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Town of North Hempstead
Board of Zoning Appeals
PUBLIC HEARINGS

Wednesday, September 7, 2022
10:25 a.m.

BOARD MEMBERS PRESENT:

David L. Mammina, Chairman
Daniel D. Donatelli, Member
Jay Hernandez, Member
Patricia A. Goodsell, Member

ALSO PRESENT:

Deborah Algios, Town Attorney
Virginia Wagner, Secretary
Amy Boguszewski, Stenographer

PROCEEDINGS

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CHAIRMAN MAMMINA: If everyone would, please, rise and join us for the Pledge of Allegiance.

(Following recitation of the Pledge of the Allegiance, the meeting was called to order.)

CHAIRMAN MAMMINA: Good morning, Ladies and Gentlemen. Thank you for being here with the Town of North Hempstead, September 7th Calendar. What I would like to do before we get started is explain to everyone how we conduct business here in the Town, in case you have been to other zoning boards in another municipality or a village or a town or if you have never been to a zoning board at all, you will be able to see the way that we do things. If you have never been to a zoning board at all, we will ask that you just relax when you are talking to us; I know how hard that can be. Things can get very emotional, but it's okay, pretend you are sitting at your kitchen table talking to us, it's okay.

So what we will do is as each case is called from the calendar, at that point, I will ask if there is anyone who wishes to speak as well as the applicant. So the applicant will come forward to the podium. Anyone else who wishes to speak, we will just ask for a show of hands and then they will have the opportunity to speak after the applicant. The applicant then will give their name and address to our reporter, that way you will be officially recorded, because this is a semi-judicial hearing and a transcript is kept of the

PROCEEDINGS

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2 hearing. At that point, the podium will belong to the
3 applicant, the applicant will put its case onto the record, and
4 the Board will ask whatever questions, you know, it feels
5 necessary. Then we will ask the applicant to have a seat,
6 usually in the front row. If there are two people here who
7 wish to speak, whether it's two neighbors or, you know, husband
8 and wife, you will be invited up separately or you can all come
9 up together, but it's going to be one person at a time. We
10 will ask everyone not to speak over each other because our
11 reporter here has to be able to take the record, and even the
12 Board has to be careful not to speak over each other. When the
13 applicant is done with their presentation, if anyone had their
14 hand up, we will ask the applicant to have a seat, and then
15 those people will be invited up one at a time. They will give
16 their name and address and they will put onto the record what
17 they want to put onto the record. The Board will respond where
18 that is necessary and we may ask questions. Basically, the
19 same drill. You can speak in opposition, you can speak in
20 favor. What we do ask is that if someone has already said what
21 you were going to say, all you need to say is "I agree with the
22 previous speaker." It's on the record with the same weight
23 that it would have of you putting the whole thing onto the
24 record again. When that is completed and everyone has had a
25 turn to speak, assuming that there is someone else who wishes
26 to speak or a group, then we will ask the applicant to come

PROCEEDINGS

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2 back up. And the applicant, and typically only the applicant
3 speaks two times. Because things have been said regarding the
4 application, the applicant has the ability to respond to that
5 or the Board may have questions based on what someone else had
6 said.

7 When that is completed, then the Board will do one of
8 four things: We will either approve the application; deny the
9 application; we may continue the application. If we continue
10 the application, that would be because we have asked you for
11 some other piece of paper. The Board may want a Building
12 Department file. There may be some compromise that has been
13 requested and we want to see a drawing, you know, for that. So
14 you will be submitting something else, therefore to be
15 continued. We may reserve, which means no further information
16 is required. The Board wants to take a look at the property
17 again, and any number of reasons that we would reserve the
18 application. Some applications will be decided today, some
19 won't be decided today, most probably. And at any point then,
20 you can reach out to the Zoning Office just to see if a
21 decision was made regarding your application.

22 So what else we will ask everyone to do, because we all
23 have them, is hold up your phone, hold up your laptop, hold up
24 your iPad, and please put them on silent, you don't have to
25 shut them off. The only thing that we ask is that if you get a
26 telephone call or something, you can take that call, just stand

Appeal #21260

up quietly and walk out into the lobby area and you can take that call, that's fine. If there is anyone else who is coming to join you, we will ask that you do the same thing, you know, for them.

The other thing that we will ask is that we try our best to have zero crosstalk because, again, we are taking a record. The Board is trying to listen to every person and every word. So we will, you know, ask to do that again. If you want to talk, it's okay, you know, you can walk outside. If you want to stretch your legs, you can walk outside, you know, it's okay. I think I covered everything.

MS. ALGIOS: The three-minute timer.

CHAIRMAN MAMMINA: Yes. The applicant, basically, gets whatever time they need to put their case onto the record. Anyone else who wishes to speak, we have a three-minute timer. I mean, we are not going to chop your head off at three minutes, but, you know, we try to keep somewhere around there, otherwise we could be here until 7:00 tonight. So thank you, Deborah, for reminding me.

So Virginia, do we have any modifications to the calendar today?

RESIDENTIAL CALENDAR

SECRETARY WAGNER: Yes, Chairman. We have an adjournment request of Appeal #21260, Anastasios

Appeal #21260

Christoforidis; 76 Avenue C, Port Washington, Section 4, Block 25, Lot 249; Zoned Residence-B. Variance from § 70-100.1.A to legalize a gazebo located within in a side yard (not permitted.)

CHAIRMAN MAMMINA: So if anybody is here for that case, that's adjourned until October 26th. So I think that's four hearings from now or something like that, three hearings.

SECRETARY WAGNER: Yes. So I think we should probably vote on this adjournment. We can make a motion.

MEMBER DONATELLI: I make a motion.

CHAIRMAN MAMMINA: Motion by Member Donatelli. And a second?

MEMBER GOODSSELL: I will second.

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

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

So that is officially postponed until the 26th.

SECRETARY WAGNER: Also, for the record, Vice Chairman

1 Appeal #21271

2 Francis may be joining the meeting late or there is a
3 possibility he may not join us today.

4 CHAIRMAN MAMMINA: Right, but as long as we have three
5 Board Members, everything is official, and we do have four.
6 Mr. Donatelli had a personal matter he had to take care of this
7 morning.

8 SECRETARY WAGNER: And then we said that prior appeal
9 is adjourned until October 26th.

10 The first appeal is Appeal #21271 – David Sion; 7
11 Station Rd., Great Neck; Section 2, Block 229, Lot 110; Zoned
12 Residence-A. Variance from § 70-100.2A(4) to legalize a fence
13 that is too tall.

14 CHAIRMAN MAMMINA: You heard Appeal #21271, David Sion.
15 Is there anyone here who would like to speak regarding the
16 application other than the applicant? Seeing no one. So I
17 will assume you are Mr. Sion?

18 MR. SION: Yes.

19 CHAIRMAN MAMMINA: Or a representative. Please come on
20 up and give your name and address.

21 MR. SION: David Sion; 7 Station Road, Great Neck, New
22 York 11023.

23 CHAIRMAN MAMMINA: What I will ask is when you are
24 giving your address, make sure you use the microphone only
25 because we are being live-streamed. And then that way anyone
26 else who may be watching or listening in will have the ability

Appeal #21271

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to hear that, but, you know, I will identify Mr. Sion has given his name and address. So please proceed, Mr. Sion.

MR. SION: I put in a fence that is 5-feet high facing the front, an unusual variance. The usual is 4 feet. The reason that we put that fence in is because my son, who is autistic, had climbed over the 4-foot fence and ran out of the house and into other people's properties from my house. He needs constant attention and running out of the house is a big problem. He doesn't know traffic safety or anything like that. Also, you know, for fire safety, it's important to have a door that can unlock and get out of the house in case of a fire safety. So that's the reason I wanted the fence to be 5 feet so he can't climb over the fence.

CHAIRMAN MAMMINA: Well, I will say the fire safety part of the argument, we don't really consider here, and I'm saying for any other applicant. There is a gate, you know, that is in there, you know. The Town Board establishes parameters and we do have a balancing test, you know, on those. And just so everyone understands the genesis of all of that, the Board would get easily 25 applications a year for fencing. So we petition the Planning Department to maybe examine that because what we were doing is granting 4 feet in the front, 5 on the side, and 6 in back. So we said, okay, let's codify that and it just lightened the load for us a lot. So, essentially, just the Town Board has decided they don't want

Appeal #21271

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fences in the front yard, but you can line up with the house with a 4-foot fence.

Also, in the past with, I think, 100 percent consistency, we have always taken into account, you know, physical disabilities, you know, and/or conditions, and one of those being autistic children or even adults. It is something that we have considered regularly in that balancing test, you know. And the balancing test is the benefit to the applicant and the detriment to the community, that's one of the tests. May I ask, on the north side of the property, is that already a 5-foot fence, because that's not marked?

MR. SION: The north side of the property, that's the neighbor's fence.

CHAIRMAN MAMMINA: So that's the neighbor's fence?

MR. SION: Yes, because that's 5 feet on the side of the property.

CHAIRMAN MAMMINA: Okay. It looks to be a tiny, tiny bit, so that's fine. I just wanted to make sure that you were properly protected, you know, on that. Now, normally, we will ask for some kind of a letter from a doctor or whatever, not that we don't believe what you are saying, but that way it's in the file so that if somebody else comes to look at the file and said, well, wait a minute, you granted a 5-foot fence there, how come you can't grant my 5-foot fence. So the extenuating circumstance is then documented, you know, in there.

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Appeal #21271

MEMBER GOODSELL: If I can ask a question?

CHAIRMAN MAMMINA: Sure.

MEMBER GOODSELL: How old is your son now?

MR. SION: He is 21.

MEMBER GOODSELL: And when was he diagnosed?

MR. SION: At 3 years old.

MEMBER GOODSELL: So he has been on the scale for a
long time?

MR. SION: Yes.

MEMBER GOODSELL: And he has been under a doctor's care
for this?

MR. SION: Oh, yes.

MEMBER GOODSELL: As part of the record, would it be
possible for you to submit something to us, as David says, in
support of the fact that he is, in fact, autistic and that, in
fact, this would be something that would be a safety issue for
him? At 21 he is not climbing over a 4-foot fence or -- I'm
sorry -- a 5-foot fence?

MR. SION: He is climbing over. A 5-foot fence, no, he
hasn't climbed over that. We had a problem with the smaller
fence, yes. And he has been in a school district with AHRC, a
school for autism, which is his current residence, and part of
the time, he comes to visit us on the weekends. So he has been
enrolled in the school and diagnosed many times with autism.

MEMBER GOODSELL: Does he live away from the home

Appeal #21271

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during the week?

MR. SION: During the week, yes.

MEMBER GOODSSELL: And he comes home for the weekends?

MR. SION: He comes home for the weekends, yes.

CHAIRMAN MAMMINA: My daughter is a special education teacher in one of the Long Island school districts and that's why I said adults, as well, because they age out of the system and then, you know, suddenly everything is okay. Even people my age, who have a 30, 40-year old child, you know, who is on the spectrum, and it becomes very difficult. So I think if you could give us that. What Ms. Wagner is suggesting that -- Ms. Algios, she is the Town attorney's office -- that we are going to be here for a while today. So if you could e-mail or fax something over to us, that way we would be able to decide this today.

MR. SION: Okay.

CHAIRMAN MAMMINA: So you will have several hours, at least five hours or so.

MR. SION: Do I need a note or like a doctor's note specifically addressing that?

MEMBER GOODSSELL: Certainly, supporting the fact that your son has a diagnosis of autism, and that in the layman's term, he is a runner or a climber, and that this would be a benefit to him.

MR. SION: Okay.

Appeal #21271

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CHAIRMAN MAMMINA: And again, this is just so we can differentiate this from some person who might ask for the same thing. Send us what you have.

MR. SION: Right. I mean, I have from the school a doctor's report that mentions his elopement, you know, that is there. Housing and schooling always has to be done in a manner that --

MEMBER GOODSSELL: And I would like to use the correct term, it's elopement rather than a runner?

MR. SION: Well, yes.

MEMBER GOODSSELL: Okay. And we would be happy to consider that today, but as of right now, we feel the record is incomplete.

CHAIRMAN MAMMINA: So we will be able to vote on that later on and I think you can see that the Board is --

MEMBER GOODSSELL: Sensitive.

CHAIRMAN MAMMINA: -- is disposed of the opinion, you know, to approve your fence. We just need that one piece of paper or whatever you would like to send. You can send a stack of things. Just something that will document that so it's in the file.

MR. SION: Okay.

SECRETARY WAGNER: You have where you sent everything else, so the main place. And just if you want to call the office just to confirm we got it, you can do that, as well.

Appeal #21271

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MR. SION: Okay. Thank you.

CHAIRMAN MAMMINA: Thank you very much. There is no need for you to come back. There is no need for you to be here, Mr. Sion. We will get it and you can go home.

SECRETARY WAGNER: And if, for some reason, you can't do that today, then the next day is fine, if you need more time.

MR. SION: Okay. So I should just e-mail it, then?

SECRETARY WAGNER: Yes, just e-mail it to us.

CHAIRMAN MAMMINA: Yes. And if you would like us to vote on it today, then just, again, just e-mail it or fax it.

MR. SION: Do I need to return to the court?

CHAIRMAN MAMMINA: No. No. You don't need to come back. As Mr. Hernandez said, tell him he doesn't have to come back.

MR. SION: All right. Thank you.

SECRETARY WAGNER: Thank you.

MEMBER GOODSSELL: Have a good day.

Appeal #21272

SECRETARY WAGNER: Next appeal is Appeal #21272 - Zi Song Realty, LLC; 106 Allen Dr., Great Neck; Section 2, Block 358, Lots 2 and 3; Zoned Residence-C. Variance from § 70-47 to subdivide a property into two building lots both of which are too small (insufficient minimum lot area).

CHAIRMAN MAMMINA: You heard Appeal #21272, Zi Song Realty, LLC. Is there anyone in the room interested in the application other than the applicant? Seeing no hands. Good morning.

MR. MIGATZ: Good morning. For the applicant, Bruce W. Migatz with the Law Firm of Albanese & Albanese; 1050 Franklin Avenue, Garden City. At the outset, let me please submit one additional return receipt card and two return envelopes.

As read into the record, the subject property is 106 Allen Drive in Great Neck, Section 2, Block 358, Lots 2 and 3 in a Residence-C Zoning District. Lot 2 has a frontage of 80 feet and Lot 3 has a frontage of 20 feet. That is shown on the radius map, but I will submit, as an exhibit, an enlarged copy of the tax map.

SECRETARY WAGNER: This will be Exhibit 1.

MR. MIGATZ: The application before you is to subdivide this one lot into two lots. The property is just shy of 10,000 square feet, which I will discuss in more detail. Looking at the configuration of these lots, I tried to ascertain why they were configured that way and I could not come up with an

Appeal #21272

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answer. It's based on a subdivision map filed in 1924 prior to the first zoning map, so it did not follow zoning lines. And my only speculation is that that irregular rear line and irregular depth that causes the 10,000 square feet shortfall, that would be out of boundary of the subdivider's property and that's what was left.

CHAIRMAN MAMMINA: What I had been told many years ago is that prior to zoning, many municipalities just did 20 feet, 20 feet, 20 feet, 20 feet, and who knows if that's the answer.

MR. MIGATZ: Well, that's true. There are a lot of old maps that have 20 feet.

CHAIRMAN MAMMINA: Yes, old maps.

MR. MIGATZ: But I tried to ascertain why that depth is not uniform.

CHAIRMAN MAMMINA: I understand, because it is that funny angle on that because of the division opposed could be slightly different.

MR. MIGATZ: Right. Now, the map before you and the site plan before you that is labelled Lot 2 and Lot 3, that is the proposed relocation of that tax lot now, that is not the current tax lot line. Now, the north lot will have an area of 4,997.58 square feet, which is 2.42 square feet short of the 5,000. It will have the 50-foot frontage. The other lot would have an area of 4,998.57, 1.43 feet short of the 5,000. It also does have the required 50-foot frontage.

Appeal #21272

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Weighing the balance test and the benefit to the applicant versus the detriment to the neighborhood. Will an undesirable result be produced in the character of the neighborhood? This is a de minimis variance. And just to have a little fun, picking a page from the book, all I really know is what I learned in kindergarten. This is 1.5 square feet.

CHAIRMAN MAMMINA: I thought of the same exact same exhibit that I would show.

MR. MIGATZ: And this is 2.5 square feet. So these are the two variances that are being requested. You have to have some fun in the hearings sometimes, right?

MEMBER GOODSSELL: That is a good visual to make, but I am just really sorry that we are just not on television.

MEMBER DONATELLI: But have we had a surveyor actually certify that those are 2.5 and 1.5?

MR. MIGATZ: I did. I will submit that to you, if you would like.

CHAIRMAN MAMMINA: Or did your kindergarten teacher do that for you?

MR. MIGATZ: My mother was a kindergarten teacher.

MEMBER DONATELLI: So we can rely on it?

MR. MIGATZ: Absolutely.

MEMBER DONATELLI: Excellent.

MR. MIGATZ: So it is a de minimis variance. It is not discernible to the naked eye as you drive down that block.

Appeal #21272

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CHAIRMAN MAMMINA: I have one question. I thought I heard you say that both or that Lot 3 is also 50 feet. I see on here 45.3-something on drawing A001.00. Now, Lot 2 is 51.67. I'm just reading off of what is here.

MR. MIGATZ: I'm sorry. You are correct.

CHAIRMAN MAMMINA: Okay.

MR. MIGATZ: You are correct. I stand corrected. I'm sorry about that. Can the benefit be achieved by some other feasible means? Well, it's possible to buy a couple square feet, but that's not really feasible, it's not practical. Is it substantial? Well, I think I demonstrated it's not a substantial variance. Will it have an adverse affect on the environment? It's a Type 2 Action, so it's not going to have an adverse affect on the environment.

As a matter of law, the difficulty is self-created because the applicant purchased that property subject to the zoning, but that's only one factor for the Board to consider. And I do have two consents, one consent is from the adjacent property owner to the south and the other consent is on the other street, Community Drive. I will offer that as Exhibit 2.

That's the applicant's presentation, Mr. Chairman and Members of the Board.

MEMBER GOODSSELL: If I can, Mr. Migatz, the information that I have is that there is no application right now that there is a plan for new homes, but am I correct, there is

Appeal #21272

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already a structure on the premises? It's hard to say.

MR. MIGATZ: No.

MEMBER GOODSSELL: There is no structure on the premises?

MR. MIGATZ: No. The applicant, when he purchased the property, it was vacant.

CHAIRMAN MAMMINA: There is a bunch of fences.

MR. MIGATZ: A bunch of fences.

MEMBER GOODSSELL: Very difficult to see what is behind all of that vegetation.

MR. MIGATZ: Yeah. There is construction on the house to the north of it, that's under construction, but this is vacant property.

CHAIRMAN MAMMINA: Mr. Migatz, how would you characterize this neighborhood; one-family housing or two-family housing? And I say that only because you could come in asking for a similar variance to put in a two-family house at 10,000 square feet. I don't think you see a lot of two-family houses on Allen Drive.

MR. MIGATZ: Well, the radius map does show the different square footage of the property, and they vary from 3,000-plus to 8,000. And I don't recall a 10,000 square foot being there. There is the Town's Housing Authority that has a complex that is also in that neighborhood of 300 square feet. I remember that neighborhood from many, many years ago and it

Appeal #21272

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has undergone quite a renaissance.

CHAIRMAN MAMMINA: Yes.

MR. MIGATZ: Really, a lot of money has been spent on new homes, renovating homes. And I don't know if there are two-families there or not.

CHAIRMAN MAMMINA: It would just strike me that one-family houses would be more in context with the neighborhood. Because Allen Drive has had several or at least one other significant zoning changes in that area, you know, in order to try and deal with all of those lot sizes. Personally, I think two one-family houses would be more in character than a single two-family. Anything else?

MEMBER DONATELLI: I have no further questions.

MEMBER GOODSSELL: Mr. Chairman, after consideration of this proposal and the documents submitted, I make a motion that we grant the application for the variance.

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

MEMBER HERNANDEZ: Aye.

CHAIRMAN MAMMINA: So we will give that to Member Hernandez. And Ms. Wagner, would you please poll the Board.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

1 Appeal #21272

2 SECRETARY WAGNER: Member Goodsell.

3 MEMBER GOODSSELL: Aye.

4 SECRETARY WAGNER: Chairman Mammina.

5 CHAIRMAN MAMMINA: Aye. The application is granted.

6 Thank you.

7 MR. MIGATZ: Ms. Wagner, do you want my exhibits?

8 CHAIRMAN MAMMINA: Yes, we need those exhibits. Off
9 the record.

10 MS. WAGNER: That will be Exhibit 3.

11 (Whereupon, a discussion was held off the record.)

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1 Appeal #21273

2 CHAIRMAN MAMMINA: Please call the next case. I'm just
3 reminding everyone that 21260 has been adjourned.

4 SECRETARY WAGNER: The next appeal is Appeal #21273 -
5 John Meyer; 10 South Ct., Port Washington; Section 5, Block C,
6 Lot 95; Zoned Residence-A. Variance from § 70-31(A) to
7 construct an open porch and a balcony above with side yards
8 that are too small.

9 CHAIRMAN MAMMINA: You heard Appeal #21273, John Meyer.
10 Is there anyone in the room interested in the application other
11 than the applicant? Seeing no one. Please give your name and
12 address.

13 MR. MIGATZ: Bruce W. Migatz of the Law Firm of
14 Albanese & Albanese; 1050 Franklin Avenue, Garden City, New
15 York. Here for the applicant and the owner of the property,
16 John Meyer, who is with us this morning.

17 Let me submit, I have four exhibits marked 1 through 4
18 in a bound body, One for the record and one for counsel. Just
19 as an aside, John Meyer and his wife are the owners of Chief
20 Graphix, a graphic-printing business in Port Washington, and
21 they manufacture many of the signs that we put up giving notice
22 of the Zoning Board Hearings. A sign that was posted for my
23 last application was done by Chief Graphix.

24 The subject property is located in what is known as
25 Bayview Colony in Port Washington, Section 5, Block C, Lot 95,
26 Zoning Residence-A. It's approved a single-family dwelling

Appeal #21273

constructed in 2003. John Meyer purchased the property with his wife new or bought the house new, I should say, in 2003.

Now, the application before you is seeking a variance of the aggregate side yard. The notice that is on the calendar is it's not side yards, it's the aggregate side yard variance that is requested, that's the only variance requested. They are seeking to enlarge an existing deck that is on the second floor of the house. And if you would turn to Exhibit 1, which is a photograph of the existing deck that is on the west side of the house, it's on the second floor. It's a rather small deck, approximately, 6 and a half feet wide and about 5 and one-third feet in depth. Exhibit 2 is the view from that deck, the existing deck, the existing view looking over the tennis courts of Bayview Colony. And you can see it has a bay in the distance. In the wintertime, those trees do not have leaves and it is a very nice view of Manhasset Bay. And the benefit the applicant seeks is to enlarge that deck to afford a larger sitting area and to put in four additional windows in the wall to increase the view of Manhasset Bay. So in looking to enlarge the deck to, roughly, 17-feet wide by 10-feet deep.

The condition complies with the minimum 10-foot side yard setback, but it does encroach into the aggregate side yard setback. 29.95 feet is required for the aggregate and 25.3 feet is proposed, which is a variance of 4.65 feet.

Going through the balancing test and weighing the

Appeal #21273

benefit to the applicant versus the detriment to the community. The benefit of the applicant is to enlarge the deck. The balcony directly faces the tennis courts of Bayview Colony, it does not face any homes. And in the photograph of Exhibit 3, it shows you in more detail the tennis courts that is adjacent to the property of John Meyer. Exhibit 4 shows you that there is a driveway that goes to the house that is situated to the rear of the Meyer's house. So that driveway is actually an easement on the Bayview Colony property. So the point of this photograph is to show you that we submit that the aggregate setback variance would not have an adverse impact on those properties since it's looking at a driveway, and beyond the driveway are tennis courts, and both of those owners have consented to this application. The house to the rear that has a driveway easement has consented and the Bayview Colony has also consented to the application. And I will hand those in at the end of the presentation.

Can the benefit sought by the applicant be achieved by some other feasible means? In cases I have cited other times is most appropriate here, that was a matter, Baker versus Brownlie, 248 A.D.2d 527. In that case, the court held that since the petitioners' desired benefit was to have a patio facing the water, the Board's finding that it could be located elsewhere on the petitioners' property is clearly erroneous. And, that, would fit this case. The benefit is to have an

Appeal #21273

enlarged patio facing the water. To put it elsewhere is not the benefit the applicant is seeking.

