you have to make a
19 phone call, take a phone call, quite all right.
20 Just stand up, you're all ladies and gentlemen
21 here, you can walk out into the lobby area, and you
22 know, do whatever you need to do.

23 If there is someone else who is not here
24 yet and they're going to be coming here, please
25 just ask them the same thing as well. Because I'm
26 sure you can imagine when the music starts to play
27 when you're at the podium, it's very disturbing to
28 you, to the stenographer, to you, to the Board.

29 And the other thing that we will ask is
30 that we keep talking to a zero -- okay -- if you
31 have something to talk about, that's okay too, just
32 walk out into the lobby and you may have all the
33 discussions that you -- that you would like. And,
34 again, if somebody else is coming who is not here
35 and you want to fill them as to, you know, where
36 you are on the calendar or something else that has
37 been said on another case, you could do that.
38 That's fine. You know, we just ask that you do
39 that outside. I think I covered everything.

40
41 MEMBER DONATELLI: Yes.

42
43 VICE CHAIR FRANCIS: Yes.

44
45 CHAIRMAN MAMMINA: Good. Then with that --
46 so with that said, Ms. Wagner, do we have any
47 modifications to today's calendar?
48

1 MS. WAGNER: Chairman, we have an
2 adjournment request for Appeal #21228; Richard
3 Schefer; 144 Luquer Road, Port Washington; Section
4 5, Block 76, Lot 435; in the Residence-B Zoning
5 District.

6 Variance from 70-39.C to legalize additions
7 that are too big.

8 Then we have a vote on the adjournment
9 request.

10
11 MEMBER GOODSSELL: I'll make a motion.

12
13 CHAIRMAN MAMMINA: All right. So we have a
14 motion by Member Goodsell that we grant the
15 adjustment.

16 Do we have a second?

17
18 MEMBER DONATELLI: Second.

19
20 CHAIRMAN MAMMINA: We got you first on that
21 Les, sorry. You get the second.

22 And we have a second by Mr. Donatelli.
23 Please poll the Board.

24
25 MS. WAGNER: Member Goodsell.

26
27 MEMBER GOODSSELL: Aye.

28
29 MS. WAGNER: Member Donatelli.

30
31 MEMBER DONATELLI: Aye.

32
33 MS. WAGNER: Vice Chairman Francis.

34
35 VICE CHAIR FRANCIS: Aye.

36
37 MS. WAGNER: Chairman Mammina.

38
39 CHAIRMAN MAMMINA: Aye.

40 So that application is adjourned until
41 July 13th. So if anyone is here for the second
42 application that is on the calendar, Appeal #21228,
43 Richard Schefer, that will not be heard today.

44 So you can stay and listen if you'd like
45 or, you know -- or you can leave at this point, and
46 that will be heard then at our -- at our July
47 meeting.

48 So with that said then, please call the

1 first case.
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Appeal # 21243

1 MS. WAGNER: Appeal #21243. Jaime Lambros;
2 49 Rolling Hill Road, Manhasset, Section 3, Block
3 56, Lot 195; in the Residence-B Zoning District.
4 Variance from 70-100.2(A-4) to legalize a
5 fence that is too tall.
6

7 CHAIRMAN MAMMINA: You've heard Appeal
8 #21243, Jaime Lambros.

9 Is there anyone in the room who is
10 interested in the application other than the
11 Applicant?

12 You can come on up because we assume that
13 you're -- that you're in favor of the Application
14 and you are the Applicant.
15

16 MS. LAMBROS: I am the Applicant.
17

18 CHAIRMAN MAMMINA: So please give your name
19 and address.
20

21 MS. LAMBROS: Jaime Lambros, 49 Rolling
22 Hill Road, Manhasset, New York.
23

24 CHAIRMAN MAMMINA: Okay. Good morning.
25

26 MS. LAMBROS: Good morning.
27

28 CHAIRMAN MAMMINA: Tell us a little bit
29 about your application.
30

31 MS. LAMBROS: Hi. So we put a fence in our
32 yard back in 2019. I have three small children
33 living in North Strathmore, so we put the fence for
34 the safety of our children and also to keep our
35 property closed up.

36 And when the inspector came, it -- we had
37 filed for the permits and also did additional work
38 in our backyard by beautifying the property, adding
39 a patio, an outdoor kitchen area, and the inspector
40 failed the final CO because the aesthetics of the
41 fence. We chose a fence that arched a little bit
42 on the gate side, both gates facing the street.
43 And it was four inches too small -- I mean, I'm
44 sorry, too high.

45 So we filed for a variance pre-COVID. Our
46 application and everything was -- somehow
47 disappeared through everything.
48

Appeal # 21243

1 CHAIRMAN MAMMINA: COVID was a difficult
2 time. That's for sure.

3
4 MS. LAMBROS: Yes. So I started the
5 process again a few months ago, submitted an
6 application with new pictures, sent certified
7 mailings to all of our neighbors in 300 yards of
8 our property. And here I am today.

9
10 VICE CHAIR FRANCIS: When you say that you
11 installed a fence, did you physically install it or
12 did you hire someone?

13
14 MS. LAMBROS: We hired someone, a
15 contractor.

16
17 VICE CHAIR FRANCIS: Who was that? Who was
18 the company that did it?

19
20 MS. LAMBROS: The company we used was
21 Angelo Tusta, and I believe it was outsourced
22 through the -- he was the architect design company,
23 and I'm not exactly sure who the vendor was.

24
25 CHAIRMAN MAMMINA: Okay. So you don't know
26 if they are licensed?

27
28 MS. LAMBROS: They were licensed. They
29 have the permit and everything. I believe I have
30 them here if you need.

31
32 CHAIRMAN MAMMINA: According to our notes,
33 it says that the top rail of the fence is at
34 4-foot-6.

35 So I mean, I don't know -- you know, we go
36 by and we look at your pictures, all of that. Is
37 the top of the rail 4-foot-6, or is the peak of
38 that little decorative piece, or you know, however
39 far above that, is that the 4-foot-6?

40
41 MS. LAMBROS: No, I believe the decorative
42 part is probably a little bit even higher than the
43 4.6.

44
45 MEMBER HERNANDEZ: We have conflicting
46 information. Because it's -- your door clearly has
47 an arch.

48

Appeal # 21243

1 MS. LAMBROS: Yes.

2

3 MEMBER HERNANDEZ: Is the 4-foot-6 to the
4 top of the arch, or is it to the flat area
5 alongside -- on the fence? What's closer, because
6 the way you described it now, it made it sound that
7 it was an arch that called for 4-foot-6.

8

9 MS. LAMBROS: Yeah, so I think everything
10 is 4.6 and then the arch goes above the 4.6.

11

12 MEMBER GOODSSELL: Are you familiar with the
13 Town's fence requirements, the height requirements?
14 Four foot in the front, five on the side, six in
15 the back.

16

17 MS. LAMBROS: Yes, I mean.

18

19 MEMBER GOODSSELL: Okay. And that's what
20 we're trying to find out. The two pieces of fence
21 that are in the front, facing the front yard that
22 seems to be even with the house. Everything seems
23 fine except we can't tell by looking at your
24 beautiful pictures, because they are nice pictures,
25 where the Building Department was measuring from
26 and that's what we are discussing. So there's no
27 problem with the side fence, there's no problem
28 with the back fence.

29

30 MS. LAMBROS: The gate, right.

31

32 (Sidebar conversation.)

33

34 CHAIRMAN MAMMINA: We get a lot of fences,
35 so don't see this as necessarily dooming your
36 application.

37 But we are -- we're going to at -- at this
38 point, reserve decision, you know, on the fence.
39 Because, as I said, you know, we get a lot of, lot
40 of fences, and we are very strict with the fences,
41 because the Town Board, and understand that we
42 don't create the zoning. The Town Board creates
43 the zoning, and we're there to do the balancing
44 test. We're also not here just to say no to
45 everybody or say yes to everybody. You know, so
46 what we would like to do is take another look.

47

48 MS. LAMBROS: Okay.

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1 CHAIRMAN MAMMINA: You know, at the fence.
2 You know, and see what we think, you know, about
3 that fence. Because, as I said, the 4-foot fence
4 in the front, you know, is something that was --
5 that was done, was presented to the Town Board by
6 the Zoning Board because we were getting so many
7 fence applications.

8
9 MS. LAMBROS: Right.

10
11 CHAIRMAN MAMMINA: And the Town Board then
12 said, okay, four feet in the front, five foot on
13 the side, six in the back.

14 You know, in your case, you got one
15 continuous, you know, height, you know, going
16 around. You know, so we want to see what the
17 aesthetic impact of that is. We're not an
18 aesthetic board, but there are ways that the
19 aesthetics of -- you know, of a fence, in
20 particular, you know, can separate it from other
21 fences. You know that -- you know, that might be
22 in that front yard.

23 You know, and saying this without literal
24 certainty, if that was a white vinyl fence, we
25 would probably tell you, no, sorry. That -- that
26 doesn't work.

27
28 MS. LAMBROS: Yeah, I mean its black
29 wrought iron. You can see right through it.

30
31 CHAIRMAN MAMMINA: It's a pretty fence.

32
33 MS. LAMBROS: Yeah.

34
35 CHAIRMAN MAMMINA: You know, unfortunately
36 for us, pretty doesn't --

37
38 MEMBER GOODSELL: As much as we think it
39 looks gorgeous, it could be a ten-foot fence, we
40 could think it looks gorgeous. But, unfortunately,
41 we can't grant that.

42 So did you have the option, if, in fact
43 it's just the arch that violates the 4-foot -- and
44 I don't know if it is or not -- did you have the
45 option of installing a gate with a flat four-foot
46 top, or was this the gate that comes with this?

47
48 MS. LAMBROS: I believe we had the option

Appeal # 21243

1 to go straight but, aesthetically, we felt it
2 looked -- the appeal to the home, especially from
3 the curb appeal, it looked nicer to do.

4 Which obviously was an upcharge, so we put
5 a substantial amount of money into it and even when
6 the inspector came, it was -- you know, somehow
7 past what the contract in town a week prior, and we
8 did not get it passed.

9
10 CHAIRMAN MAMMINA: We appreciate that
11 you're forthcoming.

12
13 MS. LAMBROS: Yeah. And, I mean, and also
14 the inspector had told us it was easier to file for
15 a variance and go through that process as opposed
16 to ripping everything up and paying the money to
17 redo it for four inches.

18
19 CHAIRMAN MAMMINA: You have to take that
20 into account as we look at these, you know, as
21 well. That, yes, we do have, you know, a way of
22 solving that problem. But, you know, again, it's a
23 balancing test that we do.

24
25 MEMBER DONATELLI: Did the contractor give
26 you an estimate as to what it might cost to replace
27 that front part of the fence?

28
29 MS. LAMBROS: They did not. Because right
30 there, the inspector said just file for the
31 variance and start the process. So we didn't
32 bother going through, you know, getting an
33 additional quote to have everything rebuilt -- or
34 pulled out and reinstalled.

35
36 CHAIRMAN MAMMINA: Okay. Well, thank you
37 very much.

38
39 MS. LAMBROS: Thank you.

40
41 CHAIRMAN MAMMINA: And then we will
42 reserve, you know, this application.

43
44 MS. LAMBROS: Okay.

45
46 CHAIRMAN MAMMINA: And while there's no
47 total promise, you know, the chances are likely
48 that we will decide this by our next -- our next

Appeal # 21243

1 meeting.

2

3 MS. LAMBROS: Okay. So do I just wait to
4 hear from you?

5

6 CHAIRMAN MAMMINA: Wait to hear from the
7 zoning office.

8

9 MS. LAMBROS: Okay.

10

11 CHAIRMAN MAMMINA: And Ms. Wagner is in
12 charge of the zoning office, but you may get
13 somebody else that you can call, you know, the day
14 after and say, was there a decision.

15

16 MS. LAMBROS: Okay.

17

18 CHAIRMAN MAMMINA: And, also, you would
19 be -- you would be mailed, you know, that actual
20 decision, which then would go back to the Zoning
21 Board -- you know, the Building Department.

22

23 MS. WAGNER: You can call us tomorrow
24 because they're going to decide later today.

25

26 MS. LAMBROS: Okay.

27

28 MS. WAGNER: So they can let you know
29 whether (indecipherable.)

30

31 MS. LAMBROS: Okay. Great. All right.
32 Thank you so much.

33

34 MS. WAGNER: (Indecipherable.)

35

36 MS. LAMBROS: I believe I do.

37

38 CHAIRMAN MAMMINA: Okay. Ms. Wagner,
39 that's a very valid point.

40

41 MS. LAMBROS: Okay. If you need additional
42 pictures, and I need to come back and take a look,
43 I'll be more than happy.

44

45 CHAIRMAN MAMMINA: You documented it very
46 well.

47

48 MS. LAMBROS: Okay. Thank you so much.

Appeal # 21244

1 MS. WAGNER: Next appeal. Appeal #21244
2 Belleview Re LLC; 21 Belleview Avenue; Port
3 Washington, Section 5, Block 81, Lot 20 & 22; in
4 the Residence-C Zoning District.

5 Variances from 70-50.B, 70-51.B, 70-52.3A,
6 70-45.A, and 70-52.6 to legalize/maintain a home on
7 a new lot, created by a subdivision, which is too
8 close to the street secondary front yard, with side
9 yards that are too small, that is within the sky
10 exposure plane, with a ridge that is too high, and
11 with an eave that is too high.

12
13 CHAIRMAN MAMMINA: You've heard Appeal
14 #21244 Bellevue RE LLC.

15 Is there anyone in the room interested in
16 the Application other than the Applicant?

17
18 (No response.)

