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Town of North Hempstead
Board of Zoning Appeals
PUBLIC HEARINGS

Wednesday, October 12, 2022
10:30 a.m.

BOARD MEMBERS PRESENT:

David L. Mammina, Chairman
Leslie Francis, Vice 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

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, everyone, and thank you for coming out to the Town of North Hempstead Board of Zoning Appeals. And what I would like to do before we get started is just to take a couple of minutes to go through the way that we conduct business here in case you have never been to a zoning hearing or in case you have never been to the Town of North Hempstead, because we may do things a little bit differently than another town or a village. So we just like to do that for everyone. So what we will do is as each case on the calendar is called, and typically we go in order, but every once in a while we will switch something around, we will ask for the applicant, the person whose application it is, just to identify themselves by standing up and coming forward to the podium. And then I will ask if there is anyone who has interest in the case, either in favor of it or against it, and we just ask for a show of hands so that the Board knows that there is someone else who wishes to speak. And then those people will come up one at a time. And we will ask the applicant just, at that point, to have a seat anywhere in the front or where ever they would like. After everyone has spoken, the applicant, and typically only the applicant, gets

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2 to speak two times. Because the applicant then has the ability
3 to either support or refute what someone said about their
4 application. The Board will ask whatever questions, you know,
5 it feels are necessary, as we will, you know, for each person
6 who comes forward. And at that point, the hearing is done.
7 And we almost never have second hearings, so you won't be
8 coming back here time and time again. There is one village
9 where we had ten hearings over ten months and then they denied
10 it.

11 So what will happen is one of four things: We will
12 either approve the application; we will disapprove the
13 application; we may reserve the application or we may continue
14 the application. Now, the reserve and the continue, what is
15 the difference between those? If we reserve the application,
16 it means that the Board has all the information that it needs
17 and we close the hearing. If we continue the hearing, we may
18 continue it because we asked for a piece of paper, you know, a
19 document. We might want to see a Building Department file.
20 The Board may want to go out and look at the site again. It
21 can be, really, any number of reasons. Then that means that
22 the record is still open, you know. And if there are multiple
23 parties that, you know, have interest in it, that gives a
24 little bit of time, then, that additional information could be
25 submitted, because we want to be as fair as we possibly can and
26 give everyone an equal opportunity, and I think we try very

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2 hard at that with this Board.

3 So with that part said, I'm going to ask everyone, as
4 you can see, we all got our laptops and, you know, our phones
5 and whatever else we have up here. Also, thank you to the Town
6 Attorney, Ms. Algios, who reminded me that the applicant,
7 basically, has the opportunity to put their entire case on to
8 the record because it's from their case that the Board will
9 consider the application. This is a quasi-judicial hearing,
10 you know, in that there are legal standards that need to be
11 met. When we do have other people who wish to speak in
12 opposition or in support, that's limited to three minutes,
13 which is typical in most municipalities. And what we ask is
14 every single person will have the opportunity to speak who
15 wishes to speak. We don't have a room full of people today, at
16 least at this point. So the three minutes just kind of limits
17 that a little bit. And, you know, if you have someone who
18 stood up before you, you know, and I hate that the sky is blue,
19 okay, that's what the person says. Then the next person who
20 also hates that the sky is blue, they just have to come up and
21 say, I agree with the person before me. But if you want to put
22 anything on to the record, you will have that opportunity to do
23 that. If you are off topic, then we will give you a little bit
24 of an opportunity, and we might just remind you of that. And
25 what is a little bit off topic, that might be if they are
26 looking for a variance on their side yard because it's a little

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too small and they want to talk about the stop sign at the corner, you know, that's not really within our power, that's in the power of the Town Board.

So now with all of that said -- and thank you, Deborah, for reminding me.

ATTORNEY ALGIOS: You're welcome.