Is the variance substantial? Percentage-wise, it's only a 15.5 percent deviation, but as I have said many times in the past, you have to look at the whole picture. And does that deviation have an adverse impact on the property adjacent it, surrounding it, and we submit to you it does not. It is a Type 2 Action under SEQOR, being that it does not have an adverse impact on the environment. The difficulty is self-created as a matter of law because John Meyer purchased the property subject to the zoning code. So that could be one fact to be considered. And Exhibit 5 are those four consents: 8 South Court, which is the house to the rear of the Meyer's house; the Bayview Colony Club, who owns the tennis courts; 3 South Court across the street; and 1 South Court also across the street. That's the applicant's presentation, unless the Board has any questions.

CHAIRMAN MAMMINA: A couple of questions. The deck itself or the addition to the deck goes out 6 more feet beyond what exists, right? That's correct?

MR. MIGATZ: Well, 5 and a fraction, yeah, I think, roughly.

CHAIRMAN MAMMINA: That's 6 feet. Close enough.

MR. MIGATZ: Right.

CHAIRMAN MAMMINA: And there is a low wall -- excuse me

Appeal #21273

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-- there is a railing area that goes around that, the existing deck now. So they would be proposing a low wall there, which would have to be installed by building code in order to protect the edge of that balcony.

MR. MIGATZ: Yes, I believe that is shown on the plan.

CHAIRMAN MAMMINA: Yes. It's shown on the plans. It's shown on several of the drawings. It's 3-feet high, which is compliant for a residential deck. Quite honestly, it looks like it's only proposed on one side, as I look at it, from the street, which, I guess, would make sense because an open railing is going to give you more of a view.

MR. MIGATZ: Well, it shows a parapet on that other side.

CHAIRMAN MAMMINA: Yeah. It would give you more view. I'm just curious, just a curiosity, the easement, you know, going to the --

MR. MIGATZ: 8 South Court.

CHAIRMAN MAMMINA: Yeah. So where is that? I guess, I don't see it. This is more curiosity than anything else. I don't see it.

MR. MIGATZ: It's not on the property.

CHAIRMAN MAMMINA: It's on the neighbor's property. I'm saying I don't see the line, but that's okay.

MR. MIGATZ: Well, it wouldn't be on our survey because, as Mr. Hernandez said, it's on the Bayview Colony

Appeal #21273

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property.

CHAIRMAN MAMMINA: To me, personally, you know, there is a couple of things that I see, you know, from an opinion perspective is that what I have always understood aggregate side yard to be in any zoning is because you don't want, the way it was first described to me, the Queen Mary floating down the streets with this gigantic mass. And in this case, that's not going to be the case. I mean, the open portion of the wraparound, you know, area in there is already there. There is already an octagonal or, I guess, it would be an octagon if it was a completed area on that western side of the building, and that partially visually shields off part of the compliant part of the deck. And also, you know, my feeling, which the picture really showed it better than when I went by the site -- I just want to get the exhibit, Exhibit 1, you know -- is the fact that there is this stepping terrace, you know, area, you know, in there and the fact that you can see through it visually, you know, it just looks different. I don't know. The massing, as the architect on the Board, I can't even say why, but I think that that does make a difference in terms of the intention of aggregate side yard because it just has so much space underneath it.

MEMBER DONATELLI: Mr. Chairman, if I could just add a few other things. I also did a drive-by of the property and I think this Board knows that I intend to be concerned about

Appeal #21273

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2 aggregate side yard setback because of the visual impact that
3 it can have in most instances. However, in this instance,
4 because the neighbor is the club, there is a very large open
5 vista in that area. And I would also note -- and I believe
6 Mr. Migatz already touched on this -- that the side yard
7 setback remain intact when we are talking about the aggregate
8 side yard setback. The third item that I would also just point
9 to the attention of my fellow Board Members is that the balcony
10 would be open above, as you mentioned, Mr. Chairman, with a
11 glass railing, so that will also go to less of a visual impact.
12 I would also note that the balcony would be supported by
13 pillars or columns on the first floor, which will also be open.
14 So again, all of these things would mitigate any visual impact
15 that this may have. So as one Board Member, I would be in
16 favor of granting the application.

17 CHAIRMAN MAMMINA: Okay.

18 MEMBER DONATELLI: Does anyone else have any other
19 comments?

20 MEMBER GOODSELL: Well, I think the biggest thing in
21 the applicant's favor is that this is not going to impact
22 neighbor's property, it's a driveway, and they have their own
23 vistas and their own visual because the house is set so far
24 back. If the house was right next door, I would not be
25 inclined to grant this, but the house is not. There seems to
26 be a big open area. I don't have an objection to this.

Appeal #21273

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MEMBER HERNANDEZ: I just have one question because I just want to make sure. The property has a couple of retaining walls, as per your exhibit, and the visual that was all part of Exhibit 4. I'm just trying to figure out how close this open balcony is because of the lower balcony. The upper balcony, obviously, has railings on it for protection, but the lower balcony appears to have no railings of any kind. How close does it get to that? I can't figure it out from the drawings. I don't know if you were able to figure that out. How close does it get to the actual retaining walls? And is there a risk of it being right on top and being close to the retaining wall and being a safety concern?

MR. MIGATZ: I can't answer that question. It's 10 feet from the property line. Those retaining walls are within the property line.

MEMBER HERNANDEZ: So the retaining walls are built to code and they are 5 feet apart, which means that the upper retaining wall has to be at least 5 feet into the property, right?

CHAIRMAN MAMMINA: You make an interesting point.

MEMBER HERNANDEZ: I am just concerned that the deck would be right up against the retaining wall.

MR. MIGATZ: One of the plans that I enlarged, it actually shows the retaining walls there. It doesn't show a dimension, but I will submit this to you and maybe that will

Appeal #21273

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answer your question.

CHAIRMAN MAMMINA: It's an interesting point, but it's in the first floor where the step down is and the building code -- and I don't do houses, but I believe that it's 30 inches before that that you have to provide protection. So I do think that it would be on the owner to make that judgment regarding, you know, the need for a barrier.

MEMBER DONATELLI: Well, I would just point out that if you take a look at the plans, you will see that we are really not changing the grade, which is above the open porch, right. All we are doing is building up above that, so that I think it's going to be, more or less --

MR MIGATZ: The balcony on the first floor is going to be enlarged also, but that's not cited by the Building Department.

MEMBER HERNANDEZ: Right. Correct. My only concern is the safety issue is that by enlarging that lower balcony or terrace, whatever you want to call it, on the lower part, how close does it get to the retaining wall? But like the Chairman said, the Building Department should be the one to point that out. It was a question of safety, that's all.

MEMBER DONATELLI: It looks like -- and Mr. Chairman, maybe you can take a look at this yourself, but on page A5, it looks like there is a distance of, approximately, 10 feet from where the proposed structure will end and the boundary line.

Appeal #21273

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And the retaining wall is here, which you are saying is, approximately, 5 feet.

CHAIRMAN MAMMINA: Also, we have to remember -- yeah, that's, approximately, 5 feet in there. You know, so I think if it was a building-code issue, the Building Department would point to it and the owner themselves may want to look at something there, plant in some shrubs or something there. Because, certainly, you know, the point is valid that, you know, it gets closer then.

MEMBER DONATELLI: So the suggestion was made again because we, I think, as a Board, we have a consensus that we like the open feel to it, so that we would impose a condition that there not be any kind of railing or balcony enclosure on the first floor. Well, on the second floor, we do have a glass railing.

MR. MIGATZ: Well, you have to have it.

MEMBER DONATELLI: You have to have a railing, but not enclosed. Well, as per the plans, this is an open structure.

CHAIRMAN MAMMINA: All right. Everything is open on the first floor and the second floor.

MR. MIGATZ: Well, not to be argumentative, but I have that habit.

CHAIRMAN MAMMINA: I can't believe that.

MR. MIGATZ: Any condition that this Board imposes has to have a reasonable relationship to the variance granted. The

Appeal #21273

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2 variance is for an aggregate side yard setback for a second
3 floor balcony. Imposing a condition that in the future, the
4 owner of the property cannot put a railing around a first floor
5 patio has no connection to us before this Board.

6 CHAIRMAN MAMMINA: I don't think that is what we are
7 talking about. And I have no reason to believe that that would
8 be the case, that suddenly walls appears and windows and it's
9 another finished room on the house. You can always come back
10 to the Zoning Board to ask for that, but having a railing or
11 something around that, that's fine.

12 MEMBER GOODSSELL: We are just asking that it not be
13 enclosed as a three-season room or a four-season room.

14 MR. MIGATZ: Well, that would have to come back before
15 the Board.

16 MEMBER GOODSSELL: But to have an open structure, there
17 has to be the temptation of, well, we will make this something,
18 we will put windows up, we will put this up. That's the
19 restriction we are talking about it, not to be an enclosed
20 structure.

21 MR. MIGATZ: They can't do that.

22 MEMBER DONATELLI: So after we said all that,
23 Mr. Chairman, I will make a motion that we grant the
24 application with the condition that the first floor not be
25 enclosed, as Member Goodsell said, as a three-season room or a
26 four-season room without coming back to this Board.

Appeal #21273

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MEMBER GOODSSELL: But railings are certainly permitted.

MEMBER DONATELLI: Right, they are certainly permitted.

Again, just to reiterate the position, this is for an aggregate side yard. It is not for a side yard setback. So with that condition, I make a motion to approve the application. I grant the application.

CHAIRMAN MAMMINA: We have a motion by Member Donatelli. Ms. Wagner, would you please poll the Board.

MEMBER HERNANDEZ: You need a second.

CHAIRMAN MAMMINA: Oh, we need a second.

MEMBER HERNANDEZ: Second.

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

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

The application is granted.

MR. MIGATZ: Thank you.

MR. MEYER: Thank you very much. Have a good day.

Appeal #21274

SECRETARY WAGNER: Next appeal is Appeal #21274 - Luigi & Vitella Carullo; 18 Hillview Ave., Port Washington; Section 5, Block D, Lot 119; Zoned Residence-C. Variances from §§ 70-101.B & 70-101.H to legalize a portico located too close to a street and to legalize AC units located too close to a street.

CHAIRMAN MAMMINA: You heard Appeal #21274, Luigi & Vitella Carullo. Is there anyone in the room who has interest in the application other than the applicant? Seeing no one. Please give your name and address.

MR. MORRA: Good morning, Chairman Mammina. My name is Peter Morra. The address is 393 Old Country Road, Carle Place, New York. I am the attorney for Luigi and Vitella Carullo. The property is actually owned by the Vitella Carullo Irrevocable Trust now. You said it perfectly, Mr. Chairman.

CHAIRMAN MAMMINA: I have relatives.

MR. MORRA: So the applicants have lived here for over 56 years and just recently sold the property. Mr. Carullo, I believe, did the renovations himself as far as the portico. So the subject property located on the west side of Hillview Avenue, 363.068 feet north of Mullan Avenue known as 18 Hillview Avenue in Port Washington. It's Section 5, Block D, Lots 119 and 120 on the Nassau County tax maps. And the entire property is located in the RC Residence District Zone. It's a one-family dwelling. And we are seeking, really, a front yard

Appeal #21274

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2 variance for the existing portico. My understanding is it's
3 been there for over 30 years and the air-conditioning unit,
4 which was replaced, but has been there for over 40 years. So
5 the front yard setback we are proposing is 16.3 feet to the
6 portico, where the code requires 20 feet. And 16.8 feet to the
7 air-conditioning unit, where the code requires a minimum of 20
8 feet.

9 Mr. Chairman, I know there is a requirement that
10 consents be notarized. My client wasn't able to get a notary
11 there. I actually have 10 consents that are not notarized. I
12 don't know if the Board would consider those. I apologize. I
13 have 10 consents, they are not notarized. They are signed by
14 the neighbors, but that's up the Board, and I can submit them.
15 Is that okay?

16 CHAIRMAN MAMMINA: Yes.

17 MR. MORRA: Thank you.

18 MEMBER GOODSSELL: When you say consents, they are
19 actual consents, they are not objections?

20 MR. MORRA: They are actual consent forms, yes.

21 SECRETARY WAGNER: This will be Exhibit 1.

22 MR. MORRA: Also, I have three green cards that came
23 back that I will submit at this time. And then I just have
24 some photographs, one of the subject premises showing the front
25 showing the screening of the air-conditioning unit. And,
26 really, I'm sure the Board is very familiar with the

Appeal #21274

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neighborhood, as it's been there, and showing the other homes that are, approximately, the same distance from the front yard, if not even closer to the front yard, like most of the homes in that area.

MEMBER GOODSSELL: I can't believe that there isn't a property on that street that doesn't violate a setback.

MR. MORRA: So you can actually see the cars in the driveway, which is, approximately, 13- or 14-feet long. They, basically, go from the front of the house to the lot line. So I'm just going to submit this for the record.

MEMBER GOODSSELL: Some people would call that a charming neighborhood.

MEMBER HERNANDEZ: Excuse me.

MR. MORRA: Yes, sir.

MEMBER HERNANDEZ: I'm looking at what was sent to us and comparing it to the physical plans and what I have in my computer, it shows something different, and I'm trying to match it and I can't.

MR. MORRA: So I had submitted here --

MEMBER HERNANDEZ: A100, 1 of 2 shows the plot plan with a section that says "subject area to be maintained," which appears to be the rear right-hand corner of the house. What is that?

MEMBER GOODSSELL: I think that's not part of the variance, though.

Appeal #21274

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CHAIRMAN MAMMINA: It's where the 1.5 feet is at.

MR. MORRA: So I believe the application contains a number of items, I believe, to bring the property up to code. And I believe the only two variances that were flagged were the front yard for the portico and the air-conditioning, but I appreciate the questions.

MEMBER HERNANDEZ: Well, it drew my eye to it because it says to be legalized.

MR. MORRA: So what is interesting is I had submitted -- not being completely used to it, you know, I submitted the set of plans that were actually marked up. So I was concerned that maybe you had the original set and I submitted the second set that wasn't the marked up set.

So getting back to the application. So really, we discussed already, both applications would fit in well with the character of the neighborhood. As Member Goodsell said, none of the homes meet the 25-foot setback. I mean, really, not even close. Really, these lots, these homes were built on pre-existing, nonconforming lots. They are all 4,000 square foot. There really isn't a place -- well, you wouldn't put a portico anywhere other than the front, obviously, but there really isn't a place where you can put that air-conditioning unit that would make sense that wouldn't be cost prohibitive. I mean, the only place would be possibly the rear yard, but there are some walls there, et cetera, but then you would have

Appeal #21274

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to relocate all of the air-conditioning equipment that would be in the attic.

MEMBER GOODSSELL: I have to say, Mr. Morra, we can't even ask your client to put something to camouflage the air-conditioning units because he has already camouflaged them. I couldn't see them when I drove by to look at it. Where were they?

MR. MORRA: So they did a good job of screening it. It's not a humongous unit. It's behind the bushes. Obviously, you can see it from the side because you need access to be able to maintain it, et cetera. So as far as the magnitude of the variances, you know, there really is no control over that. The house is where it is. It already violates the front yard setback because of the way all of these houses in the neighborhood were built. And then, obviously, adding the portico, which really only extends -- what is it -- about 4 feet, approximately, 4 feet further into the front yard. So it's not an overly large portico. It really fits the character of the home. And there are actually homes across the street that have actual structures, enclosed structures built, really, that are much closer than 20 feet from the front yard.

So as I stated, I appreciate the Board considering the consents without the notaries. My client was not able to have me come with him when he went to meet his neighbors. Obviously, they have been there for 56 years so they know

Appeal #21274

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everybody there and nobody has an issue with this. Both structures have been there for many, many years. And the home was sold recently. So Mr. Carullo passed away. And Ms. Vitella, I believe, is going to live with her son. And there is money being held in escrow for the resolution of this, as well.

MEMBER GOODSSELL: The other thing I would like to point out to the Board is that these are not neighbors who are way down the street or someplace, these are really adjoining properties.

MR. MORRA: They are the adjoining property owners and directly across the street.

CHAIRMAN MAMMINA: Anything else?

MR. MORRA: That's really all I have, unless the Board has some questions.

MEMBER DONATELLI: Mr. Chairman, I would just make some comments for the record. I drove by the property several times, I believe it was on a Tuesday, which would have been yesterday. I would note that the area is a very old area and that most of the houses in the area do appear to be pre-existing and nonconforming. So that in a contextual point of view, this house does not stand out at all. I would also note that the application before us is really for the legalization for the open portico, not for the house itself. So that would be asked to address the issue for the open

Appeal #21274

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portico. So I did notice that there were some other open porticos in the vicinity of this house, and that this was not at all something that stood out. So I really have no objection to that portion of the application.

With respect to the air-conditioning, as Member Goodsell already said, I thought it was very well-screened and I thought that it might be very much impractical for the owner to have to move their air-conditioning at this point with all that that entails, the intended cost, et cetera, et cetera.

So having said that, in light of the fact that the area is very, for lack of a better term, funky, but it is also quite charming, I would make a motion that we grant the application.

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

MEMBER HERNANDEZ: Second.

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

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

1 Appeal #21274

2 The application is granted for the reasons we stated.

3 MR. MORRA: Thank you very much, Mr. Chairman and

4 Members of the Board. I appreciate it.

5 CHAIRMAN MAMMINA: Off the record.

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7 (Whereupon, a discussion was held off the record.)

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1 Appeal #21275

2 SECRETARY WAGNER: The next appeal is Appeal #21275
3 - Valida Scott; 14 N. Plandome Road, Port Washington; Section 5,
4 Block 57, Lot 258; Zoned: Residence-A. Variances from
5 §§70-100.2(A)(2), 70-100.2(A)4), to legalize fencing and to erect
6 new fencing that is in the front yard and that is too tall.

7 CHAIRMAN MAMMINA: You heard Appeal #21275, Valida
8 Scott. Is there anyone in the room interested in the application
9 other than the applicant? Seeing no one. Please give your name
10 and address.

11 MR. SCHNEIDER: Rich Schneider; 65 Stephano Road,
12 East Patchogue 11772.

13 CHAIRMAN MAMMINA: Thank you. And if the other
14 gentleman wishes to speak, he may want to put his name and
15 address on now.

16 MR. RODLER: Tom Rodler; 216 East Main Street,
17 Huntington.

18 SECRETARY WAGNER: Just please speak into the mic.

19 MR. RODLER: Tom Rodler; 216 East Main Street,
20 Huntington.

21 CHAIRMAN MAMMINA: And if I could just ask each of
22 you, just for the record, what is your relationship to the
23 property?

24 MR. SCHNEIDER: I'm on behalf of the applicant. I
25 am the architect for the project, property consultant, and also
26 for the contractor.

1 Appeal #21275

2 MR. RODLER: I'm the contractor building installer.

3 CHAIRMAN MAMMINA: If you want to get that easel to
4 work for you, you clip it in, and then you put it up a little
5 bit. It's our understanding that the fence is actually 6 feet,
6 not 5 feet, as per the denial, or is it 5 feet? The bulk of it
7 is 5 feet.

8 MEMBER DONATELLI: But it's important to know which
9 area is which.

10 MEMBER HERNANDEZ: We have to revise this
11 disapproval letter on here.

12 MEMBER DONATELLI: Sorry. Quick question. Your
13 plans that are shown on the easel, do they reflect where you are
14 looking for the 6-foot fence?

15 MR. SCHNEIDER: The 6-foot fence is --

16 MEMBER DONATELLI: What portion?

17 CHAIRMAN MAMMINA: We need to make sure.

18 MR. SCHNEIDER: There is two sections of fence and
19 what is happening is the first is existing on the site is
20 existing timber walls.

21 CHAIRMAN MAMMINA: Could you give us north, south,
22 east, west on that?

23 MR. SCHNEIDER: So we are talking about along North
24 Plandome Road. Starting with the project is we are taking down
25 the existing timber walls and replacing them with interlocking
26 walls. Existing on the site right now is there is a 5-foot fence

1 Appeal #21275

2 that runs on existing timber wall and then there is an existing
3 6-foot fence, which has lattice on it, which is going to remain
4 and we are asking to legalize. So it's, basically, two variances
5 we are asking for.

6 CHAIRMAN MAMMINA: So those are both in the front
7 yard?

8 MR. SCHNEIDER: Right, both in the front yard.

9 CHAIRMAN MAMMINA: One is the primary front yard and
10 the other is secondary?

11 MR. SCHNEIDER: And this gray right here delineates
12 the retaining walls. Right now, there is four walls there and
13 what we are doing is making only two.

14 CHAIRMAN MAMMINA: And we have no denial from the
15 Building Department?

16 MR. SCHNEIDER: No.

17 CHAIRMAN MAMMINA: In terms of the retaining walls
18 themselves, they are set properly?

19 MR. SCHNEIDER: Yes, 5-foot setback. And we also
20 did have to go through various things with the Highway Department
21 in what had to be filed and what has been done.

22 CHAIRMAN MAMMINA: So are the walls themselves off
23 of the property and that's why you're --

24 MR. SCHNEIDER: No. The walls themselves are on the
25 property.

26 CHAIRMAN MAMMINA: Okay.

Appeal #21275

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MR. SCHNEIDER: The property line runs, as you can see, it's illustrated right here in the diagram and the property line is right here and it comes across, so the walls are within the property.

CHAIRMAN MAMMINA: And I raise that only because it's not impossible, you know, to get that sort of --

MR. SCHNEIDER: And you bring up a very good point because there was an existing curb, there was a step, there was an apron on the driveway, and all of those were outside of the property lines, and we had to go through the Highway Department. So everything was done.

CHAIRMAN MAMMINA: Okay.

MEMBER DONATELLI: Sorry. Once again, just so I'm sure that I understand. On the original application, you had indicated on the southernmost portion of this that that is 15-linear feet by 5-feet in height, and is that the portion that now you are proposing to make 6 feet?

MR. RODLER: No, that's going to remain as 5 feet.

MEMBER DONATELLI: Okay.

MR. RODLER: That is the piece right over here.

MEMBER DONATELLI: Right. So what is the portion that shows 5 feet on our plans that you are now proposing be 6 feet?

MR. RODLER: What happened was it was measured without the lattice. It's an existing fence. It has a 1-foot

Appeal #21275

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piece of lattice on top of the fence and that's why we made the clarification to show that that did have the lattice in the height.

CHAIRMAN MAMMINA: The lattice is included?

MR. RODLER: Because the lattice is included in the fence.

MR. SCHNEIDER: That fence plans to remain. The other one we are proposing is resetting the existing fence. Because we are putting in the new retaining wall, the fence needs to be removed and replaced. The clients have been living on the property for over 30 years. The fencing has been there for that amount of time. There has been fencing 10 feet up from the road. So part of it is safety, because we have two 5-foot walls. The clients are up in age, busy road. It's a combination of privacy and safety. And they have no backyard, so their front yard is their backyard. So they are trying to make the most out of the property that they can.

CHAIRMAN MAMMINA: So there were no applications filed for the fences 30 years ago? And these are not accusatory things, these are just collecting, you know, the history. Do we have any documentation of those fences that might be an old picture or something, you know, that sometimes we get a wedding or, you know, whatever or the family standing in front of the property. It's not essential to have that, but it helps.

MR. RODLER: Did you print out copies of what we

Appeal #21275

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sent you?

MR. SCHNEIDER: I can give this to you, the pad books, but I do have a check written in 1994 to North Shore Fence and this is actually a proposal.

MEMBER GOODSSELL: You have booklets for each of those?

MR. SCHNEIDER: Yes, I do have them.

MEMBER GOODSSELL: Could we share that? Because visually on paper, I was just going to ask you to put something on the record with respect to the character of this property. Because North Plandome Road is rather narrow, it's rather fast. Having driven past this property at 20 miles an hour, you can't quite judge. And having gone around the block and driven past it again, it's hard because it's a busy road, it's on a hill. The character of the property is more apparent when you see it than when you see it on paper. It really is a very busy road. And as you indicated, they don't seem to have much of a backyard. Where is the access? I'm looking at the diagram. The access is actually on the side road, is it not? And yet, the correct property address is 14 North Plandome Road, which is busy.

MR. SCHNEIDER: Yes.

MEMBER GOODSSELL: And have the clients asked you to design these beautiful gardens of Eden, as per the diagram?

MR. SCHNEIDER: Yes, we embellished. On some, she has her own and on others, we are changing. Because when the

1 Appeal #21275

2 walls come down, this all has to be replaced. So it's part
3 ornamental and part Eden.

4 CHAIRMAN MAMMINA: Member Donatelli makes a very
5 good point, that we kind of broke the momentum of your
6 presentation, and we really try hard not to do that, but
7 sometimes we get caught up in asking more questions and not
8 waiting for the presentation. So why don't we pretend we are
9 starting over again, but I do think we have a better idea now of
10 where different things are, but put them on the record again.
11 It's your record to make a record.