19
20 CHAIRMAN MAMMINA: Seeing no one, please
21 give your name and address.

22
23 MR. MIGATZ: Bruce W. Migatz, law firm of
24 Albanese & Albanese, 1050 Franklin Avenue, Garden
25 City, New York for the Applicant.

26 Good morning, Chairman and Members of the
27 Board.

28 I would like to submit -- I have exhibits 1
29 through 7 that I have bound, and I will refer to
30 them as I make the presentation.

31 The Applicant is Bellevue RE LLC, a New
32 York State limited liability company. Eric Lee is
33 the managing member, he's with me this morning.
34 The property is on the northeast corner of Bellevue
35 Avenue and Franklin Avenue, Section 5, Block 81,
36 Lots 20 and 22.

37 Each of those two tax lots of 5,000 square
38 feet with a combined 10,000 square foot area, zoned
39 Residence-C.

40 Exhibit 1 and Exhibit 2 are photographs of
41 the property. Exhibit 1 is a photograph of the
42 existing house taken on Bellevue Avenue. It's a
43 corner property. And Exhibit 2 is the house facing
44 Franklin Avenue.

45 Now, the legal notice is little confusing,
46 and I know it did confuse the neighbor across the
47 street who sent in the email in opposition. We're
48 not trying to legalize or maintain something that

Appeal # 21244

1 was constructed without permits.

2 This is a subdivision application before
3 the Building Department to create two 5,000 square
4 foot lots and to maintain the existing house on one
5 of the two tax lots.

6 The existing house is presently a
7 two-family house which you can have on a 10,000
8 square foot lot in the Residence C.

9 The proposal is to turn that house into a
10 one-family house on a 5,000 square foot lot and to
11 construct a new house on a new 5,000 square foot
12 lot.

13 What is before you today is not the new
14 house on the 5,000 square foot lot. It is to
15 maintain the existing house with proposed
16 alterations on the 5,000 square foot lot. Because
17 the subdivision does create some minor variances, I
18 would submit, in order to maintain that house on a
19 5,000 square foot lot. It was constructed before
20 1938, so it is nonconforming in many respects.

21 The email that came in this morning that
22 Ms. Wagner sent to me was from a neighbor across
23 the street who understood the Application was for
24 variances to build a new house on the 5,000 square
25 foot lot. That's not what the Application is
26 before you.

27 The -- what is proposed, is if you look at
28 Exhibit 2, the photograph -- the photograph marked
29 Exhibit 2. That is what you see in 17. That is an
30 addition that was added to this house. And that
31 addition which is now one of the two dwelling units
32 in a garage behind a tree, and that addition would
33 be removed and a new two-and-a-half-story addition
34 would be constructed to the existing house to make
35 that house larger.

36 The addition -- the alterations to the
37 existing house complies with code with one
38 exception -- the existing two-and-a-half story
39 house has an eave height of 22.365 feet and the
40 code allows 22 feet. So the existing house has an
41 eave height of .365 extra height.

42 In designing the addition, the architect
43 kept the eave heights aligned so the addition would
44 have an eave height of 22.365 feet. So that is a
45 variance that is required for that addition.
46 Everything else with respect to that addition
47 complies with code. But the subdivision creates
48 some variances for the new -- for the existing

Appeal # 21244

1 house to remain. The existing house will have a
2 side yard setback of 3.5 feet, whereas 5 feet is
3 required. And it creates an encroachment into the
4 sky exposure plane.

5 And Exhibit 3, I have highlighted in
6 yellow, the encroachment in the side yard sky
7 exposure plane that results from the subdivision
8 and making a new lot.

9 The other variances that are cited in the
10 legal notice are existing nonconformities.
11

12 MEMBER HERNANDEZ: Mr. Migatz, I'm sorry to
13 interrupt you. Just so I understand, because I
14 don't see it on the plan that you just described.

15 The door of the -- of the house, could you
16 please orient me as to which way the door is
17 facing?
18

19 MR. MIGATZ: That's facing Bellevue.
20

21 MEMBER HERNANDEZ: Facing Bellevue. So
22 then the encroachment is not on the new lot, but on
23 to the neighbor?
24

25 MR. MIGATZ: No. The encroachment is on
26 the new lot that is being created.
27

28 MEMBER HERNANDEZ: Okay. The garage slice
29 addition that exists today, isn't that 17 Franklin?
30

31 MR. MIGATZ: Yes. But that's the addition
32 on that side does not create any -- any variances
33 other than eave height.
34

35 MEMBER HERNANDEZ: So isn't that where the
36 new lot is going to be?
37

38 MR. MIGATZ: No, the new lot is on
39 Bellevue. If you face Bellevue -- now if you look
40 at photograph one, that's the existing house on the
41 corner of Bellevue and Franklin.
42

43 MEMBER HERNANDEZ: Okay.
44

45 MR. MIGATZ: And to the left of that house
46 is the 5,000 square foot vacant lot.
47

48 MEMBER HERNANDEZ: Okay. And the garage

Appeal # 21244

1 and the addition that is being knocked down is
2 behind.

3
4 MR. MIGATZ: That's correct, that's
5 correct.

6
7 (Sidebar conversation.)

8
9 CHAIRMAN MAMMINA: Thank you.

10
11 MR. MIGATZ: Sure.
12 So the other variances identified in the
13 legal notice have to do with existing
14 nonconformities, they're not being increased by
15 what is being proposed.

16 One is to maintain a secondary front yard
17 setback on Franklin Avenue, 13.14 feet is existing.
18 And that's not being changed. But the Building
19 Department is of the opinion we need a variance to
20 maintain that. I would note that the disapproval
21 notice says 3.6 feet is proposed, but it's actually
22 3.14 feet.

23 And the other variance is to maintain the
24 existing ridge height of 30.57 where 30 is
25 permitted. That's the existing house. The
26 addition to the existing house will have the
27 30-foot ridge height. But the existing house is
28 point 57 feet over, so we're not increasing that
29 nonconformity, but the Building Department believes
30 we need a variance to maintain that.

31 Going through the balancing test, whether
32 or not there will adverse impact or detriment to
33 nearby properties if the variances are created.
34 The eave height variance for the new addition is
35 only .365 feet. It aligns with the existing eave
36 height of the -- of the existing house.

37 The project architect is of the opinion
38 that's not practical to not to have the eave
39 heights aligned, so that's a very minor variance.

40 To maintain the existing ridge height of
41 .57 over 30, existing nonconformity not being
42 increased, no change in the character of the
43 community. And I will submit to you not
44 discernible to anybody walking or driving by this
45 property.

46 Secondary front yard setback 13.4. Again
47 disapprovals as to 13.6, but it's actually 13.4,
48 where 20 feet is required. Again, that is existing

Appeal # 21244

1 not being changed, no change in the character of
2 the neighborhood.

3 A side yard -- bless you -- a side yard
4 setback, that is new that is being created by the
5 subdivision. 3.15 is proposed; 5 feet is required.
6 I don't think that's substantial and more
7 importantly, that setback is on -- up against the
8 new house to be built. So whoever buys that new
9 house is buying that house, knowing there is a
10 3.5-foot setback instead of a 5-foot setback.

11 And lastly, the sky exit exposure plane.
12 Looking at Exhibit C, the house is not being
13 changed, so to somebody driving down the block,
14 there's no difference. It's really a technical
15 violation of a sky exposure plane caused by the
16 smaller side yard setback.

17 But, once again, the person that buys that
18 new house on the new lot is buying it, knowing that
19 that existing house is there.

20 The existing house on the 5,000 square foot
21 lot, I submit to you, is consistent with the other
22 houses in the neighborhood. Exhibit 4, the two
23 houses directly across the street, they are on
24 5,000 square foot lots. And looking at them, I
25 would suspect they don't comply with today's sky
26 exposure plane they were built, you know, before
27 that law was adopted.

28 Exhibit 5 is at 18 Bellevue Avenue, which
29 is diagonally opposite the subject premises. The
30 structure on the right is the Polish-American
31 Museum. I don't think there's -- I think there's a
32 sky exposure plane violation there as well.

33 Exhibit 6 are the houses -- the adjacent
34 house to the vacant lot number 17 and number 15,
35 and they may or may not comply with sky exposure
36 plane, but they also are on 5,000 square foot lots.

37 And we're not changing the appearance of 22
38 Bellevue Avenue. It's going to look the way it
39 looks now if you grant this Application, and it's
40 going to be look very similar to the other houses
41 in the immediate vicinity.

42 For the reasons I stated, I don't think
43 these are substantial variances. There is no other
44 means to achieve the benefit that the Applicant
45 seeks. The benefit the Applicant seeks is to
46 maintain the existing house.

47 The Applicant could demolish that house,
48 and build two one-family houses as of right, it

Appeal # 21244

1 wouldn't be before you, or could build a new
2 two-family house. So we were not increasing
3 density. We're before you to not knock down that
4 very -- I don't want to say historic, but old house
5 that certainly is very nice and looks like the
6 other houses in the neighborhood.

7 The variance is a type two actions under
8 SEQRA will not have an adverse impact on the
9 environment.

10 The difficulty is self-created as a matter
11 of law, as you know, because the Applicant bought
12 the property subject to the code from which they
13 seek a variance.

14 This application is very similar to a prior
15 appeal that I handled before this board; 20737, the
16 application of Susan Higgins that was decided
17 August 14th, 2019. That decision is Exhibit 7 in
18 the -- in the booklet that I handed up.

19 And that was very similar. There was a
20 two-family house on a 10,000 square foot lot. The
21 Applicant removed part of the existing two-family
22 house that encroached on the proposed new lot, and
23 converted the two-family into a one-family. And
24 minor variances of very similar nature was granted
25 to maintain that house. It needed a height
26 variance, front yard setback variance maintaining
27 those setbacks and a side yard setback variance and
28 a sky exposure plane variance.

29 So that application is very similar to this
30 application. And like that application, you know,
31 we're trying to preserve the existing house and not
32 tear it down to build two new houses.

33 I do have eight consents that I will submit
34 to you as Exhibit 8.

35 As I mentioned, there was that one email in
36 opposition, but that owner misunderstood the
37 application and thought they were for a new house
38 to be constructed.

39 That's our presentation, unless the Board
40 has any questions.

41
42 MEMBER GOODSSELL: Mr. Migatz, you mentioned
43 that there are no current plans to develop that lot
44 at this time, are there?

45
46 MR. MIGATZ: Nothing has been filed. But
47 jumping ahead, trying to read your mind, the
48 Applicant intends to design a house that is going

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1 to fit into the character of that community.

2

3 MEMBER GOODSSELL: I would assume that a
4 basic lot in that particular area of town has a
5 substantial value because it's an easy walk to the
6 train station, it's a lovely residential street and
7 the owner -- the current owner would, in fact, like
8 to develop that property (indecipherable.)

9

10 MR. MIGATZ: The current owner will develop
11 that, yes. Absolutely.

12

13 MEMBER DONATELLI: Mr. Chairman, I will
14 just note for the record that this area is zoned
15 Residence-C and the minimum lot size for
16 Residence-C is 5,000 square feet.

17

18 MR. MIGATZ: Each lot is 5,000 square feet.

19

20 CHAIRMAN MAMMINA: Okay. I think what
21 we're going to do with this, we will reserve
22 decision, you know, on it and may or may not be
23 decided this afternoon.

24

25 MR. MIGATZ: Thank you very much.

26

27 MEMBER GOODSSELL: I wasn't sitting on the
28 board when the similar application was granted. So
29 I also would like to a look at this case, and I
30 would also like to reserve decision on this.

31

32 MR. MIGATZ: Well, I gave you that -- I
33 gave you that decision. Okay. And I would hope
34 that that would not delay the decision on this case
35 because it's only -- it's only an example of this
36 Applicant doing what that Applicant did.

37

38 I'm not -- I'm not relying on that case as
39 a so-called precedent -- all right -- I only bring
40 that up to say that, you know, this has been before
41 this board in the past, and you know, to preserve
42 an existing house.

42

43 MEMBER GOODSSELL: I understand.

44

45 VICE CHAIR FRANCIS: It's even the same
46 residence as this -- the other case was Residence-C
47 as this one was.

48

Appeal # 21244

1 MR. MIGATZ: That's correct. That's two
2 5,000 square foot tax lots, combined to 10,000
3 feet.

4 Thank you. Thanks very much.

5
6 CHAIRMAN MAMMINA: Thank you. We will
7 reserve decision on this application, thank you.
8 Please call the next case.
9

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Appeal # 21245

1 MS. WAGNER: Appeal #21245; Michael
2 Gatzonis; 29 Oak Ridge Lane, Albertson; Section 7,
3 Block 209, Lot 23; in the Residence-C Zoning
4 District.

5 Variances from 70-50.C, 70-51.A, 70-209.A
6 and 70-100.2.K to construct additions and
7 renovations involving the removal of more than 50%
8 of an original non-conforming dwelling, that are
9 too close to the street, with smaller than required
10 aggregate side yards and a generator that is too
11 close to the side property line.

12
13 CHAIRMAN MAMMINA: You've heard Appeal
14 #21245; Michael Gatzonis.

15 Is there anyone in the room interested in
16 the Application?

17
18 (No response.)

19
20 CHAIRMAN MAMMINA: Seeing no one.

21
22 MS. TSOUKALAS CURTO: Good morning,
23 Chairman Mammina and Members of the Board.

24 Andrea Tsoukalas Curto with the firm of
25 Forchelli Deegan Terrana with offices at 333 Earle
26 Ovington Boulevard, Uniondale, New York.