CHAIRMAN MAMMINA: That's okay. What we will just ask is that all of your electronic stuff, please put it on silent. You don't have to shut it off, that's okay. At any time, if you have to make a call or take a call, you know, all the ladies and gentlemen here, you can stand up, you know, head out into the lobby area and take care of that. If you just want to stretch your legs at some point, you can also feel free to do that. You don't have to wait until we are between different cases. And the other thing just that we will ask finally is that if anyone is coming to join you who is not here, that you also pass that along to them because it's very distracting for the person at the podium. Also, it's frequently difficult for the Board to hear, but more so our stenographer has a very challenging job and we would like to make sure that we keep it as simple as we can for everyone. And also, we will ask, really, for zero crosstalk between people. Again, you can always go out and do that outside. Anything else?

MEMBER DONATELLI: I don't think so.

CHAIRMAN MAMMINA: So with that said, then if you would

1 APPEAL #21293

2 call the first case. Do we have any modifications?

3 SECRETARY WAGNER: No, we do not have any
4 modifications.

5 CHAIRMAN MAMMINA: So please, then.

6

7 RESIDENTIAL CALENDAR

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9 SECRETARY WAGNER: First Appeal is Appeal #21293 -
10 Xiaoduo Liu; 77 Nassau Road, Great Neck; Section 2, Block 51,
11 Lot 13; Zoned: Residence-C. Variances from §§70-50.B and
12 70-208.F to construct an addition on a non-conforming building
13 that is too close to the street (secondary front lot line).

14 CHAIRMAN MAMMINA: You heard Appeal #21293, Xiaoduo
15 Liu. If you could, and if I mispronounced your name, I will
16 apologize. Take your time. There is an easel there, if you
17 would like that. And I will just say to everybody, just relax.
18 There is nothing here to be at all nervous about. And I know
19 that's easy for me to say, but, you know, you will take your
20 time and the Board will give you the time that it needs.

21 Do we have anyone who has interest in this case other
22 than the applicant? Right now, the presentation is to the
23 Board. And we are seeing no one in terms of anyone else who
24 wishes to speak. So please give your name and address.

25 MS. XIE: My Jing Xie, J-I-N-G X-I-E. I will be the
26 representative for my client, Mr. Liu. And my address is 9

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Orleans Court, O-R-L-E-A-N-S, in Commack. Say your name and address.

MR. LIU: My name is Xiaoduo Liu. I go by Sean, as well. I live in Great Neck. 77 Nassau Road, Great Neck.

CHAIRMAN MAMMINA: Okay. The podium is yours.

MS. XIE: Thank you. Good morning, ladies and gentlemen.

CHAIRMAN MAMMINA: Good morning.

MS. XIE: My name is Jing again. I'm representing Mr. Liu from 77 Nassau Road. We propose to add a rear lot extension to the side. However, due to the constraint of the property. The property was established before the zoning code existed and the house was built back in 1924, that's why the side itself is only 4000 square feet, whereas the minimum lot area for the zoning district right now is 5000. And due to that constraint, when we are trying to propose an extension --

CHAIRMAN MAMMINA: Why don't you bring it over a little closer to you. And if you can, speak into the microphone because we are live-streaming and it would be difficult for anyone who is watching the live-stream to hear what you are saying.

MS. XIE: Okay. So let me indicate it. So due to the existing size of the lot, the house itself is situated only 10.8 foot away from the second front backyard. And the current code required is 20 feet minimum for the building to establish.

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2 However, the lot itself is only 40 feet. So if you use 40 feet
3 minus the 20 feet requirement and minus the 5 feet side
4 setback, we leave only like 15 feet for the house to be built.
5 That's the reason that when we first looked at the case, we
6 suggest to have the addition to be aligned with the existing
7 house, therefore the addition will have --

8 CHAIRMAN MAMMINA: Give me one second. Excuse me.
9 First row, gentlemen, please, zero talking.

10 VICE CHAIRMAN FRANCIS: Take the talking outside.

11 CHAIRMAN MAMMINA: You can go outside, if it's okay.
12 My apologies.

13 VICE CHAIRMAN FRANCIS: Before you continue, this
14 property was before us on a previous hearing for an addition
15 that wouldn't put you over GFA at the time. Is that addition
16 -- I don't recall what it was, but there was some other
17 addition that would have put you over GFA?