12 MR. RODLER: So starting over. We are proposing
13 legalization of one fence in the front yard.

14 CHAIRMAN MAMMINA: One more time. Pull the easel
15 over closer to you so that you can point to things.

16 MR. SCHNEIDER: I can do that.

17 CHAIRMAN MAMMINA: You can turn it the other way and
18 you can move the easel back.

19 MR. RODLER: This existing fence --

20 CHAIRMAN MAMMINA: You have to get up to the
21 microphone. I'm sorry. Put it in your hand if you want. No
22 singing.

23 MR. RODLER: We have this fence. The green portion
24 is an existing fence to remain, but that was never legalized
25 because of the time period before there was an ordinance. The
26 right side, when we do the retaining walls, there is an existing

Appeal #21275

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2 fence in good condition. The clients want to reuse the existing
3 panels. So we will have a new fence put in in a post sleeve
4 behind the retaining wall. This fence here is in red. We want
5 to have a similar height to the existing fence to be able to look
6 at the property. These fences are needed mainly for
7 noise-production, safety. We are 10 feet up above the road, so
8 it doesn't impact walking by the property. It's above your eye
9 level. But there is going to be planting in front of it to
10 soften it to round the space with the neighborhood.

11 CHAIRMAN MAMMINA: What type of planting will that
12 be? Will it be something that will obscure the fence at some
13 point of a mixture?

14 MR. RODLER: It will soften the retaining wall
15 because we have a 5-foot retaining wall here, and then another
16 5-foot retaining wall, and then we have the 5-foot fence going on
17 top of it. So the planting through here. You can't put a huge
18 one here or the plants won't survive. So we have Inkberry here,
19 which is native, which will get about 5-feet tall. So the
20 retaining wall will be softened. The upper area fence, you know,
21 for privacy. When you build these retaining walls, there is a
22 geogrid that goes back 4 or 5 or 6 feet. So you can't over-plant
23 with big evergreen screens because you are going to compromise
24 the integrity of the structure of the wall. So we have the
25 Inkberry through here with perennials. This will be a consistent
26 look through here, so it has uniformity, and everything is above

Appeal #21275

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your eye height, the fencing. So this is going to be a new fence remaining to be legalized, this one proposed, but we are using it and putting it in the same spot or not the same spot, but within a foot of the same spot of where that old fence was.

MEMBER DONATELLI: And what will the fences be made of?

MR. RODLER: It's a cedar fence with a lattice top, which is existing. We are reutilizing what is there.

MEMBER DONATELLI: So it will not be white vinyl?

MR. RODLER: No. And it's not stained, it's natural. It will blend in with the neighborhood. It doesn't shout out at you.

MEMBER HERNANDEZ: You are effectively legalizing what you have there now, except that you have to rebuild the foundation.

MR. RODLER: We have to take it down to rebuild it because it's a timber retaining wall, which we don't want to see. It's rotting. It's falling down. It's a safety factor, but we have to remove to rebuild properly, but with the new ordinance, that's where we come into play.

MEMBER DONATELLI: And one more question. I see that the landscaping plan, which actually you propose is the second document on the easel here, if you could just show us that again.

MR. RODLER: Okay.

Appeal #21275

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MEMBER HERNANDEZ: Is there any space in front of the upper retaining wall to be able to do a second row of planting to soften the visual impact of that higher fence?

MR. RODLER: No, there is no space. Because to put a fence on top of a segmented wall, you have to put a system for fencing, it's called sleeting. I don't think you have these pictures.

SECRETARY WAGNER: Do you want this as an exhibit?

MR. RODLER: Yes, please.

SECRETARY WAGNER: So this will be Exhibit F.

MR. RODLER: This gets abutted against the retaining wall system and that's where your posts come up. So there is, really, virtually no space to plant anything.

MEMBER DONATELLI: No space to plant anything between the end of the retaining wall and the fence?

MR. RODLER: Exactly. Because if you put that back 4 feet, this would be sleeted, it's not strong. It's going to wobble and you are going to have a crooked fence. Against the retaining wall, it's firm, it will never leave. It's a special system made for post fence with this kind of segmentary retaining wall. So you are not drilling through the wall, you are connecting to the back of the wall, so it's a lot of strength.

CHAIRMAN MAMMINA: Kind of the same way you are connecting to the front of the wall now in a wooden retaining

Appeal #21275

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wall.

MR. RODLER: Yes.

MEMBER DONATELLI: So this is more of the nature of an engineered retaining wall.

MR. RODLER: Correct, but we are beautifying the whole area, so it just softens it overall.

MEMBER HERNANDEZ: And this part of the property, although it's technically the front yard, it's really being used as the backyard. Because when I look at your plot plan, there is a nonexistent backyard.

MR. RODLER: Exactly. She likes vegetables. She has a dog. They walk around the property. This is their safe zone, but they want a safe zone also that they are not visible, they are not looking at the cars, the noise. And the fencing has been there for 30 years.

MEMBER GOODSSELL: See, normally, we wouldn't grant something like this because it's a front yard, but you have certain very unique circumstances.

MR. RODLER: Yes, we do.

MEMBER GOODSSELL: For me, the unique circumstance is that busy road with no place to pull over and the elevation of the actual house. You don't have a choice, you have to have retaining walls. And there is nothing that you can do about that 10-foot facade because that is what is holding the earth in place. So for me, this is a very rather unique application

Appeal #21275

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on a rather unique piece of property. I honestly drove past it so quickly, I did not realize that the entryway to the house was on Murray Avenue because the actual legal address is North Plandome Road.

CHAIRMAN MAMMINA: And I also think there is a stepping terrace on that and the planting.

MEMBER HERNANDEZ: And the fact that there are steps there.

CHAIRMAN MAMMINA: And that's going to be planted in what looks like something very aesthetic that will be irrigated?

MR. SCHNEIDER: Yes.

MEMBER DONATELLI: So I would note that we have done or we have had similar requests on other parts of Plandome Road that we have granted, but those other parts of Plandome Road were at a ground level. And in those instances, we asked the applicant to mitigate the visual impact by planting in front of the fence. In this instance, it's not really practical because of the two retaining walls. So the applicant has shown us plans to plant in the space between the retaining walls, but it's not really practical, given the engineering of this retaining wall, to plant in front of the taller fence. But having said that, I do notice that Plandome Road is an extremely busy and overtaxed road. I would also note that the applicant really doesn't have any backyard to speak of so that

Appeal #21275

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2 for all intents and purposes, their front yard does become the
3 yard that they would use. So I think that this is
4 distinguishable from many of the other applications that we
5 received. I make a motion that we grant it. Excuse me. One
6 second. So I think you've heard that the gist of the comments
7 from the Board, that we are favorably inclined to grant your
8 application, but the Town Attorney has made a good point, that
9 we should probably put our thoughts on paper in a formal
10 findings of fact so that we can distinguish this case from
11 other cases. So with the Chairman's approval, I ask that we
12 just reserve decision at such time so that we can come up with
13 the findings.

14 MR. CHAIRMAN: So essentially, I'm just going to repeat
15 what Member Donatelli just said, but you can see that we are in
16 favor of going in the right direction. And, I guess, I
17 recognize it's coming into a planting time of the year, you
18 know. And generally, without putting Ms. Algios on the spot,
19 she is pretty good at getting that stuff changed out.

20 MR. SCHNEIDER: Do you have a timeframe?

21 CHAIRMAN MAMMINA: Probably not.

22 MS. ALGIOS: Probably by the next hearing.

23 MEMBER DONATELLI: I'm sorry. This is a very unusual
24 case, so we want to make sure that we spell out our reasoning
25 so that somebody else who comes to seek similar relief, we can
26 point out to them what we did and what we did not do in this

Appeal #21275

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case. So my experience is that the staff here is very competent and diligent.

MR. SCHNEIDER: So I will be returning next month?

SECRETARY WAGNER: No, you don't need to.

MEMBER DONATELLI: No, no need for you to return. We do all the work.

CHAIRMAN MAMMINA: And you can reach out to Ms. Wagner after the next hearing, which is, what, the 22nd?

SECRETARY WAGNER: No, I think it's the 21st.

CHAIRMAN MAMMINA: So you can just call.

MR. SCHNEIDER: Thank you very much.

MR. RODLER: Thank you for your time.

CHAIRMAN MAMMINA: Thank you. Off the record.

(Whereupon, a discussion was held off the record.)

SECRETARY WAGNER: We are going to take a five-minute break.

(Whereupon, a recess was taken at this time.)

1 Appeal #21276

2 SECRETARY WAGNER: The next appeal is Appeal #21276 -
3 Christopher Amico; 108 South St., Herricks; Section 9, Block
4 91, Lot 63; Zoned Residence-B. Variance from § 70-100.2.A(4)
5 to legalize a fence that is too high.

6 CHAIRMAN MAMMINA: Okay. You have heard Appeal #21276,
7 Christopher Amico. Is there anyone in the room interested in
8 the application other than the applicant? Seeing no one.
9 Please, give your name and address.

10 MR. AMICO: Christopher Amico; 108 South Street, New
11 Hyde Park, New York 11040.

12 CHAIRMAN MAMMINA: Go ahead, Mr. Amico.

13 MR. AMICO: Okay. I have pictures. I didn't know how
14 this would go, this is my first time doing this, but of an old
15 fence and a replacement fence. Could I bring that up to you
16 guys?

17 SECRETARY WAGNER: You can submit it. It will be
18 Exhibit 1.

19 CHAIRMAN MAMMINA: You may, and she will mark it as an
20 exhibit.

21 MR. AMICO: My grandparents bought this house back in
22 1950 or '52, I forget the year. My grandmother was the last
23 surviving and past away last October. I bought the home and
24 did a direct replacement of the fence. Supposedly, in that one
25 section, I think it's like 10 feet, it's supposed to be 4 feet,
26 and I replaced it with 5 not knowing, so that's really why I'm

Appeal #21276

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here.

CHAIRMAN MAMMINA: So the drawing that the site plan has -- and there is nothing wrong with the site plan -- where you highlighted that in yellow and you called it 4 foot, that's actually 5?

MR. AMICO: No. There is one spot I highlighted, which is on the side of the house.

CHAIRMAN MAMMINA: Oh, I see.

MR. AMICO: That should be 4. It's like maybe 12 feet.

CHAIRMAN MAMMINA: Yeah, I see it.

MR. AMICO: It's always been 5, not to say that that's what it should have been. I understand.

CHAIRMAN MAMMINA: You have two front yards?

MR. AMICO: I do.

CHAIRMAN MAMMINA: South Street and Farrel Street?

MR. AMICO: Yeah.

CHAIRMAN MAMMINA: So that's the piece of fence that's facing Farrel Street?

MR. AMICO: Yeah, it's actually right next to the garage.

CHAIRMAN MAMMINA: Yes.

MEMBER GOODSSELL: As I recall, the fence that you have there, which is a very nice newish-looking fence.

MR. AMICO: Yeah.

MEMBER GOODSSELL: Did you do that yourself or a fence

Appeal #21276

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company?

MR. AMICO: A fence company did it, actually.

CHAIRMAN MAMMINA: Which fence company?

MR. AMICO: I don't know. I would have to ask the general contractor who hired them to do it. I would have to find out from them. And I had them look at the rules prior. And only because I'm on a corner lot is sort of the situation why I'm here today. If it was a non-corner lot, it would have been considered an adjoining side or whatever.

CHAIRMAN MAMMINA: It would have been a side yard.

MR. AMICO: I understand.

CHAIRMAN MAMMINA: It's a different scenario.

MR. AMICO: I understand.

CHAIRMAN MAMMINA: And we do have a lot of fence companies who are well-known, who should know better, and install fences that I have to assume they know are not legal, and even one of them we had their license revoked.

MR. AMICO: I could get it for you, if you guys absolutely need it.

MEMBER GOODSELL: Well, we are curious because most fence companies should tell the homeowner, we are going to get a permit, you have to pay for the permit, but we are going to get a permit and these are the parameters of what this particular location will allow. And apparently, that was not done. Because part of your very nice, obvious, custom-fence,

Appeal #21276

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which comes a little bit too close to the street, is supposed to be 4 feet, and instead it's 5 feet. We are not objecting to the fence, per se, it's the height, as you can see from this approval, that is a problem.

MR. AMICO: I understand.

MEMBER GOODSSELL: And I presume that you very recently paid for this fence.

MR. AMICO: I did. It was very expensive.

MEMBER GOODSSELL: You are literally a block from the Denton Avenue School, maybe a block and a half. You get families or children walking down the street and walking past there taking their kids to Denton Avenue?

MR. AMICO: I'm not sure. I just bought the place.

MEMBER GOODSSELL: Okay.

MR. AMICO: My grandparents lived there and my dad grew up there. I don't know. I couldn't give you that answer.

MEMBER GOODSSELL: Did you grow up there?

MR. AMICO: I did not, but my dad did.

MEMBER GOODSSELL: We are just looking to see if we can determine when and how old that fence is. You might have heard on one of the prior cases there was a receipt for a fence that someone submitted that shows the date that it was installed, and there might be old photographs that show that.

MR. AMICO: Well, the picture of what I took was from an appraisal and the fence that was there was there for 30

Appeal #21276

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years, you know, 20-something, 30 years. So when I replaced it, I thought, same height and everything, no one bothered my grandparents.

MEMBER GOODSSELL: The fence company shouldn't have given you --

MR. AMICO: I'm just saying from my perspective, no one has given my grandparents a hard time for 50 years.

CHAIRMAN MAMMINA: Is your dad still around?

MR. AMICO: I mean, he is still alive.

CHAIRMAN MAMMINA: That's what I mean. In other words, would he be able to provide, I will use the word, an affidavit, but I'm not an attorney, as to how long that fence was there?

MR. AMICO: That fence was there at least 30 years. I mean, it's been the same fence since I have been born.

MEMBER GOODSSELL: Since there is no receipt, an affidavit is a sworn statement from someone who is familiar with the property for the last 30 years.

MR. AMICO: I understand. Absolutely. Sure.

CHAIRMAN MAMMINA: It looks like it was a chain-link fence and then slats had been put in.

MR. AMICO: Yeah, they had put slats in for transparency.

CHAIRMAN MAMMINA: Quite honestly, 30 years ago, it was not unusual for builders to build houses and put in chain-link fences, it was the way to go back then.

Appeal #21276

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MEMBER DONATELLI: Is the fence on the far side of the garage? Is that your fence or is that your neighbor's fence?

MR. AMICO: The far side of the garage behind it?

MEMBER DONATELLI: Yes.

MR. AMICO: So anything PVC is mine.

MEMBER GOODSSELL: No. We are looking at an old picture.

MR. AMICO: That was ours, too.

MEMBER GOODSSELL: If you are standing in the street looking at the garage and there is the fence to the left, whose fence is that?

MR. AMICO: That was mine also.

MEMBER GOODSSELL: Okay. So that looks like --

MR. AMICO: So, no, it's been taken down.

MEMBER DONATELLI: That's down?

MR. AMICO: Yeah. It was old and rusted when I wanted to do it. The house wasn't touched for like 15 years.

MEMBER DONATELLI: In other words, so we are not being asked to legalize the fence on the far side of the garage?

MR. AMICO: Not at all, no.

MEMBER DONATELLI: This looks like a 4-foot chain fence.

MEMBER HERNANDEZ: The one on the right side of the house.

MR. AMICO: So the one separating both properties was a

Appeal #21276

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4 foot. What I replaced was always the same height, it was always 5 feet.

MEMBER HERNANDEZ: Looking at your house and the neighbor's driveway.

MR. AMICO: That was always 4 up until the point where it hit the garage and then, I think, it went to 5.

MEMBER GOODSSELL: Is there something that you could give us that would show us that the fence has been there and has been that height for as many years as you are saying? Is there something that you could submit?

MR. AMICO: I could get my dad to sign something, if necessary, but if you look at the picture that is there, the age of that fence is not a 5-foot fence.

CHAIRMAN MAMMINA: That was in 2017, and that doesn't mean the fence itself wasn't there before that.

MR. AMICO: Right. But I mean, even in that picture, you can see it's an old worn fence. It doesn't look like it's brand new in that picture, either. It's been there, like I said, since I have been a child going there. Since going to see my grandparents, it's been the same fence.

MEMBER GOODSSELL: And your grandparents are both deceased?

MR. AMICO: They are both deceased, yes.

CHAIRMAN MAMMINA: Was that fence in the same condition that the 4-foot fence is or the 3-foot fence coming down?

Appeal #21276

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MR. AMICO: They were all starting to get worn, yeah.

I mean, the one on the side of the garage was even older. I don't think by much, but, I think, because there were vinyl slats in it, there wasn't as much wear and tear as the one that was on the side. The one on the side had no vinyl slats in it.

CHAIRMAN MAMMINA: And the slats also mask the wear and tear.

MR. AMICO: Correct.

CHAIRMAN MAMMINA: And you use that for privacy.

MEMBER GOODSSELL: We are aware that there was a time when we did not have the same fence requirements that we do today.

MR. AMICO: Okay.

MEMBER GOODSSELL: And during the time that we had fence requirements, we have changed them.

MR. AMICO: Okay.

MEMBER GOODSSELL: The Town has changed them. So what we are looking to do, because we hear what you are saying, what we are looking to do is put something in our file, such as a photo or an affidavit or something that shows 30 years ago that this fence was, in fact, there.

MR. AMICO: Okay.

MEMBER GOODSSELL: I mean, ideally, if there is a picture of you as a child.

MR. AMICO: I am sure there is pictures we could find.

Appeal #21276

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MEMBER GOODSSELL: Of you in a school uniform with an affidavit from your father that this is the fence.

MR. AMICO: Okay.

MEMBER GOODSSELL: That would be extremely helpful. We are not asking you to come back. We are discussing here whether you can just leave this open and continue it subject to this specific information you might give us. Have your mother dig through your old photographs or, perhaps, your father. I don't know. But I am familiar with the section of town. I grew up in New Hyde Park. I have a house that is, probably, six to eight blocks away from this. My kids went to that school that is at the end of the block, Denton Avenue. So I'm familiar with the area and when it was built and what it was like. And, yes, there was a time when we did not have any kind of fence rules and requirements, except maybe you can't put a 10-foot fence up. You know, school children aren't that much of a hassle, but that's what we would be looking for. Do you think you could possibly? Do you think you could do something like that?

MR. AMICO: Like I said, I can't promise a picture, but I could at least have my dad -- I mean, he did grow up in that house.

CHAIRMAN MAMMINA: That would be okay, because it's something we have for the file that would differentiate.

MEMBER GOODSSELL: Right. And it's someone who is

Appeal #21276

familiar with the property and who is familiar with it years and years ago.

MR. AMICO: Yeah. Okay. So what would I have to do?

CHAIRMAN MAMMINA: We are going to continue this.

MEMBER GOODSSELL: You would e-mail it. You would talk to Virginia. You will e-mail it and she will forward it to all of us. And our next meeting, which is two weeks from now, we will be able to, after the calendar, take a look at that, add that to the file, and make a decision.

MR. AMICO: Okay.

CHAIRMAN MAMMINA: All right.

MR. AMICO: Thank you.

MEMBER GOODSSELL: Thank you.

MR. AMICO: Have a good day.

Appeal #21277

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SECRETARY WAGNER: Next appeal is Appeal #21277 - Christopher Ronan; 104 Lynton Road, Albertson; Section 9, Block 109, Lot 50; Zoned: Residence-C. Appeal for Determination and variances from §§70-51 and 70-52 to construct additions that are too close to the rear and side property lines.

CHAIRMAN MAMMINA: You have heard Appeal #21277, Christopher Ronan. Is there anyone in the room who is interested in the application other than the applicant? We have one hand up. You will have the opportunity to speak after the presentation.

SECRETARY WAGNER: Chairman, I just want to say before we proceed is that we did receive a letter, a correspondence this morning regarding this application in support, which I will forward to you.

CHAIRMAN MAMMINA: Thank you, Ms. Wagner. So please give your name and address.

MR. RONAN: Hi. I am Christopher Ronan; 104 Lynton Road in Albertson.

CHAIRMAN MAMMINA: Take a deep breath, it's okay.

MR. RONAN: I'm sorry. All right.

CHAIRMAN MAMMINA: I mean that very sincerely.

MR. RONAN: Okay.

CHAIRMAN MAMMINA: Deep breath. Deep breath.

MR. RONAN: I am here today to discuss my denial letter, you know, and go over our renovation plans. If you

Appeal #21277

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take the time to review our renovation plans, you see that we are merely building on top of what is already there.

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Apparently, there is two issues that the Building Department has with our proposed plan. The first being that the side yard is 4 inches too close to my neighbor's side yard. And the second issue is that a rear yard setback issue, which they are saying it's 4 feet, instead of 15 feet, I would like to contest that the rear yard setback issue that they have claimed is there is, in fact, not a rear yard setback issue, but rather maybe an additional side yard setback issue. And it wouldn't be 15 feet, it would be, you know, a 5-foot variance needed there. I have some supportive information on that, but I wanted to kind of get your thoughts on those two issues as they kind of lay.

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MEMBER GOODSSELL: Well, we are not here to suggest things to you, what we are here is to listen to you. So maybe you want to address to the Board the size and the shape of your property to begin with.

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MR. RONAN: Sure. Yeah. For instance, meaning the actual structure or the actual property size?

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MEMBER GOODSSELL: In other words, do you live in a 40 by a 100 box?

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MR. RONAN: I do have some very weird property lines, so it's kind of hard to really tell. If you take the time to look at the survey, you will see what I am talking about.

Appeal #21277

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CHAIRMAN MAMMINA: So that's what I am looking for.

MR. RONAN: Here, I have a copy, if that's helpful.

CHAIRMAN MAMMINA: We probably have it, as well. So you hold on to it.

MR. RONAN: No problem. Apologies for that. As you see, on the south side --

CHAIRMAN MAMMINA: Just give me a moment to catch up to you so I can find it.

MR. RONAN: Sure. No problem.

MEMBER GOODSSELL: We see, Mr. Ronan, that you do have a somewhat unusually shaped property, which is why you're here today.

MR. RONAN: Yes.

MEMBER GOODSSELL: I think if you had a very regular-shaped property, like a 50 by a 100 property, you might not be before us today. So as part of your record, if you might want to describe the dimensions of your property and what is there now and how it was when you bought it.

MR. RONAN: Okay. The structure is exactly how we bought it. We haven't changed anything of it. It's in the exact state it was from the day that we owned it until it is right now. The exact dimensions are the south side is 25.2-feet long and the back you will see is -- you will see there is a little 8-foot bump-out, that's known as, what I refer to, the opposite cape, a 1 by 8 bump-out. Every single

Appeal #21277

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front-facing house, cape cod in Albertson has this.

CHAIRMAN MAMMINA: What do you refer to it as?

MR. RONAN: 1 by 8 front-facing cape cod bump-out.

Every single cape cod in all of Albertson has front-facing, has that 1 by 8 bump-out. I see several from my yard in my neighbors yards. It was not unusual plans, but it was built when the house was originally built, to my knowledge.

CHAIRMAN MAMMINA: I don't see it on the survey.

MR. RONAN: It's so small that you can barely see it. It's in the top-left corner of the property. It should be about 8-feet long.

CHAIRMAN MAMMINA: What's PLT?

MR. RONAN: No, that's actually like --

MEMBER HERNANDEZ: No. Right underneath the PLT.

MR. RONAN: Right next to the PLT. It goes up to the PLT. The PLT is like a step or something like that.

MEMBER HERNANDEZ: That's in your rear yard, though?

MR. RONAN: Yes, that's in my rear yard.

MEMBER HERNANDEZ: I thought you said the front.

MR. RONAN: I'm sorry. In the rear yard. In the back left corner of the rear yard, there is a 1 by 8 bump-out that every single cape cod in all of Albertson has. That's a front-facing cape cod house.

CHAIRMAN MAMMINA: Maybe just slow down a little bit for the stenographer.

Appeal #21277

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MR. RONAN: Sure. So the issues seem to be that the house is about 4 inches too close to the neighbor's property line. So I'm applying for a variance to get approval on that, as well as in the back corner. That back corner, they are using that 4-foot measurement from the back left corner of the house to the side property line as a rear yard setback issue. I want to discuss the rear yard setback issue. To my knowledge, it should be from the rear of the house to this rear line way back here is where.

CHAIRMAN MAMMINA: That's not how it's measured.

MR. RONAN: That's not how it's measured?

CHAIRMAN MAMMINA: No. I mean, they are correct. In other words, part of your rear yard is in that area, but it's 15 feet to the yard. I mean, I would have written the same objection if I was in the Building Department. It doesn't damn your application.

MR. RONAN: Okay.

CHAIRMAN MAMMINA: But, you know, it is -- I see it as correct because of the irregular shape of your property, that is the rear yard until you have 15 feet along that angle.

MR. RONAN: I did find some definitions in the Town Codes that I want to bring up here just for your consideration.

CHAIRMAN MAMMINA: Sure, please.

MR. RONAN: According to Article 25, the word and uses definitions, there is a 70-231 definition of a rear yard, which

Appeal #21277

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is a yard across the full width of a lot extending from the rear line of the building to the rear line of a lot -- notice that I use the term singular for rear line -- measured between the side property lines.

So to me, this suggests that there would be one rear lot line and two side property lines in this assessment of what a rear yard is.