27 I'm here on behalf of the applicants,
28 Michael and Vicki Gatzonis, who are here with me
29 today, and Steven Sheibley, spelled S-H-E-I-B-L-E-Y
30 from Diversified Design. The Applicant's architect
31 is also here today.

32 I do have an exhibit packet that I'd like
33 to submit at this time, applicant's Exhibit A, and
34 it has five exhibits within that.

35 So this is an application for minor area
36 variances to construct a new dwelling at the
37 premises. Specifically, the Applicant seeks a
38 variance for a minimum front yard setback and
39 minimum aggregate setback for the residents and a
40 setback variance for proposed generator.

41 The existing dwelling is preexisting,
42 nonconforming with respect to the required
43 aggregate side yards. The foundation of the
44 existing dwelling will remain intact, so the
45 footprint remains the same except for the rear
46 addition.

47 The Applicant is proposing a 204 square
48 foot second story addition on the southerly side

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1 yard, a two-story 167 square foot addition in the
2 rear and a 32.9 square foot second-story addition
3 in the rear and a minor two-story, 11-square foot
4 addition in the front yard. And also a 135 square
5 foot roofed-over porch in the front yard.

6 Just to give a little background regarding
7 my clients, they purchased the property about nine
8 years ago in 2015. They have two children, a six
9 and eight-year old, and they want to expand their
10 home. They're adding a bedroom and relocating all
11 of their bedrooms to the second floor to allow for
12 an open floor plan on the first floor.

13 I did also want to explain from the outset
14 that my clients did reach out to most of their
15 neighbors and showed them their plans. They
16 obtained six consents in total. The most impacted
17 neighbors, both adjacent neighbors, signed consent,
18 as well as three neighbors across the street,
19 they've consented as well.

20 So just for the record, you can refer to
21 Exhibit 5. I have the tax map which highlights the
22 properties that consented and everybody is on Oak
23 Ridge Lane; the numbers are 21, 25, 26, 30, 29 and
24 34 Oak Ridge lane.

25 A little background regarding the premises.
26 The premises is located on the east side of Oak
27 Drive Lane -- I'm sorry, Oak Ridge Lane 1,287
28 forward north of I U Willets Road. It's situated
29 in the town's Residence-C zoning District and it
30 has a lot area of 6,000 square feet.

31 Regarding the variances that are requested
32 beginning with the front yard setback variance. So
33 most of the new residence does comply with the
34 minimum front yard setback requirement, which in
35 this case is based on the average is 29 feet, 3 3/4
36 inches. And what we are proposing for a small area
37 of the foyer which juts out, which I explained was
38 11.3 square feet; that is -- proposed at 28 feet
39 8.5 inches. So it's a very minor encroachment,
40 about 7 inches.

41 So we don't believe that this infraction
42 will even be perceived by anybody on the street as
43 an encroachment, it's simply an architectural
44 element that gives the front facade some character.

45 Regarding the variance for aggregate side
46 yard setback, the Applicant is not increasing the
47 existing nonconformity. The aggregate side yard
48 setback is 15 feet and the Applicant proposes to

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1 maintain 12 feet, 11 and 3/4 inches. So again,
2 that's also minor in and of itself. And we also do
3 comply with the minimum side yard for each of the
4 side yards of 5 feet. One is proposed at 6 feet 5
5 inches, and the other one is proposed at 6 feet and
6 6 and 3/4 inches.

7 Again, although the Applicant is proposing
8 a 204-square foot addition on the south side of the
9 premises, this addition will be constructed on the
10 existing foundation, and we're not increasing the
11 nonconformity. So they're building on the same
12 setback lineage as going up.

13 If you turn to Exhibit 3, you can see the
14 existing side yard and what it looks like now, it's
15 the second and third page -- the second and third
16 photos I believe. Yep. So they're going to
17 maintain that existing side yard as it is today.

18 Regarding the proposed generator, the
19 Applicant would like to place it on the north side
20 of the premises because the backyard is accessed on
21 that south side as you can see from the photos.
22 There's also going to be other utilities there,
23 including an AC unit, and they also intend to put
24 up a four-foot fence and hedges to mitigate any
25 impact to that adjoining property owner.

26 I do want to point out that that owner did
27 consent to this application, knows full well that
28 there's going to be a generator there, and, again,
29 understands that we're going to be putting up these
30 mitigating factors, so that it can mitigate any
31 noise and will be visible to the adjacent neighbor
32 or to anybody on the street.

33 The required setback for that is 5 feet,
34 and the Applicant is proposing 3 feet from the
35 northerly property line.

36 If you turn to Exhibit 1 in the exhibit
37 packet, we have an aerial of the premises there.
38 The rear of the premises backs Albertson Avenue,
39 and there are commercial uses beyond that, so there
40 are no neighbors abutting to the rear of the
41 premises, no residential neighbors.

42 Many of the Capes in this area have been
43 renovated. If you turn to Exhibit 4, examples of
44 renovated homes in the area are provided and there
45 are -- most of them are two story but with the
46 front porches -- what we are proposing is very
47 similar in nature and will only benefit neighbors
48 by increasing property values.

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1 And what is proposed is also very
2 aesthetically pleasing. If you turn to Exhibit B,
3 we've provided a photo rendering of the proposed
4 facade. Again, existing conditions are on Exhibit
5 3. We have photos of where the generator would be
6 located as well. And I've labeled those photos so
7 you can see the exact location.

8 I did want to also submit a variance,
9 should this Board grant it, for one of the
10 neighbors across the street and that was to
11 maintain the open terrace within the required front
12 yard.

13 This is Appeal #20883 for #30 Oak Ridge
14 Lane. This is Applicant's Exhibit B. A photograph
15 of that property is also provided at Exhibit 5.
16 It's identified and I also -- as 30 Oak Ridge Lane,
17 variance granted. That's directly across the
18 street.

19
20 MEMBER DONATELLI: Sorry. Can you direct
21 us to which page in the plans that you show the
22 generator, the proposed --

23
24 MS. TSOUKALAS CURTO: Sure. It's Exhibit 3
25 and it's --

26
27 MEMBER DONATELLI: Not in your exhibit, but
28 in the plans that were actually submitted.

29
30 MS. TSOUKALAS CURTO: I don't have that in
31 front of me. One second.

32 It's right on the -- it's right on the
33 first page, CS1.

34
35 MEMBER DONATELLI: CS1?

36
37 MS. TSOUKALAS CURTO: Yeah, it says
38 proposed generator. This is the first page.

39
40 (Sidebar conversation.)

41
42 MS. TSOUKALAS CURTO: Sorry. My client
43 was -- when I went to the property, he told me
44 the -- where the generator was, he was mistaken.
45 It's actually behind that.

46
47 CHAIRMAN MAMMINA: Yeah, we see that.
48

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1 MS. TSOUKALAS CURTO: Sorry.

2

3 CHAIRMAN MAMMINA: It's all the way up near
4 the corner of the addition on the north side.

5

6 (Sidebar conversation.)

7

8 MEMBER HERNANDEZ: We're just looking at
9 the location of the generator, and it's fairly
10 close or closer than it should be in the side yard.

11

12 MS. TSOUKALAS CURTO: Yes.

13

14 MEMBER HERNANDEZ: And if I'm reading your
15 plans correctly, it appears that generator would
16 be, in effect, back behind the family room on the
17 side of the house.

18

19 MS. TSOUKALAS CURTO: That's correct.

20

21 MEMBER HERNANDEZ: Can you confirm --
22 cannot go in the yard behind it because there are
23 windows there I believe; is that correct?

24

25 MS. TSOUKALAS CURTO: I don't have the
26 facade in front of me, but there are windows there.

27

28 MEMBER HERNANDEZ: There are windows back
29 there.

30

31 MS. TSOUKALAS CURTO: Yes.

32

33 MEMBER HERNANDEZ: Therefore, the only
34 logical place for the generator to go and still be
35 close enough to the house is what's being proposed.

36

37 MS. TSOUKALAS CURTO: That's correct.

38

39 MEMBER HERNANDEZ: I'm trying to rule out
40 any possible locations where the generator would
41 go.

42

43 MS. TSOUKALAS CURTO: Okay. Understood.

44

45 MEMBER HERNANDEZ: Okay then. Very well.
46 Mr. Chairman, after hearing the discussion
47 and reviewing the plans and finding that there is
48 no other logical place to put that generator, I

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1 move that we grant the Application as requested.
2
3 CHAIRMAN MAMMINA: We have a motion.
4 Do we have a second?
5
6 MEMBER DONATELLI: I will second.
7
8 CHAIRMAN MAMMINA: We have a second by
9 Mr. Donatelli.
10 Please poll the Board.
11
12 MS. WAGNER: Member Goodsell.
13
14 MEMBER GOODSSELL: Aye.
15
16 MS. WAGNER: Member Hernandez.
17
18 MEMBER HERNANDEZ: Aye.
19
20 MS. WAGNER: Member Donatelli.
21
22 MEMBER DONATELLI: Before I vote, I would
23 just note a few things. That the footprint remains
24 the same but for the addition that's being
25 contemplated and it is a prior nonconforming.
26 And so with that said, I vote aye.
27
28 (Sidebar conversation.)
29
30 MS. WAGNER: Member Donatelli.
31
32 MEMBER DONATELLI: Aye.
33
34 MS. WAGNER: Vice Chairman Francis.
35
36 VICE CHAIR FRANCIS: Aye.
37
38 MS. WAGNER: Chairman Mammina.
39
40 CHAIRMAN MAMMINA: Aye.
41 The Application is granted.
42
43 MS. TSOUKALAS CURTO: Thank you very much,
44 thank you. Have a good day.
45
46 MEMBER DONATELLI: Sorry I threw your
47 timing off. You probably do this in your sleep,
48 and I threw your timing off.

Appeal # 21245

1 MS. WAGNER: Next appeal, Appeal #21246;
2 Fredis Ventura; 659 Lowell Street, Westbury,
3 Section 10, Block 54, Lot 3255; in the Residence-C
4 Zoning District.

5 Variance from 70-50.C to construct
6 additions too close to a street.

7
8 CHAIRMAN MAMMINA: You've heard Appeal
9 #21246; Fredis Ventura.

10 Is there anyone else in the room who is
11 interested in the Application?

12
13 (No response.)

14
15 CHAIRMAN MAMMINA: Seeing no one, please
16 give your name and address.

17
18 MR. KAPLAN: Andrea Kaplan, architect.
19 Oyster Bay Drafting Architecture. 68 West Main
20 Street, Oyster Bay.

21 I'm just bringing up some additional images
22 and side yard -- front yard setback surveys.
23 They're not uploaded already.

24
25 MS. WAGNER: This will be Exhibit 1?

26
27 MR. KAPLAN: Yes. We have currently on the
28 property a one-half story Levitt-style Cape that
29 we're proposing a new second floor to replace the
30 existing and a new two-story side addition which
31 includes an attached garage that replaces the
32 existing detached garage virtually in the same
33 location.

34 We are in front of the Board due to the
35 average front yard setback of this property. As
36 the required setback of this property, which is 25
37 feet in a RC zone is compliant. The existing house
38 is preexisting nonconforming. Having an existing
39 setback of 25.5 feet and with the new addition on
40 the house, due to it being not quite perpendicular
41 or parallel to the property lines at 25.4 setback,
42 which is actually at the new two-story side
43 addition.

44 The average front yard setback on this
45 property is 33.825 feet, which would actually make
46 this entire house as it currently stands,
47 8.412 feet, encroaching already into that average
48 front yard. If we were to simply ignore the

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1 average front yard setback, this house would be
2 compliant to a RC zone, and this property is one of
3 the more forward ones within that 200 feet.

4 The -- immediately the adjacent house also
5 is very much forward. So the street wall is
6 essentially kept pretty much, so there is a big
7 disparity on that street.

8 If we look at the exhibits, there are the
9 two most extreme properties. One being the house
10 furthest west from the property on Lowell Street is
11 at 27.7 feet, while we have multiple houses around
12 32, 33, maximizing a house three properties down
13 going east on Lowell Street at 39.8. So there's a
14 lot of zigzags going on. And to kind of show how
15 that currently is, the satellite photo from Google
16 Earth kind of also demonstrates that condition.

17 Concerning -- and if this does create any
18 issues in the neighborhood, I don't believe so,
19 it's an existing house with an existing street
20 wall. We're doing, essentially, a vertical
21 addition for pretty much the entire project with
22 the exception of the new additions at the side.

23 If we were to try to achieve it
24 differently, we would essentially be knocking this
25 house down over doing such significant work that it
26 would be a 50 percent knockdown and a rebuilding.
27 Also with an 8-foot setback in the front yard, I
28 think, aesthetically, we would start having some
29 pretty funky roof conditions and that may not be
30 aesthetically pleasing to the neighborhood in
31 general if you were to just use that as the
32 delineation line.

33 Is it self-created? Yes. But at the same
34 time, no. Due to the fact that the house is
35 existing in that same exact spot.

36 I'll entertain any questions.
37

38 MEMBER DONATELLI: Sorry. Do you -- as I
39 look at the plans, I specifically would -- with my
40 intention was the loft above the garage, can you
41 speak to what that loft will be used for?
42

43 MR. KAPLAN: Essentially, it's like a
44 children's play area. So they have it zoned for
45 the adults on the bottom and zoned for the kids
46 above. Being that this is a Levitt-style Cape,
47 there is no cellar. So, essentially, like the
48 playroom you usually have in your cellar or your

Appeal # 21245

1 basement is being supplemented by that loft above.

2

3 MEMBER DONATELLI: So it will be used as
4 habitable space.

5

6 MR. KAPLAN: Correct.

7

8 MEMBER DONATELLI: And it counts towards
9 GFA.

10

11 MR. KAPLAN: Yes. And everything of that
12 is compliant. Floor coverage is compliant. All of
13 the other setbacks are compliant, the sky plane is
14 compliant.