CHAIRMAN MAMMINA: These are at the discretion of the Building Department when you have something in the record about this. Because, generally, it is looked at from whatever is the narrowest width to the back of the property and everything along the way. But again, it doesn't damn your application.

MR. RONAN: Okay. No worries. I figured it was worth mentioning only because it's less egregious to the 15 feet to 4 feet than 5 to 4. You guys know better. These are your codes and everything, so I trust your assessment of the situation.

CHAIRMAN MAMMINA: And we abide by definitions and codes.

MR. RONAN: Exactly. So basically, going back to our actual constructions plans. We are merely building on what is already present, we are not extending out. The one thing that could be considered is that a portico is being added in the front of the house. Other than that, we are literally just building up and not extending the structure anymore. Furthermore, as you can see, and it might be difficult for us

Appeal #21277

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extending the house given the weird property line, so every single inch that I'm able to kind of incorporate in the renovation is definitely really useful.

MEMBER GOODSSELL: Well, the Building Department didn't disapprove because of your floor area ratio, so, obviously, you are fitting within the square footage that's allowed for a lot this size. It's just we are looking at the shape of your lot and that's why you are before the Zoning Board.

MEMBER DONATELLI: So can you describe for us a little bit of what it is that you are trying to achieve on the second floor by bumping out the second floor of the house?

MR. RONAN: The second floor, we wouldn't technically be bumping out, we would be building on top of the little bump-out that is there.

MEMBER DONATELLI: Up?

MR. RONAN: Yes. On the second floor is going to be three bedrooms and one bathroom. That way myself, my wife, and both of my children can sleep on the same floor and we can then repurpose the first floor, you know, better kitchen, bigger area, rather than currently, my wife and I are sleeping on the first floor and both my children, they are alone upstairs.

MEMBER HERNANDEZ: Do you have a one-car garage or a two-car garage?

MR. RONAN: I believe it's a one-and-a-half car garage.

MEMBER HERNANDEZ: You have two garage doors or one?

1 Appeal #21277

2 MR. RONAN: Just one.

3 MEMBER HERNANDEZ: Is this your photograph or do we
4 have the wrong photographs here?

5 MR. RONAN: That's not my garage. The house on the
6 right is my house.

7 MEMBER HERNANDEZ: Oh, okay.

8 MR. RONAN: I'm sorry about that.

9 MEMBER HERNANDEZ: That's all right. Everyone cut it
10 off at exactly. All right. So you, basically, want to build
11 over this house straight up?

12 MR. RONAN: Yes, straight up. That's, basically, what
13 we are doing. Portico in the front, that's the only thing that
14 you can consider not being built up because that's definitely
15 going out a bit, that's the case.

16 MEMBER HERNANDEZ: So you have three steps and you want
17 to, basically, create a landing with the portico and then the
18 three steps?

19 MR. RONAN: Yeah. Yes. Additionally, I have also
20 identified at least 25 other houses in the neighborhood that
21 have very similar property lines to mine.

22 MEMBER HERNANDEZ: And what is making your property
23 unique is the fact that you don't have a rectangular property,
24 you have a very unusual one, almost like a flag property,
25 except that your flag is very thick.

26 MR. RONAN: Yeah. And I know that there is like

Appeal #21277

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special rules for corner houses, but maybe in the future, special considerations can be made for, what I would call, you know, corner-proximity houses given it's caused by a backyard going into my backyard.

MEMBER HERNANDEZ: Yeah, they just made it very strange.

MR. RONAN: Yeah. I would have put the garage on the other side, if I was building it, you know. I would have flip-flopped the house if I was the builder at the time, then this would not be a problem.

MEMBER HERNANDEZ: Put the house in front of the yard.

MR. RONAN: Exactly.

MEMBER HERNANDEZ: Should have put this in reverse.

MEMBER GOODSSELL: We are just weighing all the facts.

MR. RONAN: No problem. If there is any information I can provide, I will do my best to do so.

MEMBER GOODSSELL: Are there fences in your rear yard?

MR. RONAN: None that are mine.

MEMBER GOODSSELL: They are not yours?

MR. RONAN: No. I don't have a fence back there. Any fence you see would be the neighbor's fence.

MEMBER GOODSELL: Because we can see them on Google Earth.

MR. RONAN: No, they are not my fences.

MEMBER GOODSSELL: There is a technical issue that we

Appeal #21277

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are considering here, this has nothing to do with you.

MR. RONAN: Okay. That's not a problem.

CHAIRMAN MAMMINA: We are ready to roll again back there. Thank you.

MR. RONAN: One of the more fun ones?

CHAIRMAN MAMMINA: That's what makes it very interesting to me. I have partners who say to me, why do you still do this after 31 years? I find it fascinating. So I think what we are going to do is we are going to reserve decision on the application till our next hearing, probably, so we can make a determination: Is that a rear yard; is that a side yard; what do we think? So, you know, that we can make the decision correctly.

MR. ROAN: Sure.

CHAIRMAN MAMMINA: But like I said, it doesn't damn your application. I don't want to say per se that we are inclined to grant it, but I think that's the case. And, you know, we just want to make sure, you know, that we don't want the Building Department sending anything back and, you know, they have to abide by our decision.

MR. RONAN: Absolutely. Whatever it takes to get things proceeding forward, I'm more than happy to help in any way.

CHAIRMAN MAMMINA: It's a very odd circumstance.

MR. RONAN: Yes. If it's helpful, I identified about

Appeal #21277

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20 other properties in the immediate area that have very similar property issues.

CHAIRMAN MAMMINA: Sure. Hand that up.

MR. RONAN: So these are properties that have very similar property line situations such as ours.

SECRETARY WAGNER: I'm thinking maybe if we had this electronically, it might be better.

MR. RONAN: I can e-mail it to you, so I will.

SECRETARY WAGNER: So we will keep the record open then and we will continue till then.

CHAIRMAN MAMMINA: We will continue and you should e-mail those.

MR. RONAN: Sure.

CHAIRMAN MAMMINA: And I would love to see those pictures because that's the wackiest thing I have ever seen.

MR. RONAN: Honestly, I think it's a thing that is more prevalent.

CHAIRMAN MAMMINA: I got it. Okay. Thank you.

MEMBER GOODSSELL: Thank you very much.

MR. RONAN: Thank you so much.

CHAIRMAN MAMMINA: We had a gentleman who wanted to speak. I'm sorry. We haven't made a decision, so come on up, please. My apologies, sincerely.

MR. TREIBMAN: Good afternoon. Eric Treibman; 110 Lynton Road, Albertson, New York 11507; section 9, Block 109,

Appeal #21277

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Lot 56.

CHAIRMAN MAMMINA: So where are you in relationship to the property?

MR. TREIBMAN: That was a picture of my garage. I am next to it. I'm south of Mr. Ronan.

CHAIRMAN MAMMINA: So you are the corner?

MR. TREIBMAN: I, as well, own an irregular-shaped piece of property, almost pie-shaped, which I'm sure you saw on Google Earth. I was also the one that sent the e-mail in support of Mr. Ronan's application this morning.

CHAIRMAN MAMMINA: Thank you.

MR. TREIBMAN: As to echo what he said, all of the wide line capes have the 12 inch by 8 foot bump-out and myself, as well. I wish when I applied for my expansion that my architect suggested I take advantage of it, I didn't. Living next door to Mr. Ronan and knowing him and his family, all he wants to do is build on an existing structure. The existing structure with the bump-out was approved in 1950. He is just going on top of it. He is not creating a new bump-out, which then I could understand there would be major questions about. Unfortunately, when the farm, Albertson Farms, was bought and subdivided, the builder did what any businessman would do, he got as many lots out of it as he could and it didn't matter what the lines were, and then, obviously, plans went in and they were approved. I can tell you with certainty that the

Appeal #21277

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bump-outs were approved because the original plans from my house from 1950 were denied, and it was redesigned with the bump-out where it was going to have a bump-out. I wish I had the original house, but that's neither here or there.

CHAIRMAN MAMMINA: Well, thank you very much. If you aren't done, keep going.

MR. TREIBMAN: If I may just read the e-mail into the record.

CHAIRMAN MAMMINA: It's actually in the record already.

MR. TREIBMAN: It is?

CHAIRMAN MAMMINA: Yes, we have it.

MR. TREIBMAN: Then I won't waste any more of your time. Thank you very much.

CHAIRMAN MAMMINA: I am sure it was probably just a builder trying to be very clever and he probably squeezed one more lot out because of all this crazy stuff.

MR. TREIBMAN: Absolutely. Absolutely. So like I said, the three of us, Mr. Ronan, myself, and the people behind us that we adjoin the property lines with, we have the irregular yards on that corner. Thank you.

MEMBER DONATELLI: Just think of it this way, when it comes to mowing each other's lawns, you have a little bit less to mow.

MR. TREIBMAN: None of them want to cut mine. I am on the corner.

Appeal #21277

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CHAIRMAN MAMMINA: Thank you again.

MR. TREIBMAN: Thank you.

MR. CHAIRMAN: And thank you, Mr. Ronan, we appreciate it.

MR. RONAN: Thank you, guys.

CHAIRMAN MAMMINA: It's nice when neighbors come down to support.

MEMBER GOODSELL: So we are going to continue this.

CHAIRMAN MAMMINA: Yes, we will continue this. And, no, you do not need to come back. If you want to hear us deliberate, because we deliberate in public, you can pick up the live-stream. If you want to come back, you can come back.

MR. RONAN: Sure. Will you need any communication from me going forward?

SECRETARY WAGNER: Just send us that file.

MR. RONAN: Okay. Thank you so much for all of your time.

CHAIRMAN MAMMINA: Thank you. Good definition reading.

1 Appeal #21278

2 COMMERCIAL CALENDAR

3 SECRETARY WAGNER: Next appeal is Appeal #21278 -
4 ELRAC, LLC (Enterprise Rent-A-Car); 131 Northern Blvd., Great
5 Neck; Section 2, Block 50, Lot 236; Zoned Business-A.
6 Conditional Use §70-126(D) renewal of a conditional use to
7 permit the parking, storage, sale and rental of automobiles.

8 CHAIRMAN MAMMINA: Okay. You have heard Appeal #21278,
9 ELRAC, LLC, Enterprise Rent-A-Car. Please give your name and
10 address.

11 MR. MCCARTHY: Good afternoon, Mr. Chairman and Members
12 of the Board.

13 CHAIRMAN MAMMINA: I'm sorry. I did it twice in a row.
14 Is there anyone else who would like to speak regarding this
15 application? Raise your hand. Ma'am, you wanted to speak, as
16 well?

17 SECRETARY WAGNER: Just raise your hand.

18 CHAIRMAN MAMMINA: Yes. So that you have the
19 opportunity to speak after.

20 SECRETARY WAGNER: Is there anybody else other than
21 these two people?

22 CHAIRMAN MAMMINA: No. Okay.

23 MR. MCCARTHY: Good afternoon, Mr. Chairman and Members
24 of the Board. My name is Michael McCarthy, I'm an attorney.
25 I'm here on behalf of the applicant. My offices are at 444 New
26 York Avenue in Huntington. I appreciate the opportunity to be

Appeal #21278

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2 here with you this afternoon. I'm here together with a
3 representative of Enterprise, Nicholas DiGiuseppi, in the back
4 waving his hand. Christopher Robinson, who is the civil
5 engineer, and Wayne Muller, who is also the traffic consultant.
6 I thought it be prudent to bring them along.

7 This is an application, Mr. Chairman, to renew and
8 reissue a special use permit, which has been granted in the
9 past by the Board, but did expire, and we were kind of clumsy
10 about getting this application back in. I know a lot of people
11 like to use COVID as an excuse for these things happening.
12 Tried to stay on top it with the BZA Office. I would like to
13 give a little accolade to Mr. Parata, who has been very patient
14 with not only my office, but with R&M Engineering helping us to
15 get to where we are today.

16 The property, I think, you are familiar with it is
17 located on the north side of Northern Boulevard. It's west of
18 Jackson Avenue and it's in the Great Neck area of Northern
19 Boulevard. It's, approximately, a third of an acre .334 and
20 it's located in the Business A District. Enterprise has
21 operated its car rental agency there for quite some time and I
22 have been before you before on this application, Mr. Chair. I
23 think it was probably about four years ago last time I was
24 here.

25 CHAIRMAN MAMMINA: I heard this one many, many, many
26 times.

Appeal #21278

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MR. MCCARTHY: So I would like to just pull it right out. We were here four years ago and we had an issue with our neighbor, who is behind me, and I know that she is concerned, and appropriately so. There is a grade differential, if you remember the property.

CHAIRMAN MAMMINA: Very well.

MR. MCCARTHY: So the residential property to the north is downgraded. In anticipation of this meeting tonight, a representative of my office, representative of Chris Robinson's office went out, kind of verified the condition, took some pictures, overgrown, not really well-kept. I suggested strongly to Enterprise that they make an affirmative measure to move forward and do something in advance of this hearing today. So at the direction of Enterprise, the vegetation in the back was removed and cleared with a view towards replanting it. I provided to Mr. Parata a landscape plan that Chris Robinson from R&M Engineering had commissioned, and that plan is dated August 15, 2022. We took it a step further and we went and got a quotation for services. I also provided that to Mr. Parata's office. Enterprise will be engaging in landscapes to Enterprise to install the landscaping as per the landscape plan. I felt that it was appropriate to bear that out, give the Board the appropriate confirmation, and give the Board the appropriate affirmation that Enterprise will move forward in an effort to upkeep the rear of the property.

Appeal #21278

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2 In all other respects, Enterprise has been operating at
3 the property as it has in the past. There are seven parking
4 stalls on the property, one of which is handicapped. And then
5 the back area behind the building is for vehicle storage. We
6 provided some pictures. Mr. Muller is here to address any
7 onsite or offsite traffic-circulation issues. Mr. DiGiuseppi
8 from Enterprise can address any operations issues. Chris
9 Robinson can discuss any site issues. But nothing has changed.
10 It's materially the same as it was four years ago when we were
11 last before the Board. And we are asking for that renewal of
12 the conditional use permit to allow Enterprise to operate. And
13 I hope that this Board and the Town of North Hempstead finds
14 Enterprise to be a good corporate citizen. So the application
15 is made pursuant to Section 70-126(D) of the Town Code, and we
16 are hoping that the Board finds favor with the application and
17 will grant the extension and the reinstatement. Like I said, I
18 have Mr. Robinson here to answer any question, if there are
19 any, and Mr. Muller, and a representative of Enterprise.

20 CHAIRMAN MAMMINA: I think it's Mr. Enterprise that I
21 would like to talk to.

22 MR. MCCARTHY: You would like to talk to him?

23 CHAIRMAN MAMMINA: Yes, please.

24 MEMBER DONATELLI: Before we do that, can I just ask,
25 do you know when the property was cleaned out?

26 MR. MCCARTHY: Very recently. Within the last couple

Appeal #21278

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of weeks. We did this, Mr. Donatelli, late July, early August. I believe we also submitted photographs to the BZA Office showing the condition in its cleared condition in an effort to clean it up and try to give you a status report. We took it one step forward. I trust that you are in receipt of the landscape plan. If you are not, I have one copy I could hand up at this time.

MEMBER DONATELLI: Yes, if you would, please.

MR. MCCARTHY: And I could also hand up the estimate and for work-to-be-performed.

SECRETARY WAGNER: Is this included in your packet?

MR. MCCARTHY: We submitted it subsequently.

SECRETARY WAGNER: So you haven't submitted this yet?

MR. MCCARTHY: No.

SECRETARY WAGNER: So this will be Exhibit 1.

MR. MCCARTHY: Thank you.

CHAIRMAN MAMMINA: And I would still like to see Mr. Enterprise.

MR. MCCARTHY: Would you like to take a look at this plan first?

CHAIRMAN MAMMINA: No, thank you. That's okay.

MR. MCCARTHY: Okay.

CHAIRMAN MAMMINA: I want to see our wonderful neighbor.

MR. MCCARTHY: Nick, can you join me?

1 Appeal #21278

2 MR. DIGIUSEPPI: Yeah, sure.

3 MR. MCCARTHY: Mr. DiGiuseppi is the area manager for
4 Enterprise Car Rental Agency. And I will wait for the
5 appropriate time. Mr. Chairman, would you want him sworn in?

6 CHAIRMAN MAMMINA: No, we don't swear in. Thank you.
7 Just a name and address, please.

8 MR. DIGIUSEPPE: Sure. Good afternoon. My name is
9 Nicholas DiGiuseppe. My address is 3 Balsam Lane, Commack, New
10 York 11725.

11 MEMBER GOODSSELL: And what is your position with
12 Enterprise?

13 MR. DIGIUSEPPE: I'm the area manager that oversees the
14 Great Neck location as well as five other locations in the
15 surrounding area.

16 CHAIRMAN MAMMINA: How frequently do come to look at
17 the property?

18 MR. DIGIUSEPPE: I'm at the branch, probably, at least
19 once a week, if not every other week for most of the locations.

20 CHAIRMAN MAMMINA: In the last four years?

21 MR. DIGIUSEPPE: No, incorrect. I am in my current
22 role now for the last eight months.

23 CHAIRMAN MAMMINA: I guess, you know, the thing that,
24 honestly, really gets my goat, you know, is at any time, we
25 could not approve this conditional use, okay. You could take
26 it to court, you could do the whole nine yards, but shame on

Appeal #21278

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you. I really have to say that. Shame on Enterprise. You know, I have been here for 30-odd years, heard this property so many times, and you guys are just doing the wrong thing. And I'm only one Board Member, but I'm going to hold you on a really short leash of three weeks. I want this thing planted, done, irrigated, and finished. And I'm going and look at it. So you are going to let me know, through the office, when it's done so that I can see it.

MR. DIGIUSEPPE: I understand.

CHAIRMAN MAMMINA: Otherwise, as far as I'm concerned, you know, no, I would vote against your conditional use being approved. I mean, it's atrocious what you guys have done. It really is. I don't know how to say it strongly enough. If it was your backyard that this fronted to, I don't know what you would think about it. All right. Yes, when they bought the house, they knew. They bought it in back of a commercial property, but I think that they are entitled to, you know, have that in proper order, especially that -- and, I mean, this was the major part of the last presentation.

MR. DIGIUSEPPE: I understand.

CHAIRMAN MAMMINA: If I'm not mistaken, we held this for at least one or two hearings and all kinds of commitments were made and nothing. Nothing. Nothing. Nothing. You know, and I can go on and on. I mean, again, I'm only one Board Member. We have an attorney, you know, as well. I mean, I

Appeal #21278

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would like some commitment from Enterprise that once a month this thing is going to be looked at to make sure that it's weeded, to make sure that the plants aren't dead, you know, to make sure that the land is not sloping, because there is sloping, you know, land in there that was supposed to be fixed and, you know, that just has to be done.

MR. DIGIUSEPPE: I understand. I can't speak on behalf of prior years. I do apologize regarding that. I'm sorry. I can only speak of now, and I know our operations department did the landscaping and design of getting this done, fixed, and, once and for all, getting this corrected so we don't have to keep going back and forth. It's definitely the foremost important for us.

CHAIRMAN MAMMINA: September is your planting month.

MEMBER GOODSSELL: Mr. Mammina has heard your application or Enterprise's application. I am the newest Board Member so this is the first time I'm looking at this property. And so it kind of says something to me when it's cleaned up shortly before the application, and I think we need to see what is down the line. And unfortunately, that's why Mr. Mammina wants to talk to Mr. Enterprise. He is standing behind you, but he has pushed you in front of him. And if you are promoted and you become the regional manager, there will be somebody else standing where you are saying, well, I'm just new at this, but.

1 Appeal #21278

2 MR. DIGIUSEPPE: Correct. I understand.

3 MEMBER GOODSSELL: Thank you.

4 CHAIRMAN MAMMINA: So I think what we are going to do
5 is we are going to continue this and again, short leash, okay.
6 Meeting after next. I think it's reasonable, you know, and you
7 will let the Zoning Office know when it's done and we will have
8 the opportunity to then inspect it. And at that point, we will
9 then consider the application.

10 MR. DIGIUSEPPE: I understand. Sure.

11 CHAIRMAN MAMMINA: We also have neighbors, as well.

12 MEMBER DONATELLI: Just a point of clarification. I
13 believe our prior decision mandated certain plantings.

14 CHAIRMAN MAMMINA: And we determined that that gets
15 done.

16 CHAIRMAN MAMMINA: So why don't we hear from the
17 neighbors, Mr. McCarthy, and then you will get a go. Also, you
18 have other experts here, if you want them to testify.

19 MR. MCCARTHY: I don't think it's necessary. Your
20 sentiments and your comments were not unexpected. I do believe
21 they are appropriate.

22 CHAIRMAN MAMMINA: The guardrail was put in. The fence
23 was put in. I mean, that's good.

24 MR. MCCARTHY: So we will make sure that this thing is
25 in tiptop order, which is why collectively Mr. Robinson and I
26 prevailed upon suggested strongly to the client, let's get it

Appeal #21278

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cleaned up in advance, come up with a landscape plan, come up with an actual estimate. I thank you for the consideration because I know what the authority of the Board is. We don't want to put Enterprise in a bad situation and going out of business, but at the same time, to your point, commitments were made and the commitment needs to be honored. So I will answer any questions that come up that need to be answered.

CHAIRMAN MAMMINA: All of you are an excellent team, there is no doubt about it.

MR. MCCARTHY: Thank you.

CHAIRMAN MAMMINA: Yes, ma'am. Please give your name and address.

MS. ALAGGIA: Annette Alaggia, A-L-A-G-G-I-A; 24 Genevieve Place, Great Neck, New York 11021. I am the property immediately behind Enterprise. Very interesting place to be located. I'm objecting to one thing in your granting of their extension, and I will explain. The conditional use previously was granted as a renewal to permit the parking storage, sale, and rental of automobiles. A while back, I was here because the metal barriers that would stop the cars from falling into my backyard had bolts that weren't even screwed tight. Now, the reason why I feel what should be eliminated from this is the sale of vehicles. Because what that produced last time was that Enterprise Rent-A-Car packed their entire back area with cars because those cars could be sold. And sold, I think,

Appeal #21278

1 gives you a little more bang for your buck than a rental. So
2 what they did was they had to put in railroad ties to extend
3 the back of their property to fit more cars in. What happened
4 with those railroad ties is that they disintegrated and they
5 fell down to behind my property. Now, I have the pictures. I
6 have a fairly good cement block wall there, but my property
7 goes down, while their property stays straight. I know this is
8 a little hard to visualize, that's why I have pictures. So
9 their railroad ties disintegrated. The land on which the
10 vehicles were being stored also disintegrated, and it was a
11 scary time because the place where they are -- I have 60 and
12 60, I have a 120 feet. I have pictures that show that next
13 Enterprise is a very large building. That building started to
14 disintegrate and come down, which then pushed the Enterprise
15 Rent-A-Car lot further down. So, you know, this has been quite
16 a number of years with this bunch. The people there are
17 personally very lovely because they don't own anything. So
18 when you go up and talk to them and I say, you know, there is a
19 lot of garbage back there. Can't you guys pick up any of the
20 garbage that's back there? Because I can't get up there
21 because I have a fence that separates me from them. I have
22 pictures of this.

24 ATTORNEY ALGIOS: Ma'am, I am sorry to interrupt you,
25 but your 3 minutes is up. You can just finish up. I don't
26 want to completely cut you off.

Appeal #21278

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MS. ALAGGIA: So basically, what I'm concerned about aside from the whole rental thing -- Penn Toyota used to own that place. Penn Toyota has a fabulous place on the eastbound side of Northern Boulevard by Glen Cove. It's fabulous. He wanted that for his son and he got it. And he left that area when they used to sell cars, so he is gone. And he was holding Enterprise to whatever he wanted them to do. I'm tired of this. I have pictures. I mean, the people who come and return the cars, they must be lovely people, but they throw all their garbage.

ATTORNEY ALGIOS: Ma'am, I gave you some extended time.

MS. ALAGGIA: Yeah. Okay. So do you want the pictures?

CHAIRMAN MAMMINA: Please.

ATTORNEY ALGIOS: Yes.

SECRETARY WAGNER: These will be Exhibit 1 from the opposition. Maybe if you want to label them and then we will take them collectively. Then we will take them as Exhibit 1.

CHAIRMAN MAMMINA: Was there another gentleman?

AUDIENCE MEMBER: I will wait for the next group.

CHAIRMAN MAMMINA: I don't know what you mean.

SECRETARY WAGNER: You mean the next application?

AUDIENCE MEMBER: Yes. It has to do with the parking issue and so forth.

SECRETARY WAGNER: Oh, the next appeal?

Appeal #21278

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AUDIENCE MEMBER: Yes. I misunderstood.

SECRETARY WAGNER: Okay.

CHAIRMAN MAMMINA: So Mr. McCarthy, you get last turn at that.

MR. MCCARTHY: Thank you, Mr. Chairman. Thank you for your courtesy. If you could just give us the appropriate amount of time to contact the landscaping company, we will have that landscape put in according with that plan, irrigated. I hope and I trust that the Board will not be disappointed.

CHAIRMAN MAMMINA: If you have any retaining walls that have collapsed or whatever, I know R&M very well, they are extremely capable.

MR. MCCARTHY: And Mr. Robinson and I, we are going to make a personal site visit, we will assess it, we will look at it, and I will be back before this Board on the adjourn date and we hope that everything will be in order.

SECRETARY WAGNER: You don't have to come back.

MEMBER DONATELLI: And we also heard about some trash and garbage, which, of course, is one of the major concerns.

MR. MCCARTHY: And, of course, needs to be maintained on a regular basis. I think that will be a fair observation of any grant by this Board, that that area be properly maintained and policed, and we will.

ATTORNEY ALGIOS: So Mr. McCarthy, basically, you don't have to come back. What is going to happen is you guys are

Appeal #21278

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kind of driving the bus right now. You will go out and you will clean it up. Once you are ready, you can give a call over to Virginia to the Zoning Board, let them know. The Members will go out and do another site visit. If it's been cleaned up to their satisfaction, they can make a decision on this at the next hearing.

MR. MCCARTHY: I will stay in touch with the office, then. Fair enough. Thank you.

ATTORNEY ALGIOS: Okay. You're welcome.

MR. MCCARTHY: It's nice to come out from Huntington.

CHAIRMAN MAMMINA: It's not that long of a trip, I don't think so.

MR. MCCARTHY: Thank you very much.

SECRETARY WAGNER: So this appeal will be continued. Ready for the next one?

CHAIRMAN MAMMINA: Yes.

SECRETARY WAGNER: Ready, Chair?

CHAIRMAN MAMMINA: Yes, ma'am.

1 Appeal #21279

2 SECRETARY WAGNER: Next appeal is Appeal #21279 - GN
3 Auto Sales, Inc.; 120 Northern Blvd., Great Neck; Section 2,
4 Block 69, Lots 6-10; Zoned Business-A. Conditional Use
5 §70-126(D) and Variances from §§ 70-103(A)(1) and 70-103(F) to
6 construct interior alterations to convert an existing
7 commercial building to a new used automobile dealership
8 (parking space for the parking storage and sale of used
9 automobiles) which is a conditional use, with not enough
10 parking or loading zones.

11 CHAIRMAN MAMMINA: You heard Appeal #21279, GN Auto
12 Sales, Inc. Is there anyone in the room interested in the
13 application other than the applicant? Seeing several hands,
14 and you will have the opportunity to speak after the
15 presentation.

16 MR. AVURTINE: Good afternoon, Mr. Mammina and Members
17 of the Board.

18 CHAIRMAN MAMMINA: Good afternoon.

19 MR. AVURTINE: Appearing for the applicant, Howard
20 Avurtine; 2116 Merrick Avenue, Merrick. This is the
21 application of GN Auto Sales, Incorporated for a conditional
22 use approval as well as for variances required in order to
23 convert an existing commercial building for the sale, display,
24 and storage of used automobiles. The premises under the
25 application is located on the southwest corner of Northern
26 Boulevard and Arcadia Lane in Great Neck. It is a street

Appeal #21279

address of 120 Northern Boulevard, and it is also known as Section 2, Block 69, Lots 6 through 10 on the Nassau County Land and Tax Map. The parcel has dimensions of 100 feet in width and a depth varying from 92.47 feet to 95.73 feet, and a total lot area of, approximately, 9,400 square feet. The premises is developed with a legally nonconforming commercial building with dimensions of 100 feet in width and the depth varying from 72.4 feet to 75.9 feet, and a total footprint of, approximately, 7,300 square feet. The building occupies the entire parcel, with the exception of a rear driveway area, which provides access to the rear of the building.

By this application, the applicant seeks a conditional use permit, a parking variance, and a loading space variance in order to convert the building for the sale, display, and storage of used automobiles. The building was constructed in 1947 pursuant to an approval issued by the Board of Appeals in 1946 under Appeal #1090, which authorized the operation of a retail supermarket, at that time, a Bohack store, for those old enough to remember Bohack.

CHAIRMAN MAMMINA: I worked in Bohack all through high school.

MR. AVURTINE: In 1966, the Board granted a change of use to a family hobby model car racing center known as -- and I love this name -- the Indianapolis Speedway of Great Neck.

CHAIRMAN MAMMINA: I also went into that.

Appeal #21279

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2 MR. AVURTINE: Under Appeal #8235. The most recent use
3 of the building was a retail lighting store known as Cutlers
4 Lighting. The building has existed and been utilized for 75
5 years without any onsite parking or any site loading area. We
6 respectfully submit that the proposed use will be less
7 impactful than other uses permitted in the Business A District,
8 and we will get into that. And, of course, testifying
9 regarding the conditional use standards will be Barry Nelson
10 and testifying regarding the parking and loading space will be
11 Sean Mulryan.

12 The applicant operates under the trade name of Ideal
13 Auto. It has several locations in New York City, primarily in
14 Queens and in Brooklyn. It also conducts a significant amount
15 of business via its website, much different than the Bohack
16 days. A lot of people are buying used cars and new cars, even,
17 by websites and with deliveries to people's homes. So the
18 sales market, especially in the used car realm, has transformed
19 from what it had historically been, which is the display of
20 vehicles. People come in kicking the tires, so to speak, and
21 buying the car onsite. There is a deliveries to people's
22 homes. All types of modifications in the old-style model,
23 which had been adopted in the current economy based upon the
24 consumer demands.

25 Ideal Auto has its primary location in College Point,
26 Queens. The company has been in business over 10 years. This

Appeal #21279

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2 facility will be operated in a fashion designed to minimize to
3 the maximum extent possible any adverse impacts to surrounding
4 properties. And the applicant is willing and offering up to
5 this Board various conditions, which we will agree to in the
6 event the Board were inclined to approve the application, which
7 is designed for that specific purpose.

8 Number one, all vehicles will be individually driven to
9 the site. No vehicle carriers will be used. So to the extent
10 there would be concerns about large vehicle carriers that we
11 often see at auto dealerships delivering vehicles, they will
12 not be utilized here. Each car will be driven from one of the
13 other locations in New York City to the site with an individual
14 driver. The typical car is no more than four years old. So we
15 are not dealing with a facility that has older vehicles that
16 might not be as in good shape, shall I say, as far as age and
17 wear and tear.

18 Number two, there will be no test-drives allowed at the
19 site. So there will not be customers coming and asking that a
20 car be removed, brought outside for test-drives. If a
21 purchaser wanted to have a test-drive for a car, it would be
22 taken from this location, if it were at this location, and
23 brought to the one of the others individually, and test-driven
24 at one of the other locations, either in Queens or in Brooklyn.
25 So essentially, the potential purchasers can see the cars in
26 the showroom, sit in the cars to examine them. Test-drives, if

Appeal #21279

any, will be done elsewhere. Cars will also in many, many instances be delivered to the purchasers at their convenience at their home, office or other location that they select. Although, we will have an option of delivering here, too, but in many, many instances that will not be the case.

The proposed hours of operation for their facility are 10:00 a.m. to 7:00 p.m. on Monday through Friday; 10:00 a.m. to 6:00 p.m. on Saturday; and 12:00 p.m. to 5:00 p.m. on Sunday. The issue of employee parking, and I will get to that in a moment, but I just want to mention that there would be, approximately, 6 employees maximum on premises at any given time that would consist of salespeople, a manager, a bookkeeper, et cetera. That, is the type of number that we are talking about in terms of employees.

Now, there is space. There is room in the rear driveway area to park those vehicles, employee vehicles. However, one of the unique characteristics about this proposed use versus, I would dare say, any other use that you might see for this building is that employee parking can -- and we would agree to, if the Board felt it was appropriate, require that the employees park inside of the building. There is vehicle storage and there is the plans that depict a vehicle elevator, which lowers vehicles down to the lower level into the lower storage area, and the employees can park there on a daily basis, and that would require no other parking or take up

Appeal #21279

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2 street parking or anything else. And as I said a moment ago,
3 there is not another use that I can think of that would allow
4 for that type of employee parking onsite.

5 As far as carting of waste, there is a private carter.
6 And for this type of use, as the Board might imagine, it's
7 mostly paper. There is going to be no servicing of vehicles
8 here, no detailing of vehicles here. Everything in that
9 regard, whether it's mechanical improvements that need to be
10 made prior to a sale or detailing, polishing, et cetera, will
11 be done at one of the other facilities before the vehicle is
12 driven over to this location. So you do not have any of the
13 aspects of a, quote-unquote, typical automobile dealership that
14 has a service department and these types of things. None of
15 that will be involved here. This facility is display, storage,
16 and sale. And, quite frankly, as I indicated before, they have
17 a very significant internet website presence. So if I was of
18 the type of person who was inclined to purchase a vehicle, it
19 would be on the internet. You can look at many, many photos on
20 their website of the particular vehicles that are being offered
21 for sale. People might just buy it based on that. It's not
22 something that I would do with my orientation to vehicle
23 purchasing, but I think the younger generations may feel
24 differently about that. And as long as there is a guarantee of
25 some sort that comes with the vehicle, they would be happy to
26 buy it based on photos, have it delivered to their home, and

Appeal #21279

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not have to think more about it. So, that, again, does seem like a change, a sea change from what a lot of us are used to, but also is very common now in the business.

The applicant, who is the tenant, is going to invest, approximately, \$1 million in this renovation. I don't know if the Board has been by the property lately. The building is a 1940s vintage building. It needs some sprucing up, and this will certainly give it a facelift, if you will, and a structural improvement and overall improvement that it hasn't seen for quite some time.

So unless the Board has specific questions for me, at this point, I do have Mr. Nelson and Mr. Mulryan. And I do also have Mr. Jeff Li, who is the operator of the facility who can answer operational questions, to the extent the Board has, and more about his business model, if the Board were interested in more information in that regard.

CHAIRMAN MAMMINA: If I could, before you leave.

MR. AVURTINE: I'm not leaving yet.

CHAIRMAN MAMMINA: Okay. Good. Where are the employees parking?

MR. AVURTINE: Well, the employees can park in the lower level.

CHAIRMAN MAMMINA: So I'm looking at the lower level -- and maybe Mr. Mulryan will testify to that, but I'm a New York City boy as an architect, but what is going to happen if my car

Appeal #21279

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is not one of those first two cars that can get to that auto lift? And how many maneuvers are they going to have to make when it comes to Arcadia? I can't quite read what dimensions it says in the back. It looks like you are just squeezing by there.

MR. AVURTINE: I guess, it appears tight, Mr. Mammina.

CHAIRMAN MAMMINA: Well, it appears more than tight.

MR. AVURTINE: Well, again, I would say this --

CHAIRMAN MAMMINA: It may not be feasible. If you are parked in that back corner, how many hours can it be before you can leave work? I mean, you are going to have to move 20 cars before anybody can get out.

MR. AVURTINE: Well, I think that the employee spaces would be determined for the employees parking spaces within the building, those would be designated spaces.

MEMBER DONATELLI: Sorry.

MR. AVURTINE: Yes.

MEMBER DONATELLI: Before you leave the podium, I know that the Chairman raised this as a valid point. Since one of the things we are being asked to vote on is the conditional use, do you want to present your arguments as to the conditional use?

MR. AVURTINE: I would do that through Mr. Nelson's testimony. Would you prefer that first before Mr. Mulryan?

MEMBER DONATELLI: Whatever you prefer, it's your

Appeal #21279

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application.

MR. AVURTINE: All right. Thank you. What I will say is that I just wanted to also put on the record, the project architect, Luigi Delano, was supposed to be here this morning (phonetic). Unfortunately, he had a medical emergency in his family and he was unable to be here. So unfortunately, we won't be able to have his testimony regarding the plans. But in speaking with him about the access, his testimony would have been that you can access the two proposed rear doors and the elevators or the elevator, I should say, that is inside.

So what I would like to do or what I will do is since Mr. Mulryan is here already, I will have him address Mr. Mammina's question, and I will call him out of order to address the traffic and parking implications or the application, and then I will bring up Mr. Nelson to address the conditional use standards. Thank you.

MEMBER GOODSSELL: Mr. Avurtine, which one of you is best to address the current buffer between this building and the neighborhood and the proposed buffer, vegetation, and things like?

MR. AVURTINE: Unfortunately, there really is no room for vegetation. There is an existing fence. If the Board were inclined, we could replace it with a new fence. That, is certainly fine with us. It's just not depicted on here, but, as you can see, there is really no buffer room. That once you

Appeal #21279

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put a buffer in there, it would eliminate any vehicle access to the rear of the building. And no matter what, I would respectfully submit, no matter what use this is going to be put to, it's going to be needed for access because that's the only area where you can get deliveries or anything else.

MEMBER GOODSSELL: I'm sure we are going to hear from the others.

MR. AVURTINE: I'm sure you will, as well. I'm just saying, you know, we haven't been here yet. We are looking to improve things, not anything else.

MR. MULRYAN: Good afternoon. Sean Mulrayn, Mulryan Engineering; 1225 Franklin Avenue, Garden City, New York. Chairman, I had some very similar questions that I posed when we first looked at this property. My questions related to the interior circulation of those vehicles. And I asked --

CHAIRMAN MAMMINA: Let's speak to the Lally columns. If one of those cars taps a Lally column, the cars on the first floor are going to be in the cellar.

MR. MULRYAN: So my question, and not from an architectural standpoint, but from a circulation standpoint where dollies are going to be used to move these cars back and forth. Because as I looked at the plan, I thought that there was not enough space to maneuver this many vehicles. My understanding, talking to the architect, is that this, and similar to restaurant applications where they show that 500

Appeal #21279

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seats could fit in, that this amount of vehicles that could be put in here visually, not that they would be able to actually store this many or it would be feasible to have this configuration of vehicles in the basement of the building.

CHAIRMAN MAMMINA: Because I think we would want to see that, as well, because if we were to consider this, we would want to limit the amount of cars to what can feasibly be put into there. Because I believe I know the architect and I think if we were to ask him if he would get this approved in New York City, we know the answer unequivocally would be no. The plan examiner would not permit it and the borough superintendent would not permit it; it's just too tight.

MR. MULRYAN: I have done some wonderful work with valet parking companies, and one of the reasons I reached out to them was to help me on a project where there is going to be valet parking and we were asked to prepare a valet plan. And what I said to the client was, I want to speak to someone who does this on a day-to-day basis. To the same point is, I can draw this on a plan and I can show you that this many cars fit in this drawing, but from a circulation standpoint, this is, essentially, maximizing what can fit in on this drawing to show something that is more feasible that may allude to the fact that we are not showing, you know, there is too much room there, you can actually store more vehicles. So it's a little bit of a give and take between the two.

Appeal #21279

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CHAIRMAN MAMMINA: So if we are talking valets, I want to know how many.

MR. MULRYAN: That's valet parking for restaurants. This wouldn't be valet.

CHAIRMAN MAMMINA: Oh, okay.

MR. MULRYAN: I'm just saying when I worked on this applications, we called people forward that did that type of work and the very specific arrangements that they used so that once you move one car, you would have access to two others and those type of things.

CHAIRMAN MAMMINA: Sure.

MR. MULRAYN: I would think that the owner and applicant who has numerous car dealerships is even more savvy in terms of how they can position vehicles. This is fully enclosed as a dealership. There is no outdoor display. Many dealerships have the ability to display vehicles outside. Some are primarily outside. This is a fully enclosed building. The area in the back that was addressed before, obviously, I am not here to speak about landscaping, but there is a retaining wall along the rear property line, which is to the very rear of the building and that is to the south of the access aisle in the back. So any landscaping that was up at that level would require to be either a second retaining wall to be built or some other improvement back there. And once again, it would severely limit the circulation in the back of the building.

Appeal #21279

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CHAIRMAN MAMMINA: I don't want to throw off your presentation.

MR. MULRYAN: Well, we jumped ahead on the first question.

CHAIRMAN MAMMINA: But again, the circulation, to me, is a major thing. I mean, is there enough room to maneuver a car, you know, into there? I can't quite read the number, but I think it's 19 feet. You know, so you get an SUV, you know, you are going to have a car that's going to be 15-feet long. And how many bounces back and forth can you do to get into that car lot? So I think we would want to see almost as if you were presenting to the fire marshal, which fellows from R&M would understand from before, you know, turning radii and how that could work.

MR. MULRAYN: Correct. Which is not akin to, but the aisle width feeds directly into the size of the door that's required. So the larger the door, the easier the swing. I would agree with you and I fully concur that those plans should be looked into not only for the Board's consideration, but also the applicant, right. The applicant is looking to invest a lot of money into this property and if what is drawn on this plan is not feasible, you know, that's not a good situation for anyone involved.

CHAIRMAN MAMMINA: Go ahead. Now I am going to leave you alone or we will see.

Appeal #21279

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2 MR. MULRAYN: One of the other things just to mention,
3 commercial traffic on Arcadia is restricted. You are not
4 allowed to bring commercial vehicles on to Arcadia. As
5 Mr. Avurtine mentioned, the delivery process of vehicles to and
6 from the site would be driven by employees of the firm going
7 into the rear of the building to, essentially, load the display
8 of cars and the storing of vehicles. So our office, over the
9 past few years, has handled a number of applications all along
10 Northern Boulevard and several parts surrounding the subject
11 site. And looking at these site and other sites along Northern
12 Boulevard in this area, it has been our experience and Mr.
13 Avurtine has gone to great lengths to restrict parking in the
14 residential streets on both the north and south side of
15 Northern Boulevard. Parking along the residential street
16 surrounding the subject property is significantly restricted.
17 Parking along Northern Boulevard in proximity to the site is
18 also, generally, limited to one to two hours.

19 According to the county records, as Mr. Avurtine
20 mentioned, this building was built in 1947, approximately, 75
21 years ago, and no onsite parking is provided on the subject
22 site. The applicant for the proposed application for an
23 automobile dealership will, however, provide for storage of
24 vehicles within the existing building. Although, not large
25 enough for customer parking, there will be an area of the
26 building that can be used for employee parking. And in the

Appeal #21279

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2 alternative, vehicles could potentially be stored within the
3 building, which are things that Mr. Avurtine mentioned earlier.

4 Due to the restrictions in the area, it would appear
5 that any business occupying this building will need to utilize
6 similar arrangements for their employees. So one of the things
7 that I just wanted to go over with the Board and as it may be
8 relevant to our conversations, this is the firehouse, which is
9 located just to the east of the subject property, essentially,
10 two blocks over. Along the front of the firehouse, there is no
11 parking. On the opposite side, there is a strip retail center.
12 There is also no parking permitted at any time in front of that
13 center. There is two-hour parking on the block to our east,
14 and there is one-hour parking from 8:00 to 6:00 in front of the
15 subject site, and one-hour parking from 8:00 to 6:00 on the
16 block to the west. Across the street, the parking is also one
17 hour and it's from 8:00 to 6:00. So there is two-hour parking
18 to our east, one-hour parking, generally, in that area on the
19 block, and those restrictions are from 8:00 to 6:00. The
20 side-street parking is even more restricted. What we have on
21 Belmont, no parking at any time along the east side, no parking
22 from 9:00 a.m. to 4:00 p.m. on the west side. Arcadia is,
23 generally, no parking at any time, other than two-hour parking
24 along the side of the building. As you come down to
25 Westminster, which is one of the roads that leads further to
26 the south, these roads, generally, go two and a half blocks and

Appeal #21279

1 dead end. Westminster goes a little further to the south.
2 Along Westminster there is no parking at any time along the
3 east side of the road. And on the west side of the road, there
4 is two-hour parking from 8:00 a.m. to 12:00 a.m. with no
5 parking on Tuesday from 8:00 to 11:00 a.m., And then no parking
6 on Westminster from 12:00 a.m. to 8:00 a.m. So any business
7 that comes to this property is going to have to struggle with
8 the restrictions that are in place.
9

10 One of the aspects that we are looking for is a
11 conditional use. This business is different than an office
12 building, a medical office, a bank or a retail store, which
13 would be considered a permitted use within the Business A Zone.
14 So in terms of the conditional uses or permitted uses, any and
15 all of them would be in an area where the parking is very
16 restricted. Again, we have the ability to park there either
17 behind the building or within the building. The building is
18 going to be modified to some extent and based on comments here
19 today, to the satisfaction of the Board, in terms of the
20 circulation in and out of the building through the overhead
21 doors. But the idea behind the building is that there will be
22 a vehicle elevator to use the lower level for storage.

23 One of the other questions that was asked was a
24 structural question about the columns. I'm not a structural
25 engineer. I'm not an architect. But, obviously, those things
26 would need to be fully evaluated in order for the safety of the

Appeal #21279

1 owner. Obviously, if he is looking to spend a million dollars,
2 he doesn't want it to fall the day after he opens it, and nor
3 would anyone else want to sign and seal those plans. So,
4 obviously, this application is before the Board for a
5 conditional use, a parking variance, and for loading. We do
6 not have a loading zone. Again, we have an area in the back.
7 We have overhead doors. Loading zones, generally, in my
8 experience, are for materials coming in and out of the store.
9 If this was a lighting store or if this was a retail store or
10 if this was an office building getting deliveries, any and all
11 deliveries coming into this building would typically go through
12 the back. However, again, there is a restriction on Arcadia
13 where no commercial traffic is allowed on that block, and it is
14 not limited to local deliveries. Many times those signs will
15 say "except for local deliveries," that is not the case here.
16 But that is the only area on the subject property where
17 deliveries would be, theoretically, possible other than through
18 the front door. So if a business was to come in that is not
19 the proposed use and it did need deliveries of potato chips or
20 soda or anything else, theoretically, you need to come through
21 the front door and those vehicles would need to either park or
22 double-park along Northern Boulevard.
23

24 This use is very similar to other car dealerships
25 within the area. If you drive down this section of Northern
26 Boulevard, you pass a number of automobile uses, whether they

Appeal #21279

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2 are car dealerships, repair shops, and the like, and we will go
3 into some detail as to where those other locations are located.
4 Unfortunately, the customers for this facility will not be able
5 to park on the site. As we mentioned, there is an ability to
6 store employee cars on the subject site, but customers would
7 need to find parking within the street. Now, there is, as I
8 said, limited parking or parking that is restricted in terms of
9 time limits on Northern Boulevard. There is a large number of
10 restrictions on the residential streets. And in our
11 experience, this municipality put those restrictions in place,
12 in part, to protect the residences that abut commercial
13 thoroughfares. This property is on Northern Boulevard. It's
14 zoned Business A, and those restrictions look to limit the
15 amount of cars that would spill back into the residential area.
16 And as those restrictions have been in place for numerous
17 years, this business and the other businesses who have occupied
18 this building have had to live by those standards.

19 One of the things that we know through this application
20 is that a number of residences submitted e-mails and letters in
21 opposition. The parking was some of the primary concerns for
22 the letters or e-mails that came in. They talked about the
23 restriction on Westminster. I would just like to reiterate
24 that the proposed use would be open from 10:00 a.m. to 7:00
25 p.m., Monday through Friday; Saturday from 10:00 a.m. to 6:00
26 p.m.; Sunday from 12:00 to 5:00. So there is a one-hour

Appeal #21279

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2 overlap between those restrictions on Westminster being lifted
3 on Tuesday and the dealership being open. As it opens at
4 10:00, we don't believe that a car dealership, a used car
5 dealership is going to have an influx of people, similar to an
6 office building, which would be permitted. In an office
7 building, everyone shows up in the morning, they stay
8 throughout the day, they might go out for lunch, and then they
9 leave in the evening. All of those employees from an office,
10 which would be a permitted use, would need to find parking
11 within the area. This is a car dealership, as Mr. Avurtine
12 mentioned. And as I'm sure the Board knows, over the past
13 number of years, which has been accelerated through COVID, more
14 and more things are happening online. If I am looking for a
15 Honda Civic that's purple, I can type that in and 12 of them
16 will pop up. And they might be located anywhere in the world,
17 but there are locations that you can buy them and they deliver
18 them to you. This is, essentially, a showroom. I know that
19 there were applications before the Board for different
20 electrical vehicle showrooms because they are not called
21 dealerships for various reasons. But, essentially, this is a
22 showroom. The applicant has a number of other dealerships. So
23 this is a first venture into Nassau County. They are looking
24 to have a showroom, have a presence in Nassau County. They
25 have other locations in Queens and Brooklyn. As I mentioned,
26 some of the other permitted uses within this zone are medical

Appeal #21279

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office, general office, retail stores, banks or a church. All of these would generate more parking demand and higher traffic volumes. This is going to be a dealership where the showroom will be set up and there will be a delivery of vehicles coming in. Again, it will be driven by individuals so they might be car carriers. We are not intending to have any service here. There is no facilities that are large enough to have a service station or service, you know, transmissions, oil changes, anything like that. No test-drives at this location. Again, the main headquarters for the operation is in Queens, it's in College Point. Any test-drives would either be at one of the other locations or the College Point location.