15

16 (Sidebar conversation.)

17

18 MR. KAPLAN: I guess you term it a
19 playroom.

20

21 MEMBER HERNANDEZ: It's a playroom. The
22 fact that it's over the garage is the only unusual
23 thing.

24

25 MR. KAPLAN: Yeah.

26

27 CHAIRMAN MAMMINA: And that's a flat
28 ceiling in there?

29

30 MR. KAPLAN: Correct.

31

32 CHAIRMAN MAMMINA: So we're maintaining
33 your floor area in that.

34

35 MR. KAPLAN: Mm-hmm.

36

37 CHAIRMAN MAMMINA: Yeah. I mean --

38

39 MEMBER HERNANDEZ: This is basically what
40 they're calling the loft --

41

42 CHAIRMAN MAMMINA: We're not an aesthetic
43 board, you know, but Jay is a developer and I'm an
44 architect, and we're just looking at the roof
45 saying it just -- just seems odd.

46

47 MEMBER HERNANDEZ: The front of the roof
48 sort of -- but I guess the owner liked that style.

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1
2 MR. KAPLAN: That's what he wanted, and we
3 provided the most aesthetic thing that we could.
4 Originally, we didn't want to propose a portico, we
5 didn't want one so didn't put one on.
6

7 CHAIRMAN MAMMINA: The roof is almost as
8 tall as the window on the second floor.
9

10 (Sidebar conversation.)
11

12 MR. KAPLAN: Plus, I won't have carbon
13 monoxide coming up from there anyway, so it can't
14 really be a loft from that perspective also. No
15 holes allowed.
16

17 MEMBER HERNANDEZ: Yeah.
18

19 MEMBER GOODSSELL: Mr. Kaplan.
20

21 MR. KAPLAN: Yes.
22

23 MEMBER GOODSSELL: Are the fences in front
24 of us for consideration, the fences on the
25 property?
26

27 MR. KAPLAN: No, not at this time.
28

29 MEMBER GOODSSELL: They're not. I see
30 they're on the distance of disapproval. Can you
31 tell me why they're not?
32

33 Because there's a side yard fence on this
34 that comes out into the street and another side
35 yard fence that comes out almost to the street, and
36 it's not on the disapproval, but I don't see any --
37

38 MR. KAPLAN: I don't remember seeing that
39 in the disapproval.
40

41 (Sidebar conversation.)
42

43 MR. KAPLAN: We had this conversation, yes.
44

45 MEMBER GOODSSELL: But they haven't filed
46 that.
47

48 MR. KAPLAN: Yes. That, and then if you
add another few items on the property as well, that

Appeal # 21245

1 will have to be resolved in the future.

2

3 MEMBER GOODSSELL: We could specifically
4 state that they're not making any decision with
5 respect to the fence.

6

7 (Sidebar conversation.)

8

9 MR. KAPLAN: I mean, if that's what it
10 takes to get it approved, I don't mind saying take
11 the fence down.

12

13 MEMBER GOODSSELL: It's just --

14

15 MR. KAPLAN: It's a quirk.

16

17 MEMBER GOODSSELL: What we do when we visit
18 the property. We take a look at the properties --

19

20 MR. KAPLAN: Understood.

21

22 MEMBER GOODSSELL: -- the issue that I'm
23 having is the fences are not in front of us. The
24 Application to add the addition is. But the fences
25 are clearly illegal.

26

27 MR. KAPLAN: Understood. And I'm only
28 questioning why they're not in front of us, and if
29 they are part of this application or if they are
30 coming down because they're on the denial that was
31 issued on March 16, 2022. They're item two.

32

33 MEMBER HERNANDEZ: Are there two denials?

34

35 (Sidebar conversation.)

36

37 MEMBER HERNANDEZ: Okay. Yeah, but -- it's
38 not just the fence, we have -- there are other
39 items on this.

40

41 MR. KAPLAN: Yeah. There are other items
42 on the property that are up for discussion. But
43 not for this Application.

44

45 VICE CHAIR FRANCIS: Right, right.

46

47 MR. KAPLAN: And I think, for the record,
48 we're removing the fire pit on this Application. I

Appeal # 21245

1 already answered this.

2
3 MEMBER HERNANDEZ: Highlight the fencing,
4 none of those things are on the generation
5 according to the approval -- the disapproval.

6
7 MR. KAPLAN: And, like, all those fences
8 are probably going to end up getting trashed anyway
9 unless you're very, very careful.

10
11 (Sidebar conversation.)

12
13 VICE CHAIR FRANCIS: In essence, what
14 you're doing if you're building the second-story
15 addition you're not coming closer to the street,
16 you're going straight up.

17
18 MR. KAPLAN: Correct.

19
20 VICE CHAIR FRANCIS: So the condition that
21 exists is that condition that was always there,
22 even without the --

23
24 MR. KAPLAN: Correct. And just to have it
25 on the record, the fire is being removed on this
26 Application. So out of everything, the most
27 health-hazardous element is going to be treated
28 now.

29
30 VICE CHAIR FRANCIS: All right.
31 Mr. Chairman, I'm very familiar with this area of
32 Westbury. The -- the addition certainly is in
33 keeping with the character of the neighborhood.

34 And with that said, I would move that we
35 grant the Application.

36 With regard to the second-floor addition,
37 we are making no -- you know no recommendation or
38 opinion about the fencing, the fire pit or the
39 street wall --

40
41 MR. KAPLAN: Understood.

42
43 VICE CHAIR FRANCIS: -- under this
44 application.

45
46 MEMBER GOODSSELL: I would second that.

47
48 CHAIRMAN MAMMINA: Seconded by Member

Appeal # 21245

1 Goodsell.
2 Please poll the Board.
3
4 MS. WAGNER: Member Hernandez.
5
6 MEMBER HERNANDEZ: Aye.
7
8 MS. WAGNER: Member Goodsell.
9
10 MEMBER GOODSSELL: Aye.
11
12 MS. WAGNER: Member Donatelli.
13
14 MEMBER DONATELLI: Aye.
15
16 MS. WAGNER: Vice Chairman Francis.
17
18 VICE CHAIR FRANCIS: Aye.
19
20 MS. WAGNER: Chairman Mammina.
21
22 CHAIRMAN MAMMINA: Aye.
23 The Application is granted. And I'll just
24 reinforce that it is basically granted strictly on
25 what is before us today, and the Board makes no
26 opinion, you know, regarding the -- that fencing
27 that's in the front yard, the fire pit or anything
28 else that may be picked up by the Building
29 Department at some point in the future.
30
31 MR. KAPLAN: Understood.
32
33 CHAIRMAN MAMMINA: Okay. Thank you.
34
35 MR. KAPLAN: Thank you very much, guys.
36
37 VICE CHAIR FRANCIS: Thank you.
38
39 (Whereupon, a short break was
40 taken.)
41
42
43
44
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46
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48

Appeal # 21247

1 MS. WAGNER: Next Appeal, Appeal # 21247.
2 Anthony Branchinelli, Whale Tea; 445 Plandome Road
3 in Manhasset; Section 3, Block 138-02, Lot 19; in
4 the Business-A Zoning District.

5 Conditional use 70-139.A/70-126.F to
6 construct alterations to convert a vacant retail
7 space to a restaurant.

8
9 MEMBER HERNANDEZ: Chairman, before we
10 begin, I will recuse myself.

11
12 CHAIRMAN MAMMINA: Let the record reflect
13 that Mr. Hernandez is recusing himself on this
14 application.

15 You've heard Appeal #21247; Anthony
16 Branchinelli; Whale Tea.

17 Is there anyone in the room interested in
18 the application other than the Applicant?

19
20 (No response.)

21
22 CHAIRMAN MAMMINA: Seeing no one.
23 Thank you. And I applaud every architect
24 who comes in dressed properly.

25
26 MR. MALLIA: Thank you, sir.
27 Good morning, ladies and gentlemen of the
28 Board. My name is Michael Mallia from DiProperzio
29 & Mallia Architects.

30 We are here before you today for a
31 conditional use for a retail food use at 445
32 Plandome Road. The subject premises consists of
33 12,018 square -- I'm sorry, 1,218 square feet of
34 retail space, which was previously occupied by
35 Plandome Road Cleaners. Plandome Road Cleaners has
36 vacated the premises on February 1st of 2022, and
37 the existing space has been vacant since.

38 Currently the proposed tenant, Whale Tea,
39 and Ms. Mae Lin of Whale Tea is here with us today.
40 She's the owner, wishes to rent the space,
41 consisting of the 12,018 -- 1,218 square feet;
42 1,959 including the cellar.

43 The proposed space consists of consumer
44 seating, which had 404 square feet, 252 square
45 feet, sales 181 square feet, kitchen 115, and
46 storage 75. We provided an ADA toilet, janitor's
47 closet and an egress corridor.

48 The establishment includes the sales of

Appeal # 21247

1 various types of bubble teas. Services provided
2 for 12 in-house seating and consumption and
3 takeout. The daily operation consists of a maximum
4 of two to three employees, depending on the
5 weekdays or weekends, and the operating hours are
6 from 2 -- I'm sorry, 12:00 p.m. until 9:00 p.m.,
7 Monday through Saturday; and 12:00 p.m. to
8 8:00 p.m. on Sunday.

9 The proposed establishment is substantially
10 smaller than the other food service establishments
11 within the area and provides a food service that is
12 unique to the area in an ice cream parlor setting.
13 A conditional use permit is respectfully requested
14 since the proposed use will not have a negative
15 impact on the surrounding properties and the
16 proposed use is consistent with the intent of the
17 zoning resolution.

18 If you have any questions, I'm here or the
19 owner is here.

20
21 VICE CHAIR FRANCIS: Other than the bubble
22 tea, is there any other food that's going to be
23 prepared or sold on the premises?

24
25 MR. MALLIA: I believe it's only bubble
26 tea.

27 Am I correct?

28
29 MS. LIN: Yeah, only bubble tea.

30
31 CHAIRMAN MAMMINA: Okay. We have to -- we
32 just have to get your name and address on the
33 record. And just relax, it's okay. Give your name
34 and address.

35
36 MS. LIN: First time. That's why I'm a
37 little nervous.

38 CHAIRMAN MAMMINA: Don't be nervous.

39
40 MS. LIN: Okay.

41
42 CHAIRMAN MAMMINA: I knew you were nervous
43 as you were walking up. No reason to be.

44
45 MS. LIN: Okay. Yeah, mostly bubble tea we
46 only --

47
48 MR. MALLIA: Give your name.

Appeal # 21247

1 MS. LIN: My name is Hua Lin. My address
2 is 20 Dogwood Circle. Hua, H-U-A. Last name Lin,
3 L-I-N.
4

5 MS. WAGNER: Thank you.
6

7 MS. LIN: My address is 20 Dogwood Circle
8 in Connecticut.

9 CHAIRMAN MAMMINA: Okay.
10

11 VICE CHAIR FRANCIS: So other than the
12 bubble tea, there's no other food that's being
13 produced or sold?
14

15 MS. LIN: We don't do any anything. But
16 inside the restaurant, we just do bubble tea. But
17 we might got some, like, outside cookie stuff to
18 put on the showcase and it doesn't making on there.
19

20 CHAIRMAN MAMMINA: What is bubble tea?
21

22 MEMBER GOODSELL: Yes, could you explain to
23 us dinosaurs.
24

25 MS. LIN: Bubble like Boba, like tapioca
26 making with the tea with milk or tea with the
27 fruit. And we -- I had the (indecipherable) in
28 Connecticut earlier already. I have a New Haven
29 Connecticut, I already pre-assessed for in there.
30 That's why we want go into this location right now.
31

32 VICE CHAIR FRANCIS: If you look at it, it
33 has, like, tapioca pearls in it.
34

35 MS. LIN: Yeah. In the tea.
36

37 VICE CHAIR FRANCIS: And it can be made
38 with milk or it can be made with fruit.
39

40 MEMBER DONATELLI: Very good.
41

42 VICE CHAIR FRANCIS: Actually quite
43 delicious.
44

45 MEMBER DONATELLI: Do you have any other
46 questions?
47

48 MEMBER GOODSELL: There's very limited

Appeal # 21247

1 parking there. But in my opinion, if you think you
2 can make a go of it --

3
4 MS. LIN: My --

5
6 MEMBER GOODSSELL: Other restaurants, other
7 food places along that particular street.
8 Do you anticipate more takeout than
9 seating?

10
11 MS. LIN: Yes, more takeout. Because my
12 business I had the Stamford earlier and the
13 Connecticut like busy earlier, we don't have that
14 many parking space, everybody just come, take it
15 and go. By the front desk very good and bad like
16 had parking space over there. That's why I think
17 it's pretty okay for us.

18
19 MEMBER GOODSSELL: And the parking space in
20 the back, would that be used for your customers or
21 for your employees?

22
23 MS. LIN: I think for customer.

24
25 MEMBER DONATELLI: No other questions?

26
27 (No response.)

28
29 MEMBER DONATELLI: All right. So,
30 Mr. Chairman, I would note that in the past, this
31 Board has approved restaurant uses for this
32 particular premises in the past without incident.
33 I would also note for the record that we do have on
34 file, a statement from the environmental company
35 indicating that they have examined the slab floor
36 of the premises and found that there's no
37 remediation need to be done from the environmental
38 point of view.

39 So with all of that, I make a motion that
40 we grant the Application with restaurant
41 conditions.

42
43 CHAIRMAN MAMMINA: Okay. We have a motion.
44 And do we have a second?

45
46 VICE CHAIR FRANCIS: Seconded.

47
48 CHAIRMAN MAMMINA: Seconded. A motion by

Appeal # 21247

1 Mr. Donatelli, and seconded by Vice Chairman
2 Francis.
3 Please poll the Board.
4
5 MS. WAGNER: Member Goodsell.
6
7 MEMBER GOODSSELL: Aye.
8
9 MS. WAGNER: Member Donatelli.
10
11 MEMBER DONATELLI: Aye.
12
13 MS. WAGNER: Vice Chairman Francis.
14
15 VICE CHAIR FRANCIS: Aye.
16
17 MS. WAGNER: Chairman Mammina.
18
19 CHAIRMAN MAMMINA: Aye.
20 I just want to add one thing before I vote
21 aye. It may have been clear and said already, the
22 environmental portion of that is because this was a
23 dry cleaner at one time, and that's not all unusual
24 to have environmental things such as that.
25 And also that the six seats that, you know,
26 that are shown, would be the amount of seats that
27 you are limited to, because if you were to increase
28 that, the Building Department would have to
29 determine if that -- if that created a parking
30 variance, you know, by necessity.
31 So with that added in, I also vote aye.
32
33 VICE CHAIR FRANCIS: Okay.
34
35 MR. MALLIA: Okay. Thank you, thank you
36 very much.
37
38 MS. LIN: Thank you, thank you.
39
40 CHAIRMAN MAMMINA: Mr. Mallia, hello to
41 Tony for me.
42
43 MR. MALLIA: I will. Thank you.
44
45 CHAIRMAN MAMMINA: I never met you before,
46 but you make me feel very old because your
47 license -- your license number is 40,500 and my
48 license number is 14,597.

Appeal # 21247

MR. MALLIA: Thank you.

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Appeal # 21248

1 MS. WAGNER: Next Appeal #21248. Elias
2 Holding Corporation; 338 Westbury Avenue, Carle
3 Place; Section 10, Block 14, Lot 64; in the
4 Business-B Zoning District.

5 Variances from 70-103.A and 70-103.F(1) to
6 rebuild the interior of a building for office use
7 with not enough parking or loading zones.

8
9 CHAIRMAN MAMMINA: You've heard Appeal
10 #21248, Elias Holding Corps.

11 Is there anyone in the room interested in
12 the application other than the Applicant?

13
14 (No response.)

15
16 CHAIRMAN MAMMINA: Seeing no one, please
17 give your name and address.

18
19 MR. STOLAR: Certainly. Brian Stolar;
20 Meyer, Suozzi, English & Klein; 900 Stewart; Garden
21 City, New York.

22 Good afternoon. Just got to the afternoon.

23
24 CHAIRMAN MAMMINA: Here we are.

25
26 MR. STOLAR: Here on behalf of, as you
27 pointed out, Elias Holding Corps, and the owners of
28 that or principles of that company, Eric and Jordan
29 Salmeron are here with me today, as well as Bob
30 Eschbacher with respect to the traffic report.
31 We've submitted that report and he also will be
32 testifying today.

33 As was pointed out, in reference to the
34 legal notice; we need two variances. One is for a
35 single loading space and the second is for a
36 parking deficiency. We do not have any
37 code-compliant parking on site and according to the
38 code, we require for a full office use of this
39 building, 20 parking spaces.

40 So, technically, we require a 20 parking
41 space variance. As I go through my presentation,
42 you'll hear that's not a new variance or it's not a
43 new parking requirement with respect to that
44 property, but it is what we need based on the code
45 and based on the fact that this building was
46 constructed and approved and obtained a CO at a time
47 when there was no specific parking requirement that
48 would have mandated certain spaces on the property.

Appeal # 21248

1 The property was acquired by Elias Holding
2 Corps in 2019, just before the pandemic. At the
3 time that they acquired it, the property -- the
4 building itself had been used as all office space.
5 There were multiple tenants at the site, there was
6 an insurance business that occupied the entirety of
7 the first floor and then there were other
8 businesses on the second floor, including an
9 accountant, a process server and I believe an
10 attorney as well at that time.

11 So what they propose to do, they also --
12 the Salmerons, are principles in a company called
13 Betz-Mitchell Associates. That company is the
14 company that they were going to bring in as their
15 own to occupy that site as a single-occupant
16 tenant, not multiple tenants as was before,
17 single-occupant tenant.

18 So what they needed to do then was
19 reconfigure the interior of the premises to
20 accommodate a single tenant as opposed to have it
21 set up the way it was for multiple tenants on site.
22 So they came to the Building Department to get
23 their interior renovations approved, and after they
24 did that, of course, that's why we're here, it was
25 picked up that they require parking variances and
26 the loading variance.

27 Betz-Mitchell Associates is a company
28 that -- they define themselves as a company that is
29 involved in specialized revenue cycle company for
30 hospitals and medical facilities. What that
31 essentially means is that they -- they assist
32 hospitals with receiving revenues. They do not see
33 clients on-site. They do not see anybody on-site.
34 It's purely administrative work.

35 In fact, as part of the administrative
36 work, a majority of their employees do not even
37 work on site, they work at the hospital facilities.
38 So where they have 50 total employees -- or 50 --
39 at the moment 57 total employees, 45 of them work
40 at hospital sites, not on that particular site.
41 Leaving essentially no more than 12 at any
42 particular time on the premises.

43 Much of what --

44
45 MEMBER DONATELLI: Sorry, would you repeat
46 that.

47
48 MR. STOLAR: Sure.

Appeal # 21248

1 MEMBER DONATELLI: 12 on premises.

2

3 MR. STOLAR: The potential for 12 on
4 premises.

5

6 MEMBER DONATELLI: Potential for 12.

7

8 MR. STOLAR: Correct.

9

10 MEMBER DONATELLI: And the balance of the
11 employees would be off-site.

12

13 MR. STOLAR: That's correct, at hospitals.
14 They weren't for a short time, but now that the
15 hospitals are in-house again -- or in-person
16 again -- excuse me -- the full staffing is at the
17 hospital facilities. So they don't -- they're not
18 on-site.

19 The other part of what they do is they deal
20 in a lot of paperwork. Because they deal in a lot
21 of paperwork and Docusign and other signature --
22 signature apps now, much of what they do -- they
23 don't have to have anybody come to the site for
24 signatures, they do it remotely like everybody
25 else. So of their 12 staff members, generally what
26 they'll have on-site is anywhere from five to ten
27 employees on site.

28 As they've explained to me, they are
29 operating now out of an office building on Post
30 Avenue where the same employees that are at that
31 premises will be coming here. Half of them, five
32 of them, use public transportation or bicycles and
33 will be able to do the same at this site.

34 So in reality, what they will have on most
35 days is not more than seven employees on-site who
36 will require their own transportation. That's
37 conservative. That's probably the most that they
38 will have that will require transportation. Many
39 days it will be even less than that, but at most,
40 they're talking about having seven on site.

41

42 CHAIRMAN MAMMINA: The bicycle thing is the
43 first time that I ever heard of that.

44

45 MR. STOLAR: What's that?

46

47 CHAIRMAN MAMMINA: Arriving at work by
48 bicycle.

Appeal # 21248

1 MR. STOLAR: The Salmerons are here and can
2 testify to that.

3
4 CHAIRMAN MAMMINA: Because I'm a cyclist
5 but I can't imagine going to work on my bicycle.

6
7 MR. STOLAR: Right. These are employees
8 who are local. They're not driving -- they're not
9 riding from out of town. They're not riding from a
10 couple of towns away or even a town away.

11
12 CHAIRMAN MAMMINA: That's my part of the
13 world.

14
15 MR. STOLAR: Yes, I'm familiar with that.

16
17 CHAIRMAN MAMMINA: I will look for those
18 bicyclists.

19
20 MEMBER DONATELLI: They're now implementing
21 bike shares here in Port Washington.

22
23 CHAIRMAN MAMMINA: Yup. I only wish they
24 could put a shower in.

25
26 VICE CHAIR FRANCIS: Also e-bikes have
27 become very inexpensive so a lot of those --

28
29 CHAIRMAN MAMMINA: All those crazy
30 motorized bikes. Those don't count.

31
32 MR. STOLAR: This is not like what you have
33 to deal with in the city, the obstacles.

34
35 CHAIRMAN MAMMINA: Now, they're like in
36 Europe, those buzzing, you know, all over the place
37 just begging for an accident.

38
39 MR. STOLAR: Oh, yeah. They own the road.
40 They think they do.

41
42 CHAIRMAN MAMMINA: This is completely
43 having nothing to do with anything, but Northern
44 State Parkway was stopped last week, because there
45 was a guy on one of those bicycles, and -- you
46 know, in the -- apparently in the middle lane of
47 the Northern State Parkway.

48

Appeal # 21248

1 MR. STOLAR: Unbelievable.

2

3 CHAIRMAN MAMMINA: How do you give him a
4 ticket --

5

6 MR. STOLAR: He may have been one of their
7 staff members.

8

9 CHAIRMAN MAMMINA: Could be he was late for
10 work. They had to bail him out of jail.

11

12 MR. STOLAR: So, anyway, continuing just
13 addressing this site.

14

15 The property is on the south side of
16 Westbury Avenue between Rushmore and Silver Lake.
17 There are a mix of uses in that neighborhood, as
18 I'm sure many of the board members know and are
19 familiar with that area. You have office space,
20 you have retail, you have warehouse buildings.
21 Some with on-site parking, some without on-site
22 parking.

23

24 Our building itself, although we do not
25 have code-compliant parking, we do have on the side
26 of the building an accessway between the two
27 buildings that's 20 feet wide shared between us and
28 440 -- I'm sorry 340 Waterbury Avenue that leads to
29 a back area that 340 parks in the back, they park
30 two cars in the back. Their building is not as
31 wide.

32

33 We could also park vehicles in the back of
34 our building, I think it's 24 feet in width and
35 60 feet in length that they would be able to park.
36 Again, because we are a single tenant rather than
37 multiple tenants, rather than putting just two in
38 that space, they could probably put four or five
39 comfortably and just maneuver them around when they
40 have to leave at the end of the day. Although,
41 they do have -- well, not code-compliant parking.
42 They do have the ability to park four to five cars
43 on site.

44

45 And as you'll hear from Mr. Eschbacher and
46 as was in his report, regardless of whether they do
47 or do not have parking on-site, there is sufficient
48 parking in that neighborhood for any overflow
49 parking, any off-site parking that would be
50 required by any employees who park -- who come to
51 the premises by car and have to park.

52

53 I had submitted yesterday -- and I don't

Appeal # 21248

1 know if the Board received it yet -- but it was a
2 brief history of this property, to understand where
3 we are, how we got here, what was permitted and why
4 this building is the way it is.

5
6 CHAIRMAN MAMMINA: We -- we did receive it.

7
8 MR. STOLAR: So I'll go through it very
9 briefly.

10 That provides a few things. Number one, I
11 have a 1958 certificate of occupancy for the
12 building to be used as offices and shops, and then
13 the building plans that were submitted for that C
14 of O, I went through them and measured the square
15 footage of the office and shop space, and we'll
16 call it warehouse space, which provided 3,218 of
17 office space and 1,824 square feet of warehouse
18 space. So as far back as 1958; 3,200 square feet
19 or so of the building was permitted as office.
20 Although, there was not sufficient parking, but at
21 the time no variance was required.

22 In fact, another document I submitted
23 showed the only variance that was required for this
24 building that had to do with the landscape buffer
25 area between the property and the residence
26 property behind it. So when you -- if you were to
27 take the space that existed in 1958 and utilized
28 today's calculations for parking requirements, you
29 would get a requirement of 16 parking spaces.

30 3218 office results in -- I think it's 12
31 parking -- a requirement for 12 parking spaces.
32 You do 1 per 200 after the first 1,000 square feet.
33 And the warehouse at 1824 would require four
34 parking spaces.

35 So, in effect, what we have a right to do
36 since 1858 on the site is operate the premises with
37 a parking requirement of what effectively is 16
38 parking spaces. So now because we're converting
39 that 1,824 square feet of warehouse space to office
40 space, that increases our parking demand
41 requirement from 16 to 20, that's why we need 20.

42 Now, of course, because in 1958 there were
43 no parking requirements that applied to this
44 property, we don't go from a need -- a deficiency
45 of only 4 where 16 were permitted previously as of
46 right to 20, rather the Building Department
47 properly referenced the 20 as the need.

48 I would also point out that when this -- as

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1 I pointed out earlier, the property had been at the
2 time that the Applicants acquired it, had been
3 occupied by office tenants. There was no warehouse
4 space. And as far as we can tell, what happened
5 was most likely sometime before 1978, the warehouse
6 space on the inside of that facility was converted
7 to office space.

8 In fact, one of the documents that I
9 provided to you was a 1978 certificate of existing
10 use that was issued by the Building Department,
11 which the Building Department subsequently voided
12 because of the existence of the CO. But the CEU,
13 the Certificate of Existing Use specifically
14 provides that it is for office space at that
15 premises. So most likely, sometime prior to 1978,
16 the conversion to full office space on the inside
17 of the building occurred.

18 So what we're doing now, in effect, is
19 legalizing something that, most likely, has existed
20 for 44 years, albeit with a different interior
21 configuration and with just one user who can better
22 use the rear area for additional spaces, that four
23 to five spaces that I mentioned. And also, as
24 demonstrated by the report that Mr. Eschbacher
25 provided and as he will testify to, can be
26 accommodated regardless whether you need the four
27 or five -- if the four additional spaces, or if we
28 needed 20 before starting from scratch.