Generally speaking, to the applicant, most of his customers come by appointment. They will reach out based on an advertisement they have seen online. They will want to look at the car and potentially come in. They will come in and speak to the salesman, and those appointments are setup online. So the applicant will also have the ability to monitor when people come and go to the subject site.

So in order to mitigate the potential offsite parking that is, generally, by the subject site, again, the applicant is proposing to have employees park either within the paved area behind the building or within the building, which will reduce the number of vehicles that will be otherwise offsite. And again, one of the things I just want to mention, which is

Appeal #21279

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2 in the report, is that any use that is put on the subject site
3 -- and we require 23 parking spaces. Those 23 parking spaces
4 are based on the use of a used car dealership. And the offices
5 within the car dealership are calculated at a higher rate based
6 on the Town Code. So, that, gets 23 parking spaces. And of
7 the permitted uses, I will just go through a few. A public
8 assembly, which could be a church, we estimated that,
9 approximately, 360 seats could be located in the building and
10 that would have a parking requirement of 90 vehicles. A
11 medical, dental or similar office would have a parking
12 requirement of 42 vehicles. All other offices, which is a
13 section of the code, a titular for general offices, would
14 require 32. A retail store with no office space would be 21.
15 And all other businesses, which is, again, a titular within the
16 code, would require 21. So again, we require 23 based on the
17 majority of the building and used auto sale. There is an
18 office use, which is calculated separately, but it is not a
19 standalone office. It's an office within the building for the
20 purposes of this use. So I might argue that that would not
21 generate additional traffic or more traffic or different
22 traffic, but, again, the code requirement is that we have 23
23 spots. Any other use that is put in this building would have
24 21. And as Mr. Avurtine mentioned, many of those or all of
25 those would not be able to provide employee parking within the
26 building.

Appeal #21279

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Mr. Mammina has asked if we could provide additional information in terms of the circulation patterns within the building and a number of cars that could be put into the basement without interfering with circulation patterns, those things we don't have today, and, certainly, can be submitted. But, that, in general, is a summary of my report. I will be here, obviously, for questions. And I know that Mr. Nelson is going to testify in more detail concerning the conditional use aspect of the application. Thank you very much.

MEMBER HERNANDEZ: One question.

MR. MULRYAN: Yes.

MEMBER HERNANDEZ: The elevator opens into that alley in the back, correct?

MR. MULRYAN: Again, I'm going to footnote that I'm not the architect, but, yes, that's my understanding. In other words, the overhead door abuts the elevator. You drive into that platform and then it either lowers down or you could continue forward.

MEMBER HERNANDEZ: Or continue through the elevator into the main floor?

MR. MULRYAN: Correct.

MEMBER HERNANDEZ: Then you really can't be using that space in the back to park employees if you are going to have people using that elevator to bring the cars in and out, unless you move every single one of those car out of the way first.

Appeal #21279

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MR. MULRYAN: Well, again, this comes down to the operational valet issues that we were talking about before. If a customer sees a car online -- and the applicant is here, so he might be able to better speak to this, but I will address it as best I can. If a customer sees a green Porsche online and wants to take a look at it, he will say, I want to come in. And he will say, okay, come in on Tuesday. So through the course of Sunday, Monday or the days leading up to that visit, that car will be brought up to the main showroom. The logistics of how these cars move is way above my understanding.

MEMBER HERNANDEZ: I just want to understand, any time you move one car, you are going to have to move multiple other cars, most likely, unless it happens to be the one right by the door.

MR. MULRYAN: Again, to your point, when I worked with valet operators, I was informed by them, and it's something that I always look at with other people, with putting valet plans together because sometimes when you draw a bunch of boxes on a plan and send it in and say I can fit this many cars, it's not, necessarily, the key. If two cars are parked facing that wall and I have a third car parked against their bumper, if I move this car, I can move those other two. Once I move one of them, I can back this car back in. So it becomes a Jenga-type thing. So to Mr. Mammima's point, the number of cars shown in that drawing is simply maxing out that space. I would suggest

Appeal #21279

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that far fewer can actually be put there. The employee parking within the building is something that we are presenting, if the Board is amenable to that. Obviously, the number of cars being stored would then reduce. And we would need to configure that layout so that the employee cars didn't block the cars that would otherwise keep for displaying. Again, display vehicles will be upstairs. If someone is looking for a specific car that is not on the first floor, it would be moved, potentially, through the day. Take one car off the showroom floor and put it in the basement or vice versa. Similar to an aircraft carrier that does these things, which I am also not familiar with how they work, how exactly that process would happen, so I would defer to the applicant.

MEMBER HERNANDEZ: The point that I was trying to make, and I appreciate your answer. Actually, it's two points. Number one, you are absolutely right. These are not Legos that you can just sort of drop them in, they need to be moved physically. And Lally columns or structural columns need to be in that floor. And with the locations of those columns, it will be key as to how many cars you can move around. So all of those things are a given and it would have to be presented. Because right now, this means nothing. But when you have the elevator opening up to an alleyway, which I can't tell how deep it is because there is no measurement here to tell me whether it's 10-feet deep, but it can't be because you have stairs

Appeal #21279

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there. And if it was 10-feet deep, you wouldn't be able to drive a car there because it would have to be deep enough. So let's say it's 16 feet, for argument sake, but I don't know how deep it is, but let's say it is, if you have any cars parked there, any time you need to move any car from the warehouse, okay, out, every single one of those cars, those three or four or five employee cars will have to come out completely from that stationary space and be put on the street temporarily.

MR. MULRYAN: Unless it's done at the end of the day.

MEMBER HERNANDEZ: They still have to put them on the street. They have to go somewhere.

MR. MULRYAN: No. In other words, what I'm saying is the showroom opens, right, the business has operations.

MEMBER HERNANDEZ: And the employees all left.

MR. MULRYAN: So if you have one employee that's going to move a car, that car can be positioned somewhere in that space or, again, on the street prior to the store opening or after the store closes. So the hours of operation for any business -- you know, I worked in restaurants all through high school, the floor doesn't open until you prep the kitchen. So employees show up and are prepping things prior to the store opening. The amount of cars that are moving in and out of this facility on a given basis -- this, again, is a showroom, it's part of a much larger network of dealerships. So it would be logistically very difficult for the applicant, and I don't

Appeal #21279

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2 think they would want to put themselves in that position, where
3 cars are being moved in and out at a steady pace. I would
4 think the main showroom is your primary source. To your point,
5 if a car needs to move out because it's being delivered, it's
6 being shipped to another location, they would need to be
7 brought out through the back. Again, parking cars in the back,
8 employee cars is an option. It's presented to the Board. We
9 have that option available to us. If the Board feels that that
10 would be too complicated and would cause too many issues, we
11 then, again, have the ability because this building is being
12 setup to display vehicles. So at some level, there needs to be
13 an understanding that we believe or the applicant believes that
14 they can get vehicles in and out of this building. If that
15 requires that the employees also park there, that would need to
16 be added into their business model and their operational
17 understanding of how this would work.

18 MR. AVURTINE: Just before I bring up Mr. Nelson, I
19 will just clarify. Mr. Delano, who I indicated was not able to
20 attend, indicated to me during our discussions in preparation
21 for today's hearing, that he did, indeed, consult with a
22 structural engineer regarding many of the issues that Chairman
23 Mammina raised. And so working under the assumption that there
24 will be a continued hearing for submission of additional
25 information, we will make sure that we get everything that has
26 been asked for so far, the plans showing the actual

Appeal #21279

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2 circulation, the maximum number of vehicles that can actually
3 fit and have it be functioning properly, as well as structural
4 elements in terms of how all the structural aspects would be
5 dealt with as far as complying fully with the New York State
6 Building Code. So we will have all of that to be submitted as
7 part of the future deliberations on the application. Unless
8 the Board has further questions for me, at this time, I will
9 call Barry Nelson to testify.

10 MR. NELSON: Good afternoon. Barry Nelson; 220 Petit
11 Avenue, Bellmore, New York 11710. I would like to just hand in
12 some exhibits. I have photographs of the subject property and
13 the surrounding uses, a location map, and aerial views for the
14 Board to review.

15 SECRETARY WAGNER: We will label the photo packet
16 Exhibit 1.

17 MR. NELSON: I understand the Board has a very
18 difficult consideration for the utilization of this existing
19 building. The building was constructed in 1947. Up until
20 recently, it's been occupied. You heard from counsel through
21 the various uses that have been in that building. It's a
22 viable building, one story with a full basement. The property
23 generates substantial real estate taxes, which is now a burden.
24 It's, approximately, \$60,000 currently based on the Nassau
25 County Department of Assessment, and that includes general and
26 school.

Appeal #21279

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2 The Board is very familiar with this location. It's,
3 approximately, three blocks east of the Queens County/Nassau
4 County line. It's, approximately, within 2 miles east of the
5 Cross Island Parkway. Northern Boulevard, in this vicinity, is
6 zoned Business A both on the north and south side. There are
7 some smaller incorporated villages in this vicinity, and the
8 subject property is the Village of Russell Gardens, east
9 partially Village of Lake Success. The residential community
10 abuts the business zone further north, north of the Business A
11 Zone. And to the south in this vicinity, it's a Residential-C
12 Zoning. The homes, most of them are single-family homes,
13 well-maintained, and in good condition. They were built in the
14 original development of this area the 1920s.

15 The interesting aspect of this application is it's a
16 use proposed that has now trended toward this area of Great
17 Neck, Town of North Hempstead, both going east and into the
18 Queens County up to the Cross Island Parkway. You will have
19 numerous automotive-related uses. In the block just to the
20 north side, and you heard the renewal of Enterprise, which is
21 just northwest on the north side of Northern Boulevard in this
22 vicinity and the subject property. In fact, that entire
23 property of that block within the radius, 300-foot radius map,
24 there are only two properties non-automotive-related, and that
25 would be the four-story office building directly north of the
26 subject property at 107 Northern Boulevard, and further east,

Appeal #21279

1 just to the easterly end of the 300-foot radius where the
2 firehouse is. Otherwise, everything on the north side is
3 automotive-related. You have automotive uses on the southerly
4 side outside the radius. The uses that you will find
5 immediately in the subject block to the east would be retail.
6 The next block to the west of Westminster Road are mixed uses;
7 professional offices, retail on the first floor with apartments
8 on the second level. East of the subject property, the former
9 Block Buster now is retail. And as you further go outside the
10 radius, you do have commercial, automotive-related uses, and
11 that would include Mavis, service stations, et cetera. So what
12 is proposed for this use as an automotive sales, sales only, is
13 not uncommon to this area of Great Neck and Northern Boulevard.

14 Uniquely, as counsel mentioned, two aspects. One, it's
15 probably the only use that you can propose for this site that
16 would possibly include parking within the building. Any other
17 use would require the usage of on-street parking, permitted
18 on-street parking, legal on-street parking in the vicinity.
19 The building itself is, approximately, 7300 square feet.
20 You've heard the permitted uses, and there are many other uses
21 that are permitted that wasn't mentioned today, that could be
22 accommodated in the building. 7300 square feet could be
23 divided up into three retail stores for a haircutting with six
24 chairs, possibly a florist, possibly a convenience store that
25 would provide no onsite parking, but would have more employees
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Appeal #21279

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2 than what the applicant is proposing at this use. This use, as
3 an auto sales and display, uniquely different than any other
4 automotive dealerships, used cars, Enterprise would not
5 incorporate any outside display of vehicles, it would have to
6 be in the building itself. You can't park on the sidewalks and
7 it wouldn't be displayed behind the building. It's going to be
8 a professional location. The applicant has numerous locations
9 and it is strictly going to be for return of leases, vehicles
10 less than four years old and less. And counsel put a lot of
11 suggested conditions to mitigate any impact to both the
12 commercial corridor and to the residential community to the
13 south of the subject property, that would include Westminster
14 Road, Arcadia, and Belmont Road.

15 The conditional use permit, as I mentioned, the
16 character of the neighborhood, this Board is very familiar with
17 it. The neighbors that are here are very familiar with the
18 location of the subject property as well as the pattern of
19 development along Northern Boulevard. As Sean Mulryan, the
20 traffic engineer, indicated to you, there is no permitted
21 parking along Arcadia Lane south of the business district. In
22 fact, the building just to the east of us isn't entirely within
23 the business zone, Business A Zone, but it also incorporates
24 the residential lot to the south, Tax Lot 11 in Block 70. So
25 that building goes further south of the subject property and
26 the subject building on the easterly side of Arcadia Lane. I

Appeal #21279

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think what you have heard from counselor, the traffic engineer, I don't need to repeat. I think this Board understand this application pretty much thoroughly.

So just getting right into the conditional use permit portion of the application, and that would be under Section 70-225.B, and the purpose of the zoning as set forth in the Town Law, State of New York permitted use and so on. I will go through each and every one of them. Whether the proposed use is of such character, size, location, design and site layout as to be appropriate to and in harmony with the surrounding properties. An existing building, the footprint is not going to be changed. The storage of vehicles, the display of vehicles will strictly be within the building, as compared to the other uses of other dealerships and auto sales where they have them outside right up to the property lines. Any use of this building will incorporate storage, sale, and display of items within the building, similar to the cars in -- as we all know, this is a big-ticket item, so possibly other big-ticket items would be like furniture, would be like appliances, would be carpeting, tile, you are going to have more onerous effects by those because they would be a higher turnover than what the applicant is going to have at this location on their sale of automobiles.

Whether the proposed use will be providing a desirable service, facility or convenience to the area or otherwise

Appeal #21279

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2 contribute to the proper growth and development of the
3 community and to its general welfare. An existing building.
4 It pays real estate taxes, almost \$60,000. As I mentioned when
5 I first started, any use to this development for this site is
6 going to be an onerous situation and possibly greater because
7 of parking, greater number of employees, more shipping, more
8 receiving, et cetera. Even if you put a T-Mobile or a florist,
9 you are going to have more deliveries, more rubbish, et cetera.

10 Whether the proposed use will be hazardous, conflicting
11 or incongruous to the immediate neighborhood by reason of
12 excessive traffic, assembly of person or vehicles, proximity to
13 travel routes or congregation of children or pedestrians. You
14 are going to have this situation no matter what use you put
15 there. We can put a florist that may be slow on one day, but
16 then comes Mother's Day or comes the holiday time or Easter,
17 you are going to have those situations, and then you are going
18 to have the regular activities. You have an existing building
19 here. It's a difficult situation. Is this the best of all
20 situations? I have been practicing before this Board and many
21 Boards for almost 40 years now. It probably is one of the best
22 uses that you can put to this existing building, unless you can
23 get a piano or musical instruments being sold out of there,
24 which, again, the trends in the market have changed
25 substantially.

26 Whether the proposed use will be of such nature as to

Appeal #21279

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2 be objectionable to nearby residential dwellings by reason of
3 noise, lights, vibration or other factors of impact. You heard
4 the hours of operations. I have looked at the other
5 operations. In fact, a pizzeria could go in here or a deli
6 that would be open similar hours and later hours. You have a
7 vape shop, a smoking vape shop that just opened up to the east.
8 You could get a convenience store in here. The hours that the
9 applicant proposed is consistent with most of the commercial
10 uses in the area, especially the other dealerships of auto
11 sales. Again, you do have a residential neighborhood to the
12 south and you have this situation any time you have a business
13 zoning next to a residential zoning, and you have that
14 throughout the town, throughout every town in every village.
15 There is a retaining wall. There is a fence on top of that. I
16 provided you photographs. Probably, could use upgrading and
17 could be one of the requirements part of this application. And
18 I did listen to the renewal of the Enterprise, so I understand
19 what the Board would be thinking. And I'm sure the applicant
20 heard that, too. He has been sitting here for most of the
21 morning and afternoon.

22 In addition to the foregoing, the location and size of
23 the proposed use in a business or industrial district, the
24 nature and intensity of the operations proposed, the site
25 layout and its relation to access streets shall be considered
26 by the Board having jurisdiction of the application to

Appeal #21279

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2 determine whether the vehicular traffic resulting from such use
3 will be more hazardous than the normal traffic of the district,
4 taking into account such factors as street intersections,
5 traffic flow, sight distances and pedestrian traffic. The
6 initial start of my presentation, it's the main arterial road.
7 It's just within 2 miles east of the Cross Island Parkway. As
8 the traffic engineer indicated, it's two lanes east, two lanes
9 west, a center-turning lane, and a parking lane on the north
10 side and south side with substantial amount of parking
11 restrictions on both Northern Boulevard and the residential
12 streets. Any other use that you are going to put to this
13 location -- and I'm not a traffic engineer, but out of common
14 sense and knowledge, you will have more traffic coming and
15 going to a bank facility, a convenience store or any other type
16 of use that might be alternative to what the applicant is
17 proposing. It's a big-ticket item and you just don't see that
18 much traffic. In fact, I know, personally, in the last -- and
19 I got three daughters all driving for the last five-plus years,
20 every car we have purchased in the last five to eight years, we
21 found on the internet and we went to that dealer and bought it.
22 That would be including my Lexus, my daughter's GMC and so on.

23 I would be more than happy to answer any questions,
24 but, in my opinion, a conditional use application for an auto
25 sales, as described and presented to you today, is a reasonable
26 use of this building. Thank you.

1 Appeal #21279

2 MR. AVURTINE: That completes our application. I know
3 there are some folks here who wish to speak, and I would like
4 to have an opportunity, of course, to respond.

5 CHAIRMAN MAMMINA: So what we will ask, then, is that
6 people come up one at a time and then we have a three-minute
7 time limit, as I said, which we are not going to cut anybody
8 off mid-word, but --

9 MR. FENN: I will be quick. My name is Steve Fenn. I
10 live at 25610 Kensington Place in Great Neck.

11 CHAIRMAN MAMMINA: What I would ask, though, for
12 everyone is just to remember, if we repeat each other with the
13 same points, it doesn't punctuate it any more. All you need to
14 say is I agree with the previous speaker and its weight on the
15 record is the same. There will not be a single one of you that
16 won't have an opportunity. Everyone has an opportunity to say
17 everything that you would like to say. We just ask you to just
18 caution you that way.

19 MR. FENN: Thank you. I'm sorry. I appreciate the
20 applicants making the effort to make this work. I live in the
21 neighborhood. It won't work. It's a tight space. If you
22 drove behind that building, it's very tight. The pictures that
23 were submitted look bigger. They were shot with a wider lens,
24 which makes things look bigger. Putting an elevator in that
25 space just doesn't make any sense to me. You speak to the
26 neighbors there, they don't want it, and I'm sure they don't

Appeal #21279

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want it. There is a presence for automobile dealerships and I get it. We don't need another one, there is enough. I would rather Bohack went in there, personally. We could use Bohack. We don't need another automobile place. To use a metaphor, an automobile metaphor, you are trying to put 10 cars in a 5-pound car bag. That's all I have to say. Thank you very much.

MEMBER GOODSSELL: Mr. Fenn, if I could just ask you a question.

MR. FENN: Yes.

MEMBER GOODSSELL: You were a resident when the previous tenant was there, Cutlers Lighting?

MR. FENN: Yes.

MEMBER GOODSSELL: What was the impact from Cutlers Lighting?

MR. FENN: They were also a low-volume traffic place. I might have gone there and there are never more than one or two customers. It was never an issue. There was always street parking in front. There was parking around the corner during business hours. There was never a parking issue there. I don't think there is a parking issue in this regard. There is plenty of parking issues in that neighborhood, and we will get to that in maybe a year from now. Our neighborhood is getting clobbered with cars because of the restrictiveness. So that's never been an issue. So I don't think that's a problem. I just don't see that space being the right space. And with that

Appeal #21279

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garage, I just heard that and I said, "what?" Anyway, anything else? I'm sorry.

MEMBER GOODSELL: No, that's fine.

MEMBER DONATELLI: One other question.

MR. FENN: Yes, please.

MEMBER DONATELLI: Where is your house in relation?

MR. FENN: I'm about two and a half blocks from there further south. I'm on Kensington Place. Anecdotally, in years past, I could park in front of my house. Now most of the time, I can't park in front of my house. It's gotten bad. It's not necessarily that exact spot, but there is a correlation. It's getting crowded. It's getting crowded.

MEMBER DONATELLI: Thank you.

MR. FENN: Thank you very much.

SECRETARY WAGNER: You can come up and speak. Come up and give your name and address.

CHAIRMAN MAMMINA: However everyone would like to, whatever order.

SECRETARY WAGNER: Your name and address.

ATTORNEY ALGIOS: Ma'am.

AUDIENCE MEMBER: (Inaudible.) I am just quickly asking.

SECRETARY WAGNER: Ma'am. She doesn't want to give her name. Do you want to see a copy of the application, is that what you are saying?

Appeal #21279

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AUDIENCE MEMBER: Yeah.

MR. FENN: She wants a copy of the conclusion and the decision.

SECRETARY WAGNER: You want a copy of the decision, is that accurate?

AUDIENCE MEMBER: Yeah.

SECRETARY WAGNER: Okay. The decisions are posted on the Town website after they are made. There is usually a little time between the decision. I will give you the information. Let's just continue the hearing and then I can give you that information within a minute. One minute.

CHAIRMAN MAMMINA: If we can have the next person come up.

MS. DITTMEIER: Hi. My name is Patricia Dittmeier, D-I-T-T-M-E-I-E-R. I live at 4514 Arcadia Lane in Great Neck 11020. I live directly behind Cutlers Lighting. I have lived behind Cutlers Lighting for 23 years. We moved in in April.

MEMBER GOODSSELL: Would you be the white house?

MS. DITTMEIER: I am the house on my right.

MEMBER GOODSSELL: Which would be your left.

MS. DITTMEIER: Directly behind, the black and white house. Been there for 23 years. I went out with a tape measure today and I measured the width of the alleyway. The width of the alleyway is less than 18 feet from end to end, from the end of the building to the beginning of my property

Appeal #21279

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line. It is an active driveway. There is also a concrete stairwell that goes downstairs to the basement of that building. If you look at the diagram at the last two pages -- well, my last two pages. I don't know if you have that.

CHAIRMAN MAMMINA: Ours is the last two pages.

MS. DITTMEIER: Okay. There are 28 cars depicted in that architectural diagram. Okay. Now you want to put an elevator in. The elevator is not conducive in that tight spot. You have other businesses in that area that also utilize that active driveway. At any given point, you are lucky if you can squeeze one of two cars out of that driveway on any active time, Monday through Friday, 9:00 to 5:00, 10:00 to 5:00 or whatever their business hours are.

CHAIRMAN MAMMINA: Slow down.

MS. DITTMEIER: Sorry. I'm a little nervous. Excuse me.

CHAIRMAN MAMMINA: That's why I said this could be very emotional.

MS. DITTMEIER: No, it's not emotional. I'm just trying to get a point across.

CHAIRMAN MAMMINA: Just getting a little hopped-up.

MS. DITTMEIER: So, anyway, the quality of life as far as my family and a part of the my neighbors are concerned would be diminished greatly from the amount of traffic that would continue in that area. If you are going to put 28 cars in a

Appeal #21279

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basement and then allow for six employees to park their cars at the same time, you are talking about a tremendous amount of exhaust, gas, oil, fumes, battery exposure, whatever you want to call it, to be put into the atmosphere without proper ventilation. Even though the outside area is to the outside, what are they going to do about the basement part when they have to contain all the exhaust? That's a hazard and that does decrease the quality of life as far as I'm concerned. It's also we have children in the area that play sometimes out on sidewalks and stuff. There is traffic up and down Arcadia Lane constantly and it has increased over the years.

CHAIRMAN MAMMINA: Were you saying it's an active driveway?

MS. DITTMEIER: Yes.

CHAIRMAN MAMMINA: Which one are you talking about, the Cutlers driveway or your driveway?

MS. DITTMEIER: The Cutlers driveway is an active driveway considering the other businesses that are associated in that strip of property from Arcadia Lane to the next block over.

MEMBER HERNANDEZ: It connects both streets?

MS. DITTMEIER: Correct. You have a pizza place, you have an insurance firm, you have a monument building, you have a haircutting place, and a nail salon. And I'm probably missing something else, but there is --

Appeal #21279

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MEMBER HERNANDEZ: Dunkin' Donuts, I think, is there.

MS. DITTMEIER: No Dunkin' Donuts.

MEMBER GOODSSELL: No, that's a little further.

MS. DITTMEIER: That's the next one over. That's where Mavis is. Well, that used to be Mitos or whatever it used to be. But, anyway, I would like for you to consider a denial of this application for the reasons, number one, quality of life and the activity of the driveway and a hazard to the neighborhood. Thank you very much.

CHAIRMAN MAMMINA: Just for whatever it's worth, and it's far from the major part of concern in this application, is in terms of any fumes or whatever, I mean, those are handled regularly, you know, in any kind of automotive use and they have the requirement under the building code for carbon monoxide, and those usually go up and they are sent off into the atmosphere.

MS. DITTMEIER: Understood. Understood.

CHAIRMAN MAMMINA: Everything else, I hear you.

MS. DITTMEIER: And I don't think that elevator that they are going to put in, it's going to take up quite a bit of that building in the rear, and it's just not wide enough. It's not wide enough to allow for turning access.