29 So unless the Board has any other questions
30 of me, I'm going to turn this over to
31 Mr. Eschbacher who has been before this Board many,
32 many, many times. And will be before this Board
33 maybe at least one more time after today.

34 If there are no other questions, I will
35 turn it over to Mr. Eschbacher.

36
37 CHAIRMAN MAMMINA: Mr. Eschbacher, you're
38 up.

39
40 MR. ESCHBACHER: Thank you and good
41 afternoon, Mr. Chairman and Members of the Board.
42 Robert Eschbacher, VHB Engineering, 100 Motor
43 Parkway in Hauppauge.

44 I was retained by the Applicant to review
45 the adequacy of parking to serve the proposed
46 entire office use of this building on Westbury
47 Avenue. And as Mr. Stolar indicated, based on the
48 Town Code, 20 parking spaces are required and zero

Appeal # 21248

1 are provided because the space in the rear does not
2 comply with the dimensional requirements set forth
3 in the code.

4 I prepared my report back in February, and
5 it was submitted at some point after that.
6 Subsequent to that, as the world has continued to
7 evolve in the somewhat post-COVID era, some of the
8 numbers have changed. At that time it was expected
9 that about 20 of the staff would work in the
10 office, but now as time has gone on and they have
11 started to get themselves back to a more
12 predictable, normal operation, at this point they
13 only see the need for a maximum of 12 employees
14 working in the office because the others are either
15 working at home or they're working at different
16 medical facilities and hospitals in the area.

17 So the actual demand for parking, rather
18 than being the 20 spaces set forth in the code,
19 would be a maximum of 12 spaces. Now you've heard
20 that, based upon their current operation on Post
21 Avenue in Westbury, a number of the employees do
22 not drive to work. However they get there, whether
23 it's walking, biking or public transportation, not
24 all drive.

25 I just asked the client if it was one of
26 his staffers that was on the Northern State Parkway
27 messing things up. They said it was not.

28
29 CHAIRMAN MAMMINA: Where are they on Post
30 Avenue?

31
32 MR. SALMERON: 265 Post Avenue.

33
34 CHAIRMAN MAMMINA: Which is the next street
35 over.

36
37 MR. SALMERON: The big building on Post
38 Avenue across from Little Mexico.

39
40 CHAIRMAN MAMMINA: Oh, the one with the
41 parking underneath.

42
43 MR. SALMERON: Yes.

44
45 CHAIRMAN MAMMINA: It would be easier --
46 state your name, please.

47
48 MR. SALMERON: Sorry, Jordan Salmeron.

Appeal # 21248

1 MS. WAGNER: You have to come up to the
2 microphone. We have a remote stenographer.

3
4 MR. SALMERON: Jordan, Jordan Salmeron.
5 2565 Post Avenue.

6
7 CHAIRMAN MAMMINA: Okay. Thank you. I
8 know exactly where it is.

9
10 MR. ESCHBACHER: So the existing location
11 is relatively close to this one. So I think they
12 expect that the travel patterns of the staff will
13 work in the office will be similar to what they
14 have now. So but even if we assume that there will
15 be 12 employees there and they all drive, and
16 that's what I'm now basing my analysis on.

17 And Mr. Stolar indicated also that there's
18 room in the back for some cars to park. Very
19 simply, two cars can park there. Would probably
20 be -- the Salmerons to park there. But since they
21 have regular hours, Monday to Friday, everybody
22 comes and leaves at the same time, it would not be
23 unreasonable to think they could have four cars
24 parked there. If there were different tenants in
25 the building or different hours, it would not be
26 feasible. But in my opinion, the four would be
27 reasonable. So if we start with maximum of 12
28 driving and parking, account for 4 in the back, we
29 need 8 on-street parking spaces.

30 What I did as part of the study was
31 evaluate the on-street parking variance --
32 vacancies along Westbury Avenue. It was done back
33 in February and over the course of a typical day
34 from 9:00 in the morning until 4:30 in the
35 afternoon, every half hour, we documented how many
36 vacant spaces there were in that area. And we
37 showed that at a minimum, there were 35 vacant
38 spaces. Generally, it was in the 40 range or so.
39 Clearly very adequate to accommodate the 8, 10 or
40 even 12 that might be needed for this.

41 Subsequent to those observations, we've
42 done a series of other ones and including on my way
43 in this morning, I went by a little after 9:30 and
44 there were 43 vacant spaces. So in line with what
45 we had documented in the report.

46 We did not include in our report -- because
47 there's a lot of variation -- the municipal lot on
48 the south side of Westbury Avenue. The vacancies

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1 there come and go. But when I looked this morning
2 there were 15 vacant cars there, not including
3 handicap spaces or the police spaces that are set
4 aside.

5 So, in my opinion, there will be very
6 adequate on-street and rear parking to accommodate
7 the needs of this business.

8 I also took a look at the need for a
9 loading zone here typically an office use does not
10 generate any significant -- especially long-term,
11 be easier to have deliveries, UPS, FedEx, but they
12 will be going to other businesses along there.

13 And they generally find a place to park,
14 and they will serve several businesses. So it's
15 not an unusual situation in a downtown shopping
16 area such as this. So my professional opinion, a
17 loading zone is not critical for the needs of this
18 business.

19 Finally, this application has been reviewed
20 by the Nassau County Planning Commission and based
21 upon their review, they're recommending local
22 determination.

23 So, in summary, it's my professional
24 opinion there will adequate parking to accommodate
25 the needs of this business, and there is not a need
26 for the loading zone as well. And I will be happy
27 to answer any questions.

28
29 MEMBER GOODSSELL: I have one.

30
31 MR. ESCHBACHER: Yes.

32
33 MEMBER GOODSSELL: Mr. Eschbacher, did you
34 find on Westbury Avenue there were any parking
35 restrictions such as four-hour parking, two-hour
36 parking?

37
38 MR. ESCHBACHER: No, the only parking
39 restrictions are essentially overnight, the -- one
40 day and month you cannot park between 6:00 -- 6:00
41 and 9:00 a.m. or 5:00 and 9:00 a.m. in order to
42 provide for town services, which I think is street
43 cleaning, pretty much.

44 But other than that, you have a few cases
45 where there's a 15-minute parking near the post
46 office, and then you also have the "no stopping
47 here" at the corner.

48

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1 MEMBER GOODSSELL: So there would be no --

2

3 MR. ESCHBACHER: Otherwise, there would be
4 nothing to prevent an employee from parking there
5 all day.

6

7 MEMBER GOODSSELL: That was my question.

8

9 MR. ESCHBACHER: And that's what's being
10 done by many of the businesses in that area, yes.

11

12 MR. STOLAR: And then your analysis of the
13 available parking accounted for the restricted
14 areas, the areas that were not available.

15

16 MR. ESCHBACHER: That's right. I only
17 counted spaces where we could park and not violate
18 any laws.

19

20 MEMBER DONATELLI: And the on-street
21 parking, is that mostly for commercial spaces or
22 residential houses?

23

24 MR. ESCHBACHER: It's -- it's almost all
25 commercial spaces in that area. Yes.

26

27 Am I correct, Mr. Mammina?

28

29 CHAIRMAN MAMMINA: No, no.

30

31 MR. ESCHBACHER: Three -- three homes.

32

33 CHAIRMAN MAMMINA: I think they're houses
34 that are used commercially.

35

36 MR. ESCHBACHER: Yes, they've been
37 converted.

38

39 CHAIRMAN MAMMINA: That whole block in
40 there and the municipal lot also has no parking
41 restrictions.

42

43 MR. ESCHBACHER: Correct.

44

45 CHAIRMAN MAMMINA: Even though there are
46 trucks that park there overnight, and the town does
47 not enforce that.

48

MR. ESCHBACHER: Yes.

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1 CHAIRMAN MAMMINA: It's really -- they're
2 not bothering you.

3
4 MR. ESCHBACHER: It's no harm, no foul.

5
6 MR. STOLAR: Just to note, there are two
7 buildings on that block that look like they're
8 houses, but I do understand the same, that they're
9 used for commercial purposes now.

10
11 CHAIRMAN MAMMINA: They're commercial.

12
13 MR. STOLAR: Yes.

14
15 CHAIRMAN MAMMINA: I mean, certainly, I
16 know the area very well, where the municipal lot
17 is. My office was diagonally across the street on
18 the corner, so if you look at the nicest building
19 on Westbury Avenue, that one is mine.

20
21 MR. ESCHBACHER: It still is. It still is
22 the nicest.

23
24 CHAIRMAN MAMMINA: It's the nicest without
25 a doubt.

26 That was an old -- that was the original
27 firehouse in Carle Place, and it was moved there in
28 1890 from the -- I forgot the name of the estate in
29 Old Westbury. And then the addition on the back of
30 it was done by the American Legion, and that's
31 Legion Building. And then I purchased it from the
32 American Legion.

33
34 MR. ESCHBACHER: I'm sure you have a lot of
35 good memories there.

36
37 CHAIRMAN MAMMINA: It hurt my heart when I
38 sold that.

39
40 MEMBER DONATELLI: Did you keep the pole?

41
42 CHAIRMAN MAMMINA: Of course. I had it all
43 set up, there was no doubt about it, it was all set
44 up.

45 I had pictures with the horse and wagon out
46 on Westbury Avenue. It was kind of just dirt road,
47 and -- you know, from Hofstra University and some
48 great, some great pictures, you know, of it. It

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1 was interesting. When we gutted the place to do
2 what we were going to do, you were standing in the
3 firehouse. Had I known that, I probably would have
4 done a completely different design concept, you
5 know, instead of something very contemporary.

6 With all of the tin ceilings like you see
7 in old buildings in the city and, you know -- you
8 know, whatever. I always wondered why the floor
9 sloped from the back of the building toward
10 Westbury Avenue and the stuff that I found from
11 Hofstra University that was so they could wash the
12 floors down from the horses.

13
14 MEMBER DONATELLI: Which means that it
15 would go straight into the street.

16
17 CHAIRMAN MAMMINA: Straight into the
18 street. Very environmentally sound.

19
20 MEMBER GOODSSELL: Mr. Eschbacher, do you
21 agree with Mr. Stolar that when it's only one
22 company you can essentially, in fact, stack the
23 cars --

24
25 MR. ESCHBACHER: Yes.

26
27 MEMBER GOODSSELL: -- so that there's no
28 agita between different tenants with respect to
29 who's got what parking --

30
31 MR. ESCHBACHER: Sure. And it obviously
32 depends on one company but as long as they have
33 similar hours, you know, like if an architect were
34 to be there, you know, Mr. Mammina might come in
35 earlier or leave earlier or whatever. But this
36 type of operation, it should work very well, yes.

37
38 MEMBER DONATELLI: Is it fair to say --
39 perhaps this is for Mr. Stolar. Is it fair to say
40 that these operations are back-office operations
41 for a hospital for billing, did you say?

42
43 MR. STOLAR: It's essentially a form of
44 building, revenue receipts, I'll use that phrase,
45 revenue receipts. So it's back-office
46 administrative type of work and that's it.

47 And the hours that the employees are there
48 are consistent, it's 9 to 5 on Monday through

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1 Friday -- Friday. Excuse me.

2

3 CHAIRMAN MAMMINA: I can also say without
4 making the application for you, you know, that when
5 I bought the building I bought, you know, one of
6 the questions that the colleagues have for me was
7 there are zero parking spaces.

8 I said well, you know, I lived here for
9 40-odd years, and I've never seen any parking
10 problem in that area and I always have the
11 municipal lot and it was just a couple of doors
12 down and no one ever parked in the municipal lot,
13 including my employees and clients coming in, and
14 that sort of thing. There was always parking on
15 Rushmore.

16

17 MEMBER DONATELLI: Does anyone else have
18 any other questions?

19

20 (No response.)

21

22 MEMBER DONATELLI: So, Mr. Chairman, having
23 reviewed the application, I do accept the
24 explanation given by our traffic engineer expert as
25 well as by the Applicant, that, in fact, it's
26 probably a less intrusive as a single-occupant
27 tenant than it would be if there were multiple
28 tenants.

29

30 And while I understand that the spaces are
31 not code-compliant and, therefore, do not count
32 toward the -- the parking deficiency, that, in
33 fact, they probably will be of some use and that
34 the loading dock, and I know, we have done this in
35 other instances where we have an office building
36 with no loading dock, but deliveries somehow do
37 make it work.

38 So I propose that we grant the application.

39

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

42

43 MEMBER GOODSSELL: I'll second the motion.
44 Simply because I agree that a single tenant can, so
45 to speak, bend the parking rules a little bit and
46 make it work.

47

48 And I believe the Applicant will find that
if his employees can't get to work, they won't come
to work, so I'm sure they can make it work.

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1 MEMBER DONATELLI: So I will just add to my
2 comments that, in fact, it's been used as office
3 space, I think the testimony was, since 1978.
4

5 MR. ESCHBACHER: That is our understanding.
6

7 MEMBER DONATELLI: So -- so that
8 information will not really change, just
9 acknowledging that the type of (indecipherable.)
10

11 CHAIRMAN MAMMINA: So we have a motion by
12 Member Donatelli and a second by Member Goodsell.
13 Please poll the Board.
14

15 MS. WAGNER: Member Hernandez.
16

17 MEMBER HERNANDEZ: Aye.
18

19 MS. WAGNER: Member Goodsell.
20

21 MEMBER GOODSSELL: Aye.
22

23 MS. WAGNER: Member Donatelli.
24

25 MEMBER DONATELLI: Aye.
26

27 MS. WAGNER: Vice Chairman Francis.
28

29 VICE CHAIR FRANCIS: Aye.
30

31 MS. WAGNER: Chairman Mammina.
32

33 CHAIRMAN MAMMINA: One thing I just wanted
34 to add for the record, you know, there's -- that
35 the best of my belief, the driveway that serves the
36 back of the building is a common driveway. So when
37 you look at the survey and it says that it's
38 6.44 feet, there is no fence, you know, that goes
39 down the center of that, and that common driveway
40 really serves the -- to the benefit of both of
41 those employees.