CHAIRMAN MAMMINA: I think we said that and Mr. Mulryan has very honestly said, you know, we have to look at how all that would work.

1 Appeal #21279

2 MS. DITTMEIER: Thank you very much for your time.

3 CHAIRMAN MAMMINA: Whomever would like to come up next.

4 MR. FREDERICKS: I will be the next victim. Lance
5 Fredericks, F-R-E-D-E-R-I-C-K-S; 4627 Arcadia Lane in Great
6 Neck, New York 11020. I want to pick up on what Mr. Hernandez
7 was talking about. I will just go over to the map.

8 CHAIRMAN MAMMINA: It seems that the microphone will
9 move with you, I think.

10 MR. FREDERICKS: Does it?

11 CHAIRMAN MAMMINA: Just watch the cord.

12 MR. FREDERICKS: So the driveway that the previous
13 speaker talked about is an active driveway. She mentioned all
14 five of the alternate businesses. There is so little room
15 here, they have to park on the diagonal. The only way Cutlers
16 is going to have an elevator coming out here is to come into
17 not only the active driveway, but to park vehicles by their
18 neighboring businesses in this same block. This is what we
19 refer to as the 4500 block, and I live in the 4600 block.
20 There is no parking allowed here and here. And I understand
21 there is a variance being requested to allow parking, which is
22 going to change.

23 MEMBER HERNANDEZ: That has nothing to do with us.

24 MR. FREDERICKS: Well, it's under consideration and a
25 great consideration, the traffic. So to your point, this is
26 going to be a severe mess just in the back here. The traffic

Appeal #21279

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2 that we have to deal with now and the parking that we have to
3 deal with now comes from the Maserati dealer. This certified
4 auto dealer here, the owner does not allow employee parking at
5 this business. These people park in the 4600 block of Arcadia
6 Lane. Enterprise we had as a prior presentation, we found
7 Enterprise vehicles, rental vehicles when there is overflow
8 from their lot, being parked up in this location. It changes
9 the character of the neighborhood.

10 In addition, Lakeville Road is at the end of Jayson out
11 through here. When the buses are dismissed at the end of the
12 day, the children are dismissed. The teachers rush out to
13 their cars, too, but there is only one lane allowed to come
14 down Jayson because it's only a two-lane street. So the
15 teachers have to line up with the school buses or the teachers
16 windup parking on the streets in this area. There is a
17 tremendous amount of congestion that exists already. It's
18 really not reasonable, if you are a business, to expect that
19 employees are going to park inside the building. And I wanted
20 to note the applicant's representative, the first
21 representative, said parking along the rear driveway for
22 employees. Alternately, parking "may be, may be" done, not
23 must be done in the building using the auto elevator to get to
24 it. Another reference here from a prior speaker, employees
25 "can" park in the lower level, those are wiggle words. They
26 don't mean that that's where they are going to park.

Appeal #21279

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MEMBER GOODSSELL: Mr. Fredericks, can I ask you the same question that I asked one of the speakers? When it was Cutlers Lighting, what was the impact to the neighborhood?

MR. FREDERICKS: Zero. Just exactly what you heard before. The three or four spots directly in front of Cutlers Lighting, maybe five, and around the corner, three cars could fit comfortably. And the traffic in Cutlers Lighting in the times that I went in, you wouldn't find a half a dozen customers in there. But that parking is also used by the adjacent storefronts. Napoli Pizza is only one space in front of it, but if you got two of three people that want to go in to get takeout or they want to sit in and eat, they will park around the corner on the Cutlers side. Parking is not permitted on the side that's toward what we used to know as the old bowling alley. Before Block Buster, it was the bowling alley. Now there is a Martial Arts store in there. There is an academy, a tutoring academy, and then you have a vape shop. The vape shop is not a concern because they have their own parking along the side just west of Belmont. So there is an adequate amount of parking for the existing businesses or, you know, had COVID not killed Cutlers Lighting, businesses dropped off to virtually nothing. So they took the bitter pill. Thank you for your question. Anything else I can help with?

CHAIRMAN MAMMINA: I think we are good. Thank you.

MR. FREDERICKS: Thank you.

1 Appeal #21279

2 MEMBER GOODSSELL: Thank you.

3 CHAIRMAN MAMMINA: Anyone else, please.

4 MS. CHEN: I'm sorry. I'm bringing my laptop.

5 CHAIRMAN MAMMINA: No problem. I brought two.

6 MEMBER GOODSSELL: Tell us your name.

7 MS. CHEN: My name is Amy Chen. I'm at 25801 Pembroke
8 Avenue, Great Neck, New York 11020. I am here to represent
9 myself and some of the neighbors. We received the notice
10 regarding this appeal just two weeks ago, despite what the
11 letter was dated. Many of us were on vacation for summer.
12 This is the first time we are able to travel after the COVID
13 pandemic, and some people just received it just last week.
14 There were others here and they have had to go back to work. I
15 took off work from the hospital as a nurse practitioner because
16 I believe this is so serious for our neighborhood.

17 I have lived in this neighborhood for 35 years. I went
18 to Lakeville Elementary School, my son goes there now. We are
19 hoping to raise them in this great neighborhood. This
20 neighborhood is known for its proximity to the major
21 throughways, a top-rated school, and a local park. It is 0.4
22 miles away from Lakeville School, that's 2,112 feet away. This
23 will affect our local neighborhood because -- I'm sorry. I
24 apologize.

25 CHAIRMAN MAMMINA: Nice and easy.

26 MS. CHEN: I can do medical stuff, I can't do this. So

Appeal #21279

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2 I apologize. I'm going to start over with that sentence. In
3 regard to the conditional use request, I don't believe that
4 their conditions proposed are appropriate, accurate or
5 beneficial for our neighborhood. I reviewed many, many, many
6 months of the Town Hall's previous grants of a conditional use,
7 and they are just not meeting the Town Code. I believe it's
8 70-245. They also include consideration of traffic, parking,
9 whether the use will have a desirable service for the local
10 area, and whether the proposed use will be objectionable for
11 the nearby residents. The traffic studies that were included
12 in the proposal or the appeal were from 2017 and 2019. There
13 was, I believe, one. I saw the stripes on the road last year.
14 Those results are not back. They are outdated numbers that are
15 representing pre-pandemic numbers. I believe traffic has
16 increased since then. On a daily basis, I see people running
17 the stop sign in front of my house.

18 MEMBER GOODSSELL: Can I interrupt you for a second?
19 Tell me what your cross street is.

20 MS. CHEN: Arcadia and Pembroke.

21 MEMBER GOODSSELL: Okay.

22 MS. CHEN: I see the employees of the current existing
23 car dealerships parking on our street and then running to work.
24 I see them. Yeah, so that's just the traffic- and
25 parking-related situation. We do not have adequate parking to
26 sustain an extra business where people will be visiting for

Appeal #21279

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several hours at a time. Even if I'm purchasing an online car, I will in no way be simply stopping to pick it up and rushing off. I expect to either be driving it or -- I don't know what they are proposing, if they are saying that the test-drive will take place somewhere else, am I going to be chauffeured to another site to test-drive the car in Queens, and then be chauffeured back, and then be leaving my car parking here the entire time? Somehow, in some way parking will be affected in our neighborhood.

ATTORNEY ALGIOS: Ms. Chen, if you could just wrap up your comments. Your time is up.

MS. CHEN: Yes. This traffic area, I did handwrite all of the traffic data from the national database. This is one of the busiest neighborhoods within a two-block radius in the entire stretch of Northern Boulevard. 3500 or 3700 cars are passing by on a regular basis. In front of our block on Arcadia, it is 3,157, and that's from 2017. So, yes, it will have an affect on our neighborhood.

And the last thing is that this is a redundant service. This is not a new service that will be needed or used that much by our local neighbors. People will be coming for several hours on end. And I definitely, definitely believe it will have a negative impact on our neighborhood. Thank you.

CHAIRMAN MAMMINA: Thank you.

MR. LIN: For the record, my name is Zachary Lin. I

Appeal #21279

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live at 4532 Arcadia Lane.

CHAIRMAN MAMMINA: Move next to the microphone, please.
Thank you.

MEMBER GOODSSELL: I'm sorry. Could you say that again?
Your name is?

MR. LIN: My name is Zachary Lin at 4532 Arcadia Lane.
I wrote to the Board two days ago, so I believe you received a
copy of my letter.

MEMBER HERNANDEZ: If you submitted a letter, it is
part of the record, so you don't have to read it again. Just
you can say anything else you want to say.

MEMBER GOODSSELL: We did receive a number of letters
and we take and we add them to the record and consider them.

MR. LIN: Right.

MEMBER GOODSSELL: Tell me how close you are to this
business.

MR. LIN: So I am actually four to five houses down
from the business. I'm also at Arcadia Lane. And I'm blanking
out. I'm right next to Amy. I can see Amy's house. So my
concern is -- really, there are a couple of things. One, is a
spillover parking, like our neighbor mentioned, the neighbor on
Kensington Place mentioned. Even though the street is next to
the proposed site, it's unlimited use, so the parking is
restricted.

MEMBER GOODSSELL: So the parking in front of your house

Appeal #21279

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is restricted or you can't park?

MR. LIN: No parking at all.

MEMBER GOODSELL: There is no parking at all?

MR. LIN: Right.

MEMBER GOODSELL: So what do you do if you have to park? There is no exception for you, either? You have to park in your driveway?

MR. LIN: I have to park in my driveway, that's exactly correct.

MEMBER GOODSELL: And how often, in your experience, is that rule violated? Are there people who just park there, anyway?

MR. LIN: No, people do not park in front of my house. I have never seen any parking in front of the house. So I think the initial concern was spillover parking from the commercial areas into residential. So that issue is still at-hand. So instead of spilled over into my street, they are going to be passing through Arcadia Lane on to, let's just say, Kensington Place. So the spillover issue is going to be compounded. Like my neighbor previously said, the parking is already pretty bad. And like Amy said, it's super close to the school. But now think about these drivers, you know, going to be pressed for an appointment time, they are going to be distracted, they are going to be distressed, and they are going to be fighting with traffic. You have kids walking from home,

Appeal #21279

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2 you know, coming off buses, you know, with the combination of
3 distracted drivers, and that's not the best combination. So I
4 think that is, certainly, my concern there. And also, I
5 believe that the traffic study is not competent enough. It
6 sites 20,000 traffic on Northern Boulevard, you know, near that
7 block. But 95 percent of it, at least, is from Northern
8 Boulevard. So I believe that when the use is proposed, it's
9 very one-dimensional for Northern Boulevard's business
10 district's view, but it's not. On the application itself, one
11 of the forms, they have to take into instance a residential
12 neighborhood. So it's a grid. Many people live in this grid.
13 We have children living in this grid, walking to and from
14 school buses, to the neighborhood park, as well. The
15 neighborhood park is two blocks away. And it's also a fire
16 hazard, because the fire department is also about one or two
17 blocks away. Additional traffic can introduce additional
18 hazard. So I know there is indication that the cars are going
19 to be driven to the site, but it's merely an indication, it's
20 not a guarantee. And nobody knows what is going to happen. So
21 in the future, if an 18-wheeler is going to be dropping off
22 cars, then, you know, what about a fire truck. So I think I
23 addressed my concerns there. And I want to echo my suspicion
24 -- I mean, not my suspicion, but my concerns. I am not that
25 old, but I will --

26 ATTORNEY ALGIOS: Sir, I just want to let you know your

Appeal #21279

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time is up, so if you could just wrap up.

MR. LIN: I will echo Amy in that, you know, I will not ever pick up a used car online, you know. Just get something online, pick up something from the store. So I think that's all.

MEMBER GOODSSELL: Thank you very much.

MR. LIN: Thank you.

MS. KAMAMIS: Good afternoon. My name is Mary Kamamis. I live at 2622 Pembroke Avenue, Great Neck, New York 11020. I'm on the part of Pembroke Avenue that is between Jayson and Iris. And I agree with everything that the young lady, I believe, it was Ms. Chen said. I thought she had a very carefully researched presentation. So I have just one comment to make with regard to the parking situation. So the option of having the employees park in the building or park in the alley behind is the most ridiculous thing I have ever heard, and it's really not feasible. Are these employees just going to be driving around in the building moving their cars? And the alleyway, as everyone said, is too narrow. The other thing is we've had very bad experiences with businesses in our area. They all promised we have onsite parking for our employees, don't worry, we have plenty of space. That, is not true. Everybody parks in front of my house in particular. All of these business people park in front of my house and you see them running down to their businesses. I do not believe any

Appeal #21279

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business person that says I'm providing parking and our people, you know, our employees can park there. The dealers, the Lexus dealers, their employees park in front of us. They don't park on the Lexus parking lot. So that's all I have to say. I think this is an ill-conceived plan.

MEMBER GOODSSELL: What are the parking restrictions on your part of the street?

MS. KAMAMIS: There is no parking restrictions of the street.

MEMBER GOODSSELL: So employees can park there all day?

MS. KAMAMIS: Right. And the people that park there are the employees of the various businesses, the employees of the Lexus dealer, the car dealers, the gas stations. We are saturated. I mean, there won't be anywhere for these new people to park if they are looking for a space in the neighborhood. So thank you very much for your time.

CHAIRMAN MAMMINA: Thank you. Anyone else?

SECRETARY WAGNER: Mr. Avurtine, before you speak, it's come to our attention that when you are discussing the employee parking on the side of the building, that's not something that was proposed as part of the application, correct?

MR. AVURTINE: Well, it's being proposed as a potential condition that the Board would impose.

SECRETARY WAGNER: Because the problem with that is it will most likely require an additional variance since it's all

Appeal #21279

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2 the open-air parking spaces. So that's something that a
3 modification or either something that the Board could consider
4 modifying or if you wanted to change the application and make
5 that part of the application? But it is something that, you
6 know, was not really considered. And in addition to the fact
7 that that would probably lessen the degree of variance that you
8 would require for the variance under the parking insufficiency.

9 MR. AVURTINE: Well, again, it wasn't being viewed as
10 parking that would count as permissible parking. In other
11 words, it's still zero provided, sort of like if you had --
12 same thing with the tandem parking in the rear, it's still zero
13 provided as a code matter, but it would be a condition intended
14 to partially yield any negative impacts. So I can confer with
15 counsel as to how that would be addressed going forward if the
16 Board -- if it required something in addition in the event the
17 Board were inclined to approve the application and make that
18 lower-level parking a condition, the employee parking
19 condition, then we can see if that would require anything else.
20 But again, it wasn't intended to say that they were going to
21 have permissible parking stalls, et cetera, that would count
22 toward the parking requirement, that was never the intention
23 and an offering of that as an option. We can discuss that
24 further.

25 ATTORNEY ALGIOS: We can discuss it further.

26 MR. AVURTINE: If that's okay. I just wanted to clear

Appeal #21279

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up a couple of, at least, in my view, what might have been some misperceptions, at least, from one of the people that spoke. It seemed to be the impression that the auto elevator was somehow going to extend into the drive island of the rear of the building. To the extent that is someone's impression, that's not case, that's totally within the building. So nothing that we would be doing would be lessening the width of that aisle. According to the plans, it's 18 feet from the building to the retaining wall and it's 12 feet from the existing exterior stair to the retaining wall. So that's a sufficient width for a vehicle to either drive through or park.

I would also like to point out that while many customers of the adjacent strip center may, indeed, cut through the property, that is not by legal right. So it may be going on, but it's not something that is by easement or anything else.

MEMBER HERNANDEZ: There is no cross-easement between the two properties?

MR. AVURTINE: There is not.

MEMBER HERNANDEZ: So theoretically, you could put up a wall and close that alleyway for exclusive use?

MR. AVURTINE: In theory, some sort of obstruction could be put there. I don't know that we would be inclined to do that because if no one is parked there and someone wants to cut-through, I think the owner wants to maintain it, you know,

Appeal #21279

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reasonably.

MEMBER HERNANDEZ: I just wanted to establish that you could.

MR. AVURTINE: Exactly. I just wanted to indicate that if it was the decision of this Board that the parking should be in the rear, the employee parking, as opposed to in the building, then we could accomplish that, is my simple point. So we've heard the Board's concerns, we heard the neighbors concern. What we will do is provide the necessary drawings to the Board, which will demonstrate the viability of the access to the elevator with the overhead doors and how it will function on a practical day-to-day basis in terms of if the employee parking were to be inside, how that exactly would work. The true number of vehicles rather than, as Mr. Mulryan indicated, a rectangle on a sheet of paper, so that the Board would have a full understanding of that. And that we will also make sure that the structural engineer submits something in writing and/or appears in the future to answer questions that the Board may have regarding the actual engineering of the facility. I think as Mr. Mulryan pointed out, no one wants to make a significant monetary investment that's not suitable for what is being contemplated.

MEMBER GOODSSELL: I have a question for you. You mentioned a couple of times that your client operates other locations. Does he use this model in his other locations, a

Appeal #21279

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self-contained unit? I would be interested in hearing that.

CHAIRMAN MAMMINA: Name and address for the record.

MR. LI: Hi, Board Members, neighbors. My name is Jeff Li at 618 159th Street, Whitestone, New York. I'm going to try to remember all of the issues that they raised, but I didn't bring a paper and pen, so I should have come more prepared.

MEMBER GOODSSELL: That's okay. I'm interested because your attorney says you have a couple of other locations.

MR. LI: Yes, we do.

MEMBER GOODSSELL: And your locations are in the City of New York?

MR. LI: Correct.

MEMBER GOODSSELL: Which we all know has no parking. Now, how do you operate those other locations? Do you use this model in your other locations?

MR. LI: So the closest model that I can relate this to would probably be the one in Bayside.

MEMBER GOODSSELL: What is the name of that?

MR. LI: It's Ideal Automotive Sales of Bayside.

CHAIRMAN MAMMINA: How do you spell it?

MEMBER GOODSSELL: Ideal Auto.

MR. LI: So we have a branding thing going on. And our main purpose of coming to Great Neck, to be honest, was just for branding. So we were actually just mainly interested in the top floor showroom, but to accompany the concerns with

Appeal #21279

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parking and stuff, we figured let's put the basement to use, you know, potentially, so we are building an elevator, which cost a fortune, you know, it's not cheap. But that is to address the issues that the neighbors have, but if you don't like an elevator and you don't want us to occupy the basement, that's fine.

MEMBER GOODSSELL: There isn't much place for you to go besides the roof, and that comes with other issues.

MR. LI: So the thing I just wanted to say, so we have a website, right. So in our website, each one of our used cars, it takes about 36 different pictures, basically, all the aspects of it, and along with a 360-view, interior and exterior. So, yes, we do have a very significant amount of internet sales. And just to relate to you, Carvana does it like that, CarMax does it like that, so you can say, you know, that's just the trend now, I guess.

CHAIRMAN MAMMINA: Mr. Li, are you saying that you would abandon all of the parking in the basement and just use it as a showroom?

MR. LI: Yeah. We have other lots. It's more for branding, more for, you know, I guess, trying to bring our name into Great Neck.

CHAIRMAN MAMMINA: Because the Maserati dealership, when we granted that, we granted that strictly as a showroom, like you would not pick a car up there, you would not

Appeal #21279

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test-drive a car from there. It was strictly for display.

MR. LI: Did you mention Maserati?

CHAIRMAN MAMMINA: Yes, Maserati.

MR. LI: I just wanted to clear the difference. We are a used car dealer, we are not a new car dealer.

CHAIRMAN MAMMINA: I understand completely.

MR. LI: So we don't have all that inventory. We don't have a manufacturer laying around saying they are going to upload shipments into the dealership. We don't have dealer plates, so we do not provide test-drives, we don't do that.

CHAIRMAN MAMMINA: So there is no test-driving?

MR. LI: No test-driving.

CHAIRMAN MAMMINA: Because that would answer someone else's question.

MR. LI: It would cost a fortune. I mean, for a typical new car dealer, they need to sell like 150, 200 cars a month. For us, it's 20, 30 cars. So it's not like -- I think there is a confusion going on here versus our business model in comparison to Lexus or Maserati. They are \$20 million in, we are not, you know.

CHAIRMAN MAMMINA: We can only go from the testimony, which was done very well. Everything was presented very nicely.

MEMBER DONATELLI: I'm having difficulty with the concept of a perspective purchaser having to be driven

Appeal #21279

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somewhere else to test-drive a car.

MR. LI: We don't have that.

MEMBER DONATELLI: So how would a customer test-drive a car?

MR. LI: We offer warranties. We offer bumper-to-bumper. And we take those back. If the driver, within 90 days, is having some issues with it and they can't fix it, we take it back, you know. Again, it's a used car dealership, it's not a new car dealership where you can get to see the new car models and try it out, we don't do that.

MEMBER HERNANDEZ: So you are following the Carvana model?

MR. LI: Correct. I don't want to say following, but I would like to be seen as a competition.

MEMBER HERNANDEZ: But, essentially, I look at a car online, I know where the car is, and I order it. And now do you deliver it or do I have to pick it up?

MR. LI: I can do both.

MEMBER HERNANDEZ: So if I can pick it up, I bring my own plates?

MR. LI: No. We, obviously, register it for you, we inspect it. By the way, to answer that, every single car that we are pulling, we pre-inspect it because we have three service centers, and the closest one is in College Point. So what we do is we put a New York State inspection on it first before we

Appeal #21279

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2 bring it to our showroom, that's also part of the requirement
3 by DMV. So the car is fine, it's not like it's not going
4 start. And as counsel mentioned, we are four-year old cars we
5 have. Our lenders have a restriction on the type of inventory
6 that we carry, so it's not like we sell junk cars, you know,
7 it's good-quality cars.

8 MEMBER HERNANDEZ: What is your typical inventory like
9 in one of your stores?

10 MR. LI: Toyota Sienna, perhaps, maybe Lexus, some
11 BMWs.

12 MEMBER HERNANDEZ: At what volume of inventory do you
13 have? Do you have 10 cars, 20 cars?

14 MR. LI: Oh, about 40 cars in other stores, yes. The
15 other one is more lenient. It's plenty of space. By the way,
16 speaking of that, so we go after the showroom model. I think
17 everybody can understand this. You don't see a lot of used car
18 dealers that spend a fortune in a showroom, and most of them
19 doesn't even have a showroom. So we are more showroom-based.
20 We are like what you said, we are copying or maybe not copying,
21 but we are competing by the Carvana or CarMax style, that kind
22 of thing, you know.

23 MEMBER GOODSSELL: Well, we are familiar with them now
24 because they are doing some pretty heavy advertising, and they
25 make it look like you put the money in and the machine comes.

26 MR. LI: Exactly.

Appeal #21279

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MEMBER GOODSSELL: But, apparently, it is something that we are beginning to get used to, so it's a good comparison.

MR. LI: By the way, I don't -- we don't want angry neighbors. I just want to make them happy because they are our customers, right, and it's not really good for business. So before you guys agree, if we move in, I have to make sure they are happy, it's important.

MEMBER GOODSSELL: Well, thank you for answering our questions, we appreciate it.

MR. LI: By the way, just one last thing. I don't know if everybody knows, the landlord currently that we just bought over from the fixture store that we are renting, so he owns the entire block along with the pizza store and all of that other stuff. So we had a chat and he is okay with us utilizing the whole driveway, so we don't have to back out, we just drive around, in case you guys are worried about jamming up traffic. I just wanted to address all of the issues.

MEMBER GOODSSELL: Thank you.

CHAIRMAN MAMMINA: Very informative.

MR. AVURTINE: So as I indicated, we will confer and we will make -- we will submit the requested information or if a decision is made to modify the application in regard to utilizing the lower level, I will be in communication with Ms. Wagner.

MEMBER GOODSSELL: So Mr. Chairman, we are going to

Appeal #21279

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continue this? Mr. Avurtine is suggesting we are going to modify the plans.

CHAIRMAN MAMMINA: Yeah, I'm fine with that.

MR. AVURTINE: And on a date to be determined, I presume, based upon the timing of the submission?

CHAIRMAN MAMMINA: I think it's going to be your call.

MR. AVURTINE: Understood.

CHAIRMAN MAMMINA: The Nassau County Planning Comission.

SECRETARY WAGNER: We are just going to hear from the plans examiner from the Building Department regarding the issue of the parking in the basement.

MR. CANZONERI: Good afternoon. Joseph Canzoneri, Junior, C-A-N-Z-O-N-E-R-I. I'm the commercial plans examiner that reviewed this application. It's nice to see everybody in-person, instead of over the monitor. So just to give a quick overview of the calculations. First of all, the first floor plan indicates it's a used car showroom. The cellar plan is used car storage. The cellar plan was not factored into the parking at all because it's storage. I just wanted to make that known to you. The first floor plan is business, it's mercantile, and it would have been counted in, just a quick overview. Plus, they have some offices. But I wanted to make sure that you understood that the basement area was not counted in the parking calculation, since it is only for storage. If

Appeal #21279

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it is proposed to have patron parking inside the building, that would require an addition to the disapproval as per Section 103.P, as you know. And also, the definition of a parking space, it has to be outside, open air and uncovered. So when I did these calculations and reviewed this application, I took it that only -- and it was only indicated this way -- that only cars being offered for sale were to be stored inside and there would be no patron or employee parking in the interior of the building. And then, basically, the parking required was 23. I think it was 23. Yeah, it was 23 parking spaces, which they didn't have any. So I just wanted to clarify that for anybody that needed that or if you had any questions.