42 And my experience was, you know, that for
43 the several years I had my building there and there
44 were cars that will pull in back there, and you
45 know, probably the two gentlemen that own the
46 building and they work well.

47 With that said, I will also vote aye on the
48 Application. The Application is granted.

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1 MR. ESCHBACHER: Thank you.

2

3 MEMBER DONATELLI: Thank you. Good luck.

4

5 CHAIRMAN MAMMINA: For the benefit of
6 Mr. Eschbacher and Mr. Sahn, the only person
7 whoever got tickets at my office was a gentleman
8 whose last name is Krieger. And because of the
9 turn and the uphill, they had a no parking no
10 stopping sign for about 25 feet and, of course,
11 that was to park.

12

13 SPEAKER: Knowing Mr. Krieger
14 (indecipherable.)

15

16 MEMBER DONATELLI: So I could just add to
17 my comments once again that the Board did receive
18 opposition to this application, we have carefully
19 considered, but we have voted the way that we have
20 voted.

21 So the application, Mr. Chairman, has been
22 granted.

23

24 CHAIRMAN MAMMINA: Thank you for that
25 addendum, Mr. Donatelli.

26

27 Good luck. Watch out on your speeders.

28

29 (Sidebar conversation.)

30

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Appeal # 21249

1 MS. WAGNER: Next appeal, Appeal #21249.
2 J.R. Westbury Realty, LLC; Summa Avenue and
3 Brooklyn Avenue; Westbury; Section 11, Block 161,
4 Lot 1; in the Industrial-B Zoning District.
5 Variances from 70-192(A), 70-203(J), and
6 70-212(B) to permit the storage of motor vehicles
7 Within the front yard -- both Summa Ave and
8 Brooklyn Ave frontages -- vehicular entrance gates
9 too close to a street, and outdoor storage --
10 vehicles -- too close to the street and occupying
11 too much of the lot.
12
13 CHAIRMAN MAMMINA: You've heard Appeal
14 #21249; J.R. Westbury Realty, LLC.
15 Is there anyone in the room interested in
16 the Application other than the Applicant?
17
18 (No response.)
19
20 CHAIRMAN MAMMINA: Seeing no one.
21
22 MR. SAHN: Good afternoon, Mr. Chairman and
23 Members of the Board.
24
25 MEMBER GOODSSELL: The afternoon is yours,
26 Mr. Sahn.
27
28 MR. SAHN: Thank you very much. And,
29 hopefully, I'll be brief and concise so we can all
30 enjoy the afternoon.
31 For the record and the Reporter who is
32 remote -- right? -- Michael Sahn; Sahn Ward Braff
33 Koblenz; 333 Earle Ovington Boulevard, Suite 601,
34 Uniondale, New York.
35 Joining me today for this application and
36 the next one because they're related is Mr. Randy
37 Sporn. I believe the Board has met Mr. Sporn at
38 prior hearings on these and other properties. He's
39 the principle with respect to both of the
40 Applicants on the cases that I will present today.
41 I have submitted to the Board for the
42 record, the affidavits of mailing as well as
43 posting and the certified mail return receipt cards
44 that acknowledge the delivery of those notices and
45 the mail per the rules of board.
46 In this application, the property that is
47 before the Board is situated at the corner of Summa
48 Avenue and Brooklyn Avenue in Westbury. The

Appeal # 21249

1 property is known and designated as Section 11;
2 Block 161, Lot 1. It is in the Industrial-B
3 District. It is a regularly shaped parcel with 100
4 feet of frontage on each street.

5 There was a survey in the file that shows
6 the property prepared by Island Wide Surveyors,
7 that was last updated on October 4, 2021, as shown
8 on the survey and on the site plan in the file
9 prepared by the Bill O. Garret Group. The property
10 has 10,000 square feet or .2296 acres.

11 Mr. Sporn and his company purchased this
12 property in 2019. The Board may or may not be
13 familiar with the property. It previously was a
14 facility that was used for storage of trucks,
15 containers and various items of equipment. The
16 prior user was known as Rocco Abbatiello, a
17 landscaper.

18 Mr. Sporn purchased the property. As
19 you'll see from the file and the panel of
20 photographs that I have submitted, which I'm going
21 to review, there is a fence around the property.
22 Now, that fence -- there was a fence when Mr. Sporn
23 purchased it. That fence was in the same location
24 as it is now, including the gate that is the
25 subject of the variance request because it's not
26 set back 18 feet.

27 Mr. Sporn replaced that fence in the exact
28 location but with a new fence because the old one
29 was in disrepair and delapidated. The property is
30 also now unpaved, it's a dirt surface, and as
31 proposed in this application, Mr. Sporn would -- if
32 you approve it, pave the surface of the lot and put
33 in all of the drainage facilities that the Town
34 Code requires. There will be no other improvements
35 on the property. There will be no building or
36 other structures. It's just for storage of
37 automobiles.

38 With respect to the photographs that I
39 submitted in the booklet of exhibits, just briefly
40 to mention, the first one is an aerial view taken
41 from Google Earth of the property as it exists.
42 And you'll see the dirt surface, some vehicles
43 stored on it and you'll see the entrance that would
44 be proposed for use and to maintain that
45 entranceway with the gate that slides back and
46 forth.

47 Under tab Exhibit B, there are various
48 photographs of the subject property that were

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1 recently taken. Again, in these photographs,
2 you'll note the gate, the fencing, the condition of
3 the property with respect to the present surface.
4 You'll also note that there are light poles at the
5 permitter with lighting. That lighting was
6 installed by Mr. Sporn and his company that will be
7 maintained.

8 There is, in the second photograph under
9 tab Exhibit B, a small little gatehouse-type
10 structure that's going to be removed, that will be
11 removed. That was preexisting and will not be used
12 for this facility.

13
14 MEMBER DONATELLI: I thought that's where
15 the sentry with the befeater out there.

16
17 MR. SAHN: Not for this one. Maybe the
18 other but not for this one.

19 And, again, some of the photographs later
20 in the booklet of exhibits show the existing
21 conditions which, of course, the Board is well
22 aware of in the area. It's strictly an industrial
23 area, no residential use. There is parking on the
24 streets, containers are placed next to the
25 buildings.

26 And like this property, there are many
27 properties that have fencing right up to the
28 property line. I would say in this case that we
29 ask the Board to take into account that even though
30 the fence is on the property line, that variance is
31 mitigated in part because of the fact that there's
32 a distance between the property line and the
33 curving of the street which is approximately 7 to
34 8 feet, it varies at different places on the
35 street.

36 With regard to the Notice of Disapproval,
37 again, as I read that, that disapproval is dated
38 January 3 of 2022. The main item of relief is the
39 fact that the gate that would be an entrance to the
40 property is not set back 18 feet.

41 You'll note from the site plan prepared for
42 this application that the concept is to have a
43 single drive aisle down the middle of the property
44 and then tandem park on the north and the south
45 side that would allow for the greatest number of
46 vehicles to be stored on this property. And that
47 all would be done by the employees of the Westbury
48 Jeep operation, not by individuals whose cars were

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1 coming to the facility.

2 We also indicate in the Application and in
3 the disapproval, it's noted that this facility
4 would be used for vehicles that are being repaired
5 at the main facility, which you're familiar with,
6 on the corner of Bond and State which is within the
7 300-foot radius.

8 Essentially, it's an overflow lot where
9 vehicles that might need longer time for repair or
10 need to be stored elsewhere than on the main site
11 can be stored here. The employees would take the
12 vehicle here while it's awaiting repair or when
13 repair is done. When the customer comes to
14 retrieve vehicle, the customer will come to the
15 main facility, not to this facility. So it's an
16 adjunct to the existing use.

17 That is, in essence, our application.
18 Mr. Sporn, again, is here to answer any questions.

19
20 MEMBER DONATELLI: Mr. Sahn, I do have a
21 question.

22
23 MR. SAHN: Yes.

24
25 MEMBER DONATELLI: How will the vehicles be
26 brought to the site?

27
28 MR. SAHN: They will be brought there by
29 the employees of Westbury Jeep.

30
31 MEMBER DONATELLI: Individually driven cars
32 or will they be brought by an eighteen-wheeler?

33
34 MR. SAHN: No. Strictly individually
35 driven. So, for instance, if a customer was to
36 bring their vehicle for a repair to the main
37 facility on Bond and State and there wasn't enough
38 room in that lot for the vehicle, then it would be
39 brought to this adjunct lot.

40 Or sometimes vehicles need more time to be
41 repaired, there's -- as we all know, a shortage
42 equipment and parts for these vehicles. Mr. Sporn
43 was explaining to me earlier that in some cases,
44 they can't get transmissions, they can't get engine
45 parts and the like to repair vehicles which
46 previously were available. And so a vehicle that's
47 not operating, waiting for repair has to be stored
48 at this site.

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1 MEMBER DONATELLI: Would it be fair to say
2 that some cars might be towed there?
3

4 MR. SAHN: I'm going to ask Mr. Sporn.
5 Mr. Sporn, give your name and address.
6

7 MR. SPORN: Good afternoon. Randy Sporn,
8 S-P-O-R-N. I'm the owner of the property, the real
9 estate company and the dealership. We don't have
10 any vehicles towed there.
11

12 MEMBER GOODSSELL: I have a question then
13 for Mr. Sporn about the Notice of Disapproval.
14 These are very newish looking fences that you have
15 there. I take it that Mr. Sahn has indicated you
16 would place them. They look like they are 5 or 6
17 foot. Is there any plan to put a higher fence
18 there?
19

20 MR. SAHN: No, there's not. We replaced
21 the fence when I brought the property with the same
22 exact-size fence that was there. It was in
23 complete disrepair, so I just had my fence remove
24 the existing fence and replace it with the same
25 size fence. We're not putting a larger fence.
26

27 MEMBER GOODSSELL: And the gate that you
28 have there, is that a sliding gate that goes back
29 and forth.
30

31 MR. SPORN: The gate that is on that
32 property is the gate that -- that when I bought it.
33 I did not change the gate. So it's a sliding gate
34 that slides parallel to the existing so it doesn't
35 swing in and out, it's a cantilever gate. And I
36 use the gate that was on the property, it was
37 repaired and made in and put in better condition.
38

39 MEMBER GOODSSELL: Is the gate closed or
40 locked at any business?
41

42 MR. SPORN: Absolutely.
43

44 VICE CHAIR FRANCIS: Mr. Chairman, I'm very
45 familiar with this area, living in Westbury and
46 going to this area. I don't know how many times
47 Mr. Sahn indicated it is industrial. The closest
48 residential areas are the other side of the

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1 railroad tracks in the other side of the Old
2 Country Road.

3 The use that the Applicant is making of
4 this property is certainly in keeping with the
5 character of that particular area.

6 You know, in terms of the five factors, it
7 would not indicate or would not be an undesirable
8 change to the neighborhood, it is the neighborhood,
9 that's how the neighborhood is used.

10 It wouldn't be, you know, in terms of
11 benefit, it certainly is a benefit to the
12 Applicant. I don't see any detriment at all to the
13 surrounding areas. I don't believe that the
14 variances are substantial. And in terms of the
15 environmental impact, I don't see any environmental
16 impact at all.

17 So with that said, I would move that we
18 grant the application.

19
20 CHAIRMAN MAMMINA: We have a motion by Vice
21 Chairman Francis.

22 Do we have a second?

23
24 MEMBER HERNANDEZ: Seconded.

25
26 CHAIRMAN MAMMINA: Seconded by Member
27 Hernandez.

28 Please poll the Board.

29
30 MS. WAGNER: Member Hernandez.

31
32 MEMBER HERNANDEZ: Aye.

33
34 MS. WAGNER: Member Goodsell.

35
36 MEMBER GOODSSELL: Aye.

37
38 MS. WAGNER: Member Donatelli.

39
40 MEMBER DONATELLI: Aye.

41
42 MS. WAGNER: Vice Chairman Francis.

43
44 VICE CHAIR FRANCIS: Aye.

45
46 MS. WAGNER: Chairman Mammina.

47
48 CHAIRMAN MAMMINA: Aye.

Appeal # 21249

1 Okay. The application is granted.
2
3 MR. SPORN: Thank you.
4
5 MR. SAHN: Thank you. Thank you very much.
6
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Appeal # 20975.A

1 MS. WAGNER: Next appeal, Appeal #20975.A
2 Westbury Jeep Chrysler Dodge, Inc. J.R. Westbury
3 Realty, LLC; 110 State Street, Westbury; Section
4 11, Block 58, Lot 134; in the Industrial-B Zoning
5 District.

6 Variances from 70-203.J and 70-194 to
7 legalize a vehicular entrance gate that is too
8 close to a street and fencing that is too tall.

9 The applicant previously appealed for a
10 variance from 70-103.P and an appeal for
11 determination or variance in the alternative from
12 70-191, to construct a canopy over a drive aisle
13 between two buildings which violates the
14 restrictions on covered parking spaces and which
15 exceeds permitted lot coverage.

16 The Board of Zoning Appeals granted the
17 variance from 70-103.P, and the Applicant withdrew
18 its request for a variance from 70-191.

19 This appeal is being restored to the
20 decision calendar for the purpose of considering
21 two additional variance requests which should have
22 been included in the applicant's original appeal.