MEMBER GOODSSELL: So employee parking in the building would require a specific disapproval and a separate application to us?

MR. CANZONERI: It would require an additional disapproval as per 70-103.P of the Town Code, parking spaces for employees, patrons or the required parking is required to be open air and uncovered. So this, obviously, they don't have any parking at all. So it was not indicated on the plans that the intent was to have either patron or employee parking at the interior of the building.

CHAIRMAN MAMMINA: Okay. Thank you, Mr. Canzoneri.

MR. CANZONERI: You're welcome.

CHAIRMAN MAMMINA: So we will continue, Mr. Avurtine.

Appeal #21279

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I mean, our next hearing is the 21st, and if you need a hearing after that, that's okay, too.

MR. AVURTINE: So I will inform Ms. Wagner when we have our materials. So it's being calendared for the 21st?

SECRETARY WAGNER: No, you don't have to come back. Whatever information you are submitting, if it's additional information or revised plans or whatever you are submitting, then we will talk.

MR. AVURTINE: Wonderful.

SECRETARY WAGNER: So that's up to you whether you want to revise.

MR. AVURTINE: I recognize that. I will have to confer.

CHAIRMAN MAMMINA: All of you can get together and decide.

MR. AVURTINE: Of course. Thank you.

CHAIRMAN MAMMINA: Thank you for your presentation and thank you to the neighbors, as well.

SECRETARY WAGNER: And if anybody wants to follow-up on what has happened with this appeal, they can contact the Zoning Board.

(Whereupon, a recess was taken at this time.)

1 Appeal #21280

2 SECRETARY WAGNER: Next appeal is Appeal #21280 - A&D
3 Realty, Co., LLC; 280 Plandome Road, Manhasset; Section 3,
4 Block 79, Lot 227; Zoned: Business-B. Variance from
5 §70-103.A(1) to convert a retail building to office space with
6 not enough parking on site.

7 CHAIRMAN MAMMINA: You heard Appeal #21280, A&D Realty
8 Company, LLC. Is there anyone in the room interested in the
9 application other than the applicant? Seeing no one. Please
10 give your name and address.

11 MS. TSOUKALAS CURTO: Thank you. Good afternoon,
12 Chairman Mammina and Members of the Board. Andrea Tsoukalas
13 Curto with the firm of Forchelli, Deegan, Terrana, with offices
14 at 333 Earle Ovington Boulevard, Uniondale, New York. I am
15 here on behalf of the applicant, A&D Realty Company, LLC. With
16 me today are the principals of A&D Realty, Lou Laberta and
17 Douglas Milo (phonetic.) Also, here with me are Frank Genese
18 from N2 Design and Architecture and Wayne Muller, the
19 applicant's traffic engineer from R&M Engineering.

20 This is an application for a parking variance to allow
21 the premises to be used as an office space for an accounting
22 firm. The applicant is seeking a variance for Section
23 70-103.A(1), which requires one parking space for every 200
24 square feet of floor area of office. Based on this formula,
25 the required parking is 15 stalls. And as you know, there is
26 no parking on this site. Mr. Muller did an extensive study,

Appeal #21280

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2 which concludes there will be sufficient off-street parking and
3 municipal parking to accommodate the needs of the proposed
4 space, and he will present his study after my presentation.

5 I'm sure you are all very familiar with the site, it's
6 just down the block. It's in the heart of the downtown area.
7 Just for the record, it's located on the east side of Plandome
8 Road, 70 feet south of Park Avenue, and has a street address of
9 280 Plandome Road. It's situated within the Town's Business B
10 Zoning District and has a lot area of 1,815 square feet. It's
11 improved with a vacant two-story masonry building with a
12 cellar. The building is pre-existing, nonconforming with
13 respect to parking, as are many of the other commercial
14 buildings along Plandome Road. This building was constructed
15 in 1915 without any parking. Some of the prior uses at the
16 site include a drugstore, a retail jewelry store, and a wax and
17 eyebrow studio.

18 A little background regarding my clients, they
19 purchased the premises about a year ago in September of 2021,
20 and so the property has been vacant for over a year. They will
21 be utilizing the first floor and the cellar for their
22 accounting firm, and they intend to rent the third floor. The
23 cellar is 1,297 square feet. The first floor is 1,433 square
24 feet, and the second floor -- I'm sorry. I said renting the
25 third floor, I meant the second floor. I'm sorry about that.
26 The second floor is 1,191 square feet, and that's also being

Appeal #21280

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2 used for office space. With respect to the requested variance,
3 the applicant will require less parking than a typical office
4 since this is a downtown area. As you all know, the premises
5 is directly across the street from the Long Island Railroad.
6 So this is a very convenient location for clients to use the
7 train to go to work. They could readily schedule a visit
8 before or after work hours. It's also convenient for people
9 who work downtown and are here for other errands. Also, from
10 what my client has explained, most of the clients paperwork is
11 via e-mail now, so they don't have to come into the office. He
12 also has two to three employees that will be working remotely
13 and one or two, I believe, commuting via the Long Island
14 Railroad.

15 With respect to the area variance standards, as you all
16 know, parking variances are easier than area variances. The
17 proposed use will be in character with other commercial uses in
18 the downtown area and will be less intense than other permitted
19 retail and food uses. The proposed use will not have a
20 detrimental impact on the environment. In fact, it will only
21 improve the downtown, help revitalize the downtown. Nobody
22 wants to see shutdown, vacant buildings. And as we mentioned,
23 there will be available parking on the street and in municipal
24 lots that he will purchase tickets for his employees. The
25 applicant does not have any other alternatives. Again, as
26 mentioned, this is a pre-existing, nonconforming building with

Appeal #21280

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2 respect to parking, so any use of this property would require a
3 parking variance.

4 Again, although numerically substantial, it should not
5 be considered substantial because the approved use will not
6 have a detrimental impact on the character. So it's
7 well-settled with applications that are in character and it
8 will not have a negative impact on the surrounding area, and
9 businesses should not be considered substantial, substantial
10 even if the variance request is numerical. Finally, this is
11 not a self-created hardship. The building, again, as
12 mentioned, was developed in this manner in 1915. For these
13 reasons, we ask that the application be granted in its
14 entirety.

15 At this time, I would like Mr. Muller to present on the
16 traffic study.

17 MR. MULLER: Good afternoon, Mr. Chairman and Members
18 of the Board. Wayne Muller with the firm of Robinson & Muller
19 Engineering. Our offices are at 50 Elm Street, Huntington, New
20 York.

21 As Ms. Curto indicated, we prepared, essentially, a
22 parking study dated June 30, 2022, which was previously
23 submitted to the Board, and then I would just like to briefly
24 summarize the analysis with you therein. As indicated in the
25 Notice of Disapproval, under the current parking regulations,
26 the occupation of the building, as proposed by the applicant,

Appeal #21280

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2 will require 15 parking spaces. There are zero parking spaces
3 provided on the subject property. The subject property is
4 located within the Manhasset Park District. It's subject to
5 lots across the street and within the general downtown area are
6 subject to their regulations. As indicated in my report, the
7 applicant -- and as discussed by Ms. Curto -- the applicant
8 has, approximately, eight to nine employees. Two to three of
9 those employees currently work remotely and will continue to
10 work remotely into the future. Those employees come into the
11 office a maximum of one time per week, depending on their
12 workload. One to two employees will likely take the Long
13 Island Railroad to the subject property because of its
14 proximity to the train station. They live west of the subject
15 property and it makes sense that they would take the train from
16 their place of residence to the Manhasset Railroad Station.
17 The applicant or Mr. Laberta actually lives within Manhasset
18 and he actually lives within walking distance of the subject
19 property. And he indicated that he would, at some times, walk
20 to the subject property in order to not have to bring his car
21 within the downtown area. As indicated in my report and based
22 on my discussions with Mr. Laberta, he will purchase five
23 parking passes from the Manhasset Park District in order to
24 have those available for employees. My firm contacted the
25 Manhasset Park District and actually Mr. Laberta contacted them
26 this morning, and they e-mail him all the criteria in order for

Appeal #21280

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2 him to do that. I believe it's \$800 a year and it's prorated
3 to purchase a pass for his employees today. The fee is
4 prorated until March of next year. They purchase them on an
5 annual basis. There are available spaces within the downtown
6 area to accommodate the five passes that the applicant intends
7 to buy. Any patrons to the site or, I guess, some of his
8 clients that would come to his office would have the ability to
9 park on street in the available 90-minute parking that is
10 available. Our study indicated that during the timeframes,
11 obviously, there is parking on the street because it's subject
12 to pretty strict regulations, turns over quite frequently, and
13 that there was available parking within the area to accommodate
14 the activity that would be generated by the clients to his
15 office.

16 So therefore, based on the analysis that we prepared,
17 it's my professional opinion that the granting of this
18 application would not put any undue burden on parking
19 conditions within the Manhasset downtown area. Thank you.

20 MEMBER HERNANDEZ: I would just like to make one
21 comment. Since you mentioned the Manhasset Park District, you
22 are correct, unless they have changed their rules, the
23 merchants can purchase yearly passes, but I would like -- only
24 because I do read what is written, I don't just listen to you,
25 I also read the stuff. You mentioned 591 spaces available and
26 I'm assuming you are including in that the Long Island Railroad

Appeal #21280

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parking lot?

MR. MULLER: Correct.

MEMBER HERNANDEZ: You cannot do that in the future.

MR. MULLER: Okay.

MEMBER HERNANDEZ: Because that is strictly only for
Manhasset residents with stickers, so you can't give that to
your client or to your employees.

MR. MULLER: Well, actually, my client does live there.

MEMBER HERNANDEZ: Right, your client can.

MR. MULLER: Right. So he can purchase.

MEMBER HERNANDEZ: For himself.

MR. MULLER: Correct, for himself, and I think that's
his intention.

MEMBER HERNANDEZ: Right. But don't count that as part
of your parking because it's not appropriate.

MR. MULLER: Okay.

MEMBER HERNANDEZ: So I don't want to invalidate your
analysis, that's the point.

MR. MULLER: Thank you.

CHAIRMAN MAMMINA: Any questions?

MEMBER GOODSSELL: There is not even a parking alley
behind the building?

MR. MULLER: No. Thank you.

MS. CURTO: Any questions?

MEMBER GOODSSELL: No, but I have a comment. It's kind

Appeal #21280

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2 of self-limiting. If the employees can't get to work, they are
3 not going to come to work, and this business isn't going to
4 survive here. We are doing more and more work on the internet
5 now with just about everything. And it's not like a law firm
6 where you have to send people to court back and forth. So if
7 these employees can't get to work, then he will have to get new
8 employees. I'm all for business development and I don't have
9 an objection to this.

10 MEMBER HERNANDEZ: All of these businesses have always
11 been occupied and somehow managed to find a parking space.

12 MEMBER GOODSSELL: Exactly right.

13 MS. TSOUKALAS CURTO: It's the nature of the downtown
14 area because all of these buildings are pre-existing,
15 nonconforming. They were built at a time when there weren't
16 any parking regulations and now we are kind of stuck with these
17 pre-existing buildings.

18 MEMBER DONATELLI: It was also refreshing to hear that
19 one employee might actually walk to work.

20 MS. TSOUKALAS CURTO: Yes, one of the principals.

21 MEMBER HERNANDEZ: Any other questions? Mr. Chairman,
22 if there are no other questions, like we said, this is one of
23 these buildings in downtown Manhasset that just has no parking,
24 but there will be someplace for the employees to park and for
25 their clients. So I move that we grant the application.

26 CHAIRMAN MAMMINA: We have a motion from Mr. Hernandez.

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Appeal #21280

MEMBER GOODSSELL: And I will second.

CHAIRMAN MAMMINA: Please poll the Board.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

The application is granted.

MS. TSOUKALAS CURTO: Thank you very much.

MEMBER GOODSSELL: Good luck to your client.

MS. TSOUKALAS CURTO: Thank you.

1 Appeal #21282

2 SECRETARY WAGNER: Next appeal is Appeal #21282 - Port
3 Holdings 1, LLC; 51 Main Street, Port Washington; Section 5,
4 Block 22, Lot 220; Zoned: Business-B. Conditional use
5 70-139.A to convert a retail space to a tea café.

6 CHAIRMAN MAMMINA: You heard Appeal #21282, Port
7 Holdings 1, LLC. Is there anyone in the room interested in the
8 application other than the applicant? Seeing no one. Please
9 give your name and address.

10 MR. ANZALONE: Good afternoon, Mr. Chairman and Members
11 of the Board. John Anzalone of Howard Beach, PLLC; 333 Earle
12 Ovington Boulevard, Suite 901, Uniondale, New York 11553.
13 Attorneys for the applicant.

14 I am here today with respect to Port Holdings 1, LLC
15 and we are filing this application for a conditional use permit
16 to allow a tea shop with 10 seats at the property at 51 Main
17 Street, Port Washington, New York. As a matter of
18 housekeeping, notices were mailed of postings according to the
19 Town Code, and that has been submitted prior to the hearing.
20 We are also going to submit the green card and return mailing
21 at this time. The property is zoned Business B in Port
22 Washington along Main Street and, approximately, 40 feet west
23 of North Bayles Avenue. The property is, roughly, rectangular
24 in shape with a frontage to Main Street with a municipal
25 parking lot to the rear, and as well as buildings to the east
26 and west. The building was developed circa 1948 with a small

Appeal #21282

15 by 25 paid-parking loading area in the rear. The property has also received a conditional use permit from this Board on January 20, 2021 for a dog groomer. That development never occurred, however, and the property owner has since leased the space to Mid-Island, LLC whose principal operates a similar tea shop in Brooklyn.

The proposed change of use is to a tea shop that requires the Board's conditional use. The tea shop is designed with the primary focus on takeout. The shop will sell tea and coffee and a small amount of food offerings, particularly breads and fruit. Concerning the criteria for the conditional uses, I know that the uses are prevalent in the zoning district are subject to conditional use approval of this Board. And as this Board is, no doubt, aware, a conditional use is a permitted use if the criteria of such use is met.

The proposed use will be in harmony with the existing building and is in harmony with the other uses in the surrounding area, including Japanese restaurants, Dunkin' Donuts, a ramen restaurant, a Mexican restaurant, a pizzeria, a delicatessen, and other eateries all within 300 feet of the property. The proposed use will provide additional convenience and service to the area by providing for additional tea and coffee options on Main Street and will almost eliminate a vacant storefront from Port Washington's downtown.

As more fully noted in the traffic study, the use is

Appeal #21282

not of a need that has a high-traffic volume or parking. Moreover, given the property's location in the downtown and a short distance from the train station, we reasonably anticipate to have walk-up traffic from the Port Washington residents. The food shop use is not the type of use that will adversely affect the development of future uses in the surrounding area any more than other permitted uses, such as retail, beauty shops, and self-service businesses. The use is entirely separated from the nearest residents by Main Street, which is a residential structure, a multifamily residence above retail and food use. All abutting uses are either commercial or municipal. The use does not involve offensive odors, noise, lights or vibration. The proposed use will be located in what was a single-tenant use for decades. The project consists of interior renovations only, as well as the replacement of an existing sign, which requires an application to the Building Department. All waste associated with the use will be stored in the building, either in the basement, the storage room or the refrigerated locker for all perishable waste. And the applicant will arrange for the waste pickup with a licensed sanitation company, all in accordance with the Town Code requirements.

Further, in support of this application, the applicant hired Aaron Machtay and Patrick Lenihan, traffic engineers from VHB Engineering, to prepare a traffic and parking analysis.

Appeal #21282

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Mr. Machtay and Mr. Lenihan concluded that there is more than sufficient on-street parking for use. Mr. Machtay, who has appeared before this Board on a number of occasions, is here with us today to further discuss his report. With me today in addition to Mr. Machtay, we have Min Wang, the project architect, to answer any site and design questions the Board may have, as well as Mr. Joe, the principal of the applicant.

With that said, I would like to offer the testimony of Mr. Machtay just to briefly summarize his report.

MR. MACHTAY: Chairman and Members of the Board, my name is Patrick Machtay. I am a project manager at VHB. We have our offices at 100 Motor Parkway in Hauppauge.

At the request of the applicant, I prepared a parking study.

CHAIRMAN MAMMINA: Could you give the address?

MR. MACHTAY: 100 Motor Parkway.

CHAIRMAN MAMMINA: Got it.

MR. MACHTAY: So I prepared a parking assessment for the application for you tonight and it has previously been submitted. Presently, the storefront located at 51 Main Street is vacant, but has previously been occupied by cleaners. Mr. Anzalone elaborated in his comments the application for the required conditional use variance --

CHAIRMAN MAMMINA: Could you go just a little bit slower because it's a little bit muffled?

1 Appeal #21282

2 MR. MACHTAY: Sorry about that.

3 CHAIRMAN MAMMINA: Just a little, that's all.

4 MR. MACHTAY: -- which brings us to the Board to ask
5 for relief. From the standpoint according to the traffic and
6 parking operations, the most important thing to consider for
7 this application is its location, 51 Main Street. It is
8 located in the downtown Port Washington area centered around
9 the Long Island Railroad train terminal. And such areas like
10 that are characterized by a multitude of uses that rely on
11 shared parking, areas such as the municipal and on-street
12 parking in the area in order to satisfy their demand. So in
13 order to demonstrate that parking in the area is sufficient for
14 these types of activities, we conducted observations in the
15 vicinity of the property in areas that we would most expect to
16 absorb the parking demand for the storefront. This included
17 the on-street parking on Main Street, from Irma Avenue east to
18 Maryland Avenue, and the Port Washington Parking District
19 municipal lot, two of which is located immediately north of the
20 subject site. So we observed these areas on both a typical
21 weekday and a typical Saturday in July from 12:00 p.m. to 6:00
22 p.m. on both days. And in doing so, we accounted for the peak
23 times of occupancy in the area as well as the peak times that
24 we would expect the proposed tea shop to generate its activity.
25 Throughout the observations, there were many vacant stalls in
26 the area. I think the minimum we saw in the report was 59.

Appeal #21282

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Other times, there was more. And that could satisfy new parking demands, even accounting for varying restrictions. And some of the parking that is provided in the area, as with the previous application, is commuter in nature associated with the train station. We didn't count those areas because, obviously -- well, you know, quite frankly, I guess, for this type of use because it's going to receive some walk-up traffic, people would park there, wait for their train, and stop, but, you know, still, we didn't count them in terms of surveying on that point.

What we saw, while there is a adequate capacity in the area, it should be noted as kind of just as I mentioned, that a new demand for this particular use is largely de minimis. In a downtown area, multiple uses are usually patronized by individuals in a single business. You might go down, you might go to a restaurant, and you might stop somewhere else. You might stop in a store and you might stop in a tea shop. A tea cafe, such as the one proposed, is very complementary in nature for, you know, those main stores, and it, generally, won't be the primarily trip. You probably aren't going to leave your house to come to the tea shop. You are going to stop there after you had your meal. You are going to stop there after you have been at the train station, you know, whether you are coming or going and you want to get something quick. You are going to stop there if you stop at a retail store or if you

Appeal #21282

stop at Dunkin' Donuts. Well, probably, not Dunkin' Donuts, but I think you get the point.

MEMBER GOODSSELL: Yes, retail.

MR. MACHTAY: Retail, you know, the drugstore, whatever it may be. Dunkin' Donuts, I think, is a little bit of a competition, so maybe not there. So I mentioned it was in the area, so I apologize. So, you know, the synergy, it's likely that the majority of the patrons that are going to stop at this tea shop, they are already in the area. So when we counted this and we saw that there is a lot of capacity, it includes the people who are going to be prone to stopping here after they have gotten their meal and after they have done their shopping, whatever it may be. So, you know, it just shows you that there is adequate capacity. Everything is sort of open. It can accommodate more than likely and no problems will be generated.

So based on that, there is adequate parking in the area to satisfy additional activities. And with the proposed use being complementary in nature it will result in a de minimis increase in activity beyond that. So therefore, it's my opinion that the application should be granted. And I would be happy to answer any questions that you have.

MEMBER GOODSSELL: Well, you did clarify. There is actually three stores, there is 51A, B, and C. It's 51A that they are taking over, is that correct?

Appeal #21282

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MR. MACHTAY: Yes.

MEMBER GOODSSELL: B and C are already occupied?

MR. MACHTAY: Yes.

MEMBER GOODELL: And I did notice there that is a lot right behind there. And if I was going to meet my friends there, that's the lot that I would probably use. And I think it's fair to say that there is more than adequate parking, even though there is no dedicated parking to this particular business, so I would have no objection to this.

MEMBER DONATELLI: Well, the municipal lot, a large part of it is dedicated for commuter parking. There are some spots that are actually dedicated for the shopping parking. And I would say from my own anecdotal experience, that the train station parking lot is starting to get filled again because as the COVID epidemic seems to be somewhat winding, people are going into the office more and more, which is a hopeful sign. People are commuting more and more. And my office actually happens to be right around the corner from this area of Port Washington, and I think that an elegant tea place might actually serve the community well. I, certainly, think it's in keeping with the conditional uses of 70-225. So I, as one Board Member, I'm also in favor of the application.

CHAIRMAN MAMMINA: I just have two questions, I guess, of the applicant. Well, not of the applicant, per se, the attorney is fine. Just wanted to ask a question. Is there any

Appeal #21282

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cooking on the premises? I do see the schedule of equipment and I think the only thing I see is a toaster.

MR. ANZALONE: That's correct. There is no conventional cooking.

CHAIRMAN MAMMINA: So there is no food preparation that goes on?

MR. ANZALONE: No. Other than, obviously, preparation of tea and coffee.

CHAIRMAN MAMMINA: Of course. And there are 10 seats in there?

MR. ANZALONE: Yes, correct.

CHAIRMAN MAMMINA: Does the applicant understand that they have 10 seats?

MR. ANZALONE: Yes, it's on the plan. The plan is filed as 10 seats and the retail-food use itself is limited to 12 seats. Once you go over that, you are a restaurant and it's a totally different approval.

CHAIRMAN MAMMINA: Only because chairs have a way of showing up on the other side of the table.

MR. ANZALONE: You really don't have a perception of scale on that drawing, but if you try to put a chair on the other side of that table, you would cramp into the others.

CHAIRMAN MAMMINA: I see the tables are pushed way out. That's okay, as long as they understand.

MEMBER DONATELLI: I would also note that we had

Appeal #21282

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2 previously granted the conditional use variance for the dog
3 grooming place. And prior to that, I think there had been a
4 cleaner onsite, which, in my opinion, are, probably, both much
5 more of an intense use because people would have to bring their
6 cars to bring a dog to a groomer or a cleaner because you are,
7 certainly, dropping off and picking up clothes. So in my
8 opinion, this is probably a less intense use because I do agree
9 that this would be something that really is in tandem with some
10 of the other properties.

11 CHAIRMAN MAMMINA: Is that a motion?

12 MEMBER DONATELLI: Well, I would also ask that we
13 impose for restaurant conditions for whatever waste is
14 generated.

15 MEMBER HERNANDEZ: They have a refrigerated garbage
16 locker.

17 MEMBER DONATELLI: All right. So having said all of
18 that, I make a motion that we grant the application.

19 CHAIRMAN MAMMINA: Okay. We have a motion by
20 Mr. Donatelli. Second?

21 MEMBER HERNANDEZ: Second.

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

24 SECRETARY WAGNER: Member Donatelli.

25 MEMBER DONATELLI: Aye.

26 SECRETARY WAGNER: Member Hernandez.

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Appeal #21282

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

The application is granted. Good luck.

MR. ANZALONE: Thank you, all. Have a good day.

CHAIRMAN MAMMINA: Move to adopt SEQR.

MEMBER HERNANDEZ: Aye.

CHAIRMAN MAMMINA: Do we have a second?

MEMBER DONATELLI: I will second.

SECRETARY WAGNER: All in favor?

(Whereupon, all Board Members voted affirmatively.)

TIME NOTED: 3:40 p.m.

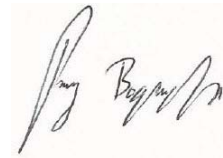
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C E R T I F I C A T E

I, AMY BOGUSZEWSKI, a shorthand reporter
and Notary Public within and for the State of New
York, do hereby certify:

That the witness(es) whose testimony is
hereinbefore set forth was duly sworn by me, and the
foregoing transcript is a true record of the
testimony given by such witness(es).

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

A handwritten signature in black ink, appearing to read 'Amy Boguszewski', is written over a light beige rectangular background.

AMY BOGUSZEWSKI