23
24 CHAIRMAN MAMMINA: You've heard Appeal
25 #20975.A; Westbury Jeep Chrysler Dodge, Inc. J.R.
26 Westbury Realty, LLC.

27
28 MR. SAHN: Again, good afternoon,
29 Mr. Chairman and Members of the Board.

30 For the benefit of the virtual reporter,
31 Michael Sahn; Sahn Ward Braff Koblenz 333 Earle
32 Ovington Boulevard, Suite 610, Uniondale, New York.

33 And joining me on this application as with
34 the prior is Mr. Randy Sporn, the principle of the
35 Applicant, Westbury Jeep Chrysler Dodge,
36 Incorporated.

37 As indicated in the legal notice, this is a
38 reopened case for the property that is situated at
39 110 State Street in Westbury, also known as Section
40 11; Block 58; Lot 34 in the Industrial-B Zoning
41 District.

42 Respectfully, for today's appeal, I would
43 request that the record of the proceedings in
44 Appeal #20975 be incorporated by reference.

45
46 CHAIRMAN MAMMINA: That's acceptable.

47
48 MR. SAHN: Thank you.

Appeal # 20975.A

1 As indicated in the synopsis, that
2 accompanied the legal notice when we appeared
3 before the Board. We appeared on the original
4 Notice of Disapproval, which principally dealt with
5 the canopy that was proposed between the two
6 existing buildings on the site. That canopy was
7 for the convenience of the customers that when they
8 would drive into the facility, there would be some
9 overhead cover for them to leave the vehicles, have
10 the vehicles ridden up by the service manager and
11 then retrieve the vehicles when the service was
12 completed.

13 When the Building Department reviewed that
14 application, the Building Department did not issue
15 a disapproval concerning the ten-foot fence that
16 surrounds the perimeter of the property. Nor did
17 the Building Department issue a disapproval for the
18 fact that we have security gates on that fence
19 located on that fence that are not set back 18 feet
20 from the property line.

21 After the Board approved the application --
22 and believe it or not, it was in 2020 -- we
23 proceeded to file an application for site plan
24 review, which was required by the Building
25 Department. When the Planning Department reviewed
26 the site plan application, it coordinated with the
27 Building Department again and determined that there
28 should have been a variance requested for the
29 existing fence at the property. And, hence we are
30 here before the Board to ask for that relief.

31 I brought with me two photographs that were
32 used in the prior Appeal 20975 that showed the
33 fence in existence. So this was known and
34 discussed at the hearing, but it was not noted and
35 not part of the discussion as a variance request.

36 So I'd like to submit these two photos.

37
38 SPEAKER: Exhibits 1 and 2.

39
40 MR. SAHN: And in that same regard, I
41 brought a copy of the transcript from the public
42 hearing of the December 2nd, 2020 and tabbed one of
43 the pages where the fence, which I called at the
44 time a security fence, which, in fact, it is -- was
45 discussed.

46 And so, although the Board had knowledge of
47 the fence, the Board did not realize, nor did we,
48 that the Building Department required a variance

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1 for it.

2 So I would like to submit this as Exhibit
3 3.

4 All that being said, there are no other
5 changes that the conditions. The exact same
6 conditions that the Board considered in 2020 are in
7 existence today, and if the Board grants this
8 relief we will then be able to proceed for a site
9 plan review before the Town Board and thereafter,
10 hopefully with a Town Board approval, get a
11 building permit to install the building canopy.

12 And that's the essence of the Application,
13 and thank you for considering it.
14

15 CHAIRMAN MAMMINA: Two questions that I
16 have: The canopy is a canopy, it's not opened on
17 the ends?
18

19 MR. SAHN: Well, it's on poles between the
20 two buildings. It's not attached to the buildings.
21

22 CHAIRMAN MAMMINA: Right. I'm saying from
23 the two sides of that, that's open, there's no
24 garage --
25

26 MR. SAHN: There's no door, there's no
27 door. It's -- it's really a drive-through
28 covering.
29

30 CHAIRMAN MAMMINA: Yeah, protection from
31 the weather.
32

33 MR. SAHN: Protection from the weather
34 that's become customary at automobile dealerships,
35 to allow to the customers to come in and deliver
36 the car for service and the service manager can see
37 it.
38

39 CHAIRMAN MAMMINA: Just one other quick
40 question: Where it's showing the employee parking
41 off the site, you know, straddling the property
42 line, if I'm reading that correctly -- you know,
43 and I'll just ask the attorneys on the Board, don't
44 think that we can actually approve that parking --
45 not -- I'm not making an issue about that parking
46 one way or another.
47

48 MR. SAHN: Right.

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1
2 CHAIRMAN MAMMINA: You know, the Board does
3 recognize that people kind of park all over the
4 place in that part of the world.

5
6 MR. SAHN: That's the same plan that we
7 presented to the Board back then, and we did not
8 ask for that approval. It was not part of the
9 request nor anything that the Board affirmatively
10 approved.

11
12 CHAIRMAN MAMMINA: At least you have
13 parking.

14
15 MR. SAHN: We have parking.
16 And now, in addition, we have the other lot
17 which the Board has considered earlier today, so
18 these things are going to work in tandem very
19 nicely for the facility.

20
21 CHAIRMAN MAMMINA: So, Mr. Sahn, I'm going
22 to ask you the same question that I asked you on
23 the prior application, which is:

24 How cars are delivered to the site and will
25 the gate be left open, such that there will be no
26 backup if they are delivered by an 18-wheeler.

27
28 MR. SAHN: I'm going to answer, and
29 Mr. Sporn will correct me if I'm wrong. We don't
30 have tractor trailer trucks come to the site.

31 This is -- correct?

32
33 MR. SPORN: We have customers bringing
34 their --

35
36 MR. SAHN: Mr. Sporn.

37
38 MR. SPORN: This is a service and parcel
39 location. This strictly a location that customers
40 being in their cars for service. We have no
41 vehicle delivery or tractor trailers here. Never
42 did.

43
44 MEMBER DONATELLI: And conceivably,
45 however, a car might be towed in if it breaks down.

46
47 MR. SPORN: Absolutely. Unfortunately,
48 yes.

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1 MEMBER DONATELLI: And that will be
2 presumably during business hours mostly, correct?
3

4 MR. SPORN: Mostly.
5

6 MEMBER DONATELLI: And my concern is
7 because this application is for allowing a fence to
8 be less than 18 feet from the street, my concern is
9 there might be some backup on the street for
10 vehicles waiting to come in.

11 Can you -- can you address that, whether
12 you anticipate any backup of vehicles onto the
13 street?
14

15 MR. SPORN: Well, we -- the operation is of
16 such that the vehicle is -- that the property is
17 fenced and it's gated. When we open our doors for
18 business, there is a gate that is not in question
19 here where customers drive on to our property on
20 the service drive.
21

22 MEMBER DONATELLI: So the gate will be left
23 open.
24

25 (Crosstalk.)
26

27 MR. SPORN: During work hours, yes.
28

29 MR. SAHN: Otherwise, closed for security.
30

31 MEMBER DONATELLI: Right. And the
32 customers will come on to the site, they will
33 presumably drive through that canopied area.
34 Is that correct?
35

36 MR. SPORN: Correct.
37

38 MEMBER DONATELLI: And that is where they
39 will be met by a service technician?
40

41 MR. SPORN: That's where they're met with a
42 service adviser.
43

44 MEMBER DONATELLI: Okay.
45

46 MR. SPORN: And 90 percent of the time,
47 they will leave with a loaner car that is brought
48 to them to the same location where they bring their

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1 vehicle in for service.

2 Same happens when they return to pick up
3 their own vehicle. They drive the loaner car to
4 the same place they brought their vehicle, they get
5 out of their vehicle and our staff, our employees,
6 our porters bring their vehicle to them at the same
7 location. So the gate we're talking about is not a
8 customer gate, it's an internal gate.

9
10 MEMBER DONATELLI: As I look at the site
11 plan -- I'm sorry, I see the entrance. I see an
12 exit ramp. Where is the entrance?

13
14 MR. SPORN: The entrance is at the end of
15 Bond Street right before the railroad. The exit is
16 in the building, there's a drive-through tunnel in
17 the building, again, back on the same Bond Street.

18
19 MEMBER HERNANDEZ: Bond Street, they're
20 only blocking themselves.

21
22 MEMBER DONATELLI: They're at the end of
23 the dead end.

24
25 MEMBER HERNANDEZ: They're at the end of a
26 dead-end street.

27
28 MR. SPORN: And it's a dead-end street. We
29 have pretty much, you know, exclusive use of that
30 road.

31
32 MR. SAHN: When a customer comes up Bond,
33 you come almost all the way to the railroad tracks
34 and then you make a left in and there's like a
35 L-shaped turn. So between the canopy area and the
36 area that's not under the canopy between Bond and
37 the canopy, there's a lot of stacking space for
38 vehicles.

39 And then you'll notice there's an exit out
40 of the building that is more southerly from the
41 railroad. So it's a good circulation flow.

42
43 MEMBER DONATELLI: And if the car were to
44 continue straight along the canopied area, into
45 what you describe as an asphalt parking lot,
46 presumably that would be for loaner cars, an area
47 where they might bring loaner cars or --
48

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1 MR. SPORN: No.

2

3 MEMBER DONATELLI: No?

4

5 MR. SPORN: No. The customer will drive
6 onto my property and situate themselves in the
7 drive aisle between the buildings, and they can't
8 drive any further. They're not permitted to drive
9 any further.

10 So my employees, whether it's a porter, a
11 valet or a service adviser or a technician will
12 take their car and either bring it right into the
13 shop or into that asphalt parking lot. There's no
14 customer traffic anywhere, other than on the
15 service drive and out the service door.

16

17 MEMBER DONATELLI: I see. Okay.

18

19 MR. SPORN: That's strictly employee only.

20

21 MEMBER DONATELLI: Very good. Thank you.

22

23 MR. SPORN: You're welcome.

24

25 VICE CHAIR FRANCIS: Mr. Chairman, first of
26 all -- well, first, full disclosure: I said that
27 I'm the proud owner of a Dodge Ram and a Fiat
28 Spyder. So I've been to this facility several
29 times. It operates really well. I'm happy that
30 we're bringing back the canopy. I think that's
31 going to be a benefit to the customers.

32

33 Going through the five factors again.
34 Again, this will not be an undesirable change to
35 the neighborhood or a detriment to local
36 properties, because the local properties are all
37 industry.

38

39 The benefit cannot be achieved, in my
40 opinion, by the Applicant in any other feasible
41 method. And it is not substantial in terms of the
42 variances. There will be no environmental adverse
43 environmental impact to the area or to the
44 neighborhood.

45

46 And yes, it is self-created. But that's
47 not in itself determinative of a reason for us to
48 deny the application.

49

50 So with all that said, I would move that we
51 grant the Application.

52

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1 CHAIRMAN MAMMINA: Okay. We have a motion
2 from Vice Chairman Francis.
3 Do we have a second?
4
5 MEMBER DONATELLI: I'll second it.
6
7 CHAIRMAN MAMMINA: Seconded by Member
8 Donatelli.
9 Please poll the Board.
10
11 MS. WAGNER: Member Hernandez.
12
13 MEMBER HERNANDEZ: Aye.
14
15 MS. WAGNER: Member Goodsell.
16
17 MEMBER GOODSSELL: Aye.
18
19 MS. WAGNER: Member Donatelli.
20
21 MEMBER DONATELLI: Aye.
22
23 MS. WAGNER: Vice Chairman Francis.
24
25 VICE CHAIR FRANCIS: Aye.
26
27 MS. WAGNER: Chairman Mammina.
28
29 CHAIRMAN MAMMINA: Aye. The application is
30 granted.
31
32 MR. SAHN: Thank you all. Have an
33 enjoyable afternoon.
34
35 MEMBER GOODSSELL: Having moved in the
36 minutes of the prior hearing, I would ask that the
37 bad jokes, the puns and the sidebars, there are
38 plenty be struck or whatever. You guys really went
39 to town on this.
40
41 (Sidebar conversation.)
42
43 MEMBER DONATELLI: I make a motion that we
44 approve SEQRA.
45
46 CHAIRMAN MAMMINA: We have a motion from
47 Member Donatelli.
48 Do we have a second?

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1 VICE CHAIR FRANCIS: Second.
2
3 CHAIRMAN MAMMINA: Seconded by Vice
4 Chairman Francis.
5 Please poll the Board.
6
7 MS. WAGNER: Member Hernandez.
8
9 MEMBER HERNANDEZ: Aye.
10
11 MS. WAGNER: Member Goodsell.
12
13 MEMBER GOODSSELL: Aye.
14
15 MS. WAGNER: Member Donatelli.
16
17 MEMBER DONATELLI: Aye.
18
19 MS. WAGNER: Vice Chairman Francis.
20
21 VICE CHAIR FRANCIS: Aye.
22
23 MS. WAGNER: Chairman Mammina.
24
25 CHAIRMAN MAMMINA: Aye.
26 So SEQRA is accepted. Thank you.
27
28 (Hearing concluded at 1:11 p.m.)
29
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1 C E R T I F I C A T E
2 STATE OF NEW YORK)
3 COUNTY OF RICHMOND) SS.:
4

5 I, MADELINE TAVANI, a Notary Public for
6 and within the State of New York, do hereby
7 certify:

8 That the above is a correct
9 transcription of my stenographic notes.

10 I further certify that I am not related
11 to any of the parties to this action by
12 blood or by marriage and that I am in no way
13 interested in the outcome of this matter.

14 IN WITNESS WHEREOF, I have hereunto set
15 my hand this 19th day of July, 2022.

16
17 
18 _____ MADELINE TAVANI _____
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