18 MS. XIE: I believe that will not be our case. This is
19 the first time. He is a new owner.

20 VICE CHAIRMAN FRANCIS: So there is no other addition
21 on this house?

22 MS. XIE: No.

23 MR. LIU: I think they did this restroom a few years
24 ago.

25 CHAIRMAN MAMMINA: Okay. You can't both speak at the
26 same time. It has to be one at a time. Why don't we let the

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young lady make the presentation. And if there is anything that you would like to add, then, of course, you may add.

MS. XIE: In response, there might be one piece. As the new homeowner, he has no idea whether that's legally built or not, but we are going to demolish that part, as well. But before, when he owns the property, there is no other applications regarding any additions or extensions or anything like that.

VICE CHAIRMAN FRANCIS: Okay. I just wanted to clarify that because if that addition had been built, the property would have already been over GFA, so any additional new additions would have put it even further over GFA.

MS. XIE: Currently, the house is way under the GFA.

VICE CHAIRMAN FRANCIS: Okay.

MS. XIE: The house itself looks like it's originally built and it never get changed.

VICE CHAIRMAN FRANCIS: Okay.

MS. XIE: So if you see, the house was purchased in 2018.

SECRETARY WAGNER: What they are referring to is a variance, Appeal #18675. It was done in 2009 and it was a variance for a front yard setback and a gross floor area variance. So we are just trying to clarify whether that was ever built, and it appears that it was not.

MS. XIE: Never. And our application has nothing to do

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with what they are asking for. And I apologize.

VICE CHAIRMAN FRANCIS: We have the photos.

MS. XIE: I'm just showing you that this is how it looks like from the outside. And if you see from the side, it's very clear that the physical house itself was not over the GFA.

VICE CHAIRMAN FRANCIS: Obviously, when we go to look at these properties, we don't walk on the property and go into the backyard.

MS. XIE: Sure.

VICE CHAIRMAN FRANCIS: We only see it from the front.

MS. XIE: Sure.

VICE CHAIRMAN FRANCIS: So I just wanted to clarify that that addition never got added to the house?

MS. XIE: No. You also see the dimensions from here.

CHAIRMAN MAMMINA: So your denial doesn't mention it and your zoning sheet shows that it's significantly under the gross floor area, we just wanted to verify, that's it.

MS. XIE: Thank you. I forgot where I was.

CHAIRMAN MAMMINA: You were talking about that it's a straight line extension of the existing house.

MS. XIE: Yes, exactly. This would create a reasonable amount of space that will add to the family. Currently, the house is -- hold on. Currently, the house itself is only 1323 square feet. However, my client, he and his wife, they have

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2 three kids and the grandparents living in the house, which
3 brings it up to seven people and he also has a dog. And the
4 dog has problems. Unfortunately, he turned blind during the
5 pandemic. And they have a Nanny during the day to help out
6 with the kids. So there are like eight people, plus a blind
7 dog in a 1300 square feet house. It's relatively really
8 difficult.

9 VICE CHAIRMAN FRANCIS: It's a lot.

10 CHAIRMAN MAMMINA: What kind of dog, because I love
11 dogs?

12 MR. LIU: It's a French Bull dog.

13 CHAIRMAN MAMMINA: We like French Bull dogs.

14 MS. XIE: And in addition, they have a start-up
15 business before the pandemic. And nobody knows when things hit
16 and their stuff, packing it in the house with three kids
17 running around, and they are 5, 3, and 2, as well. So that's
18 their living room currently and that's the dog. He has to wear
19 something so that he won't bump into furniture and stuff, which
20 he did all the time because it's packed with boxes,
21 unfortunately. And that's their dining room right now. And
22 they run out of space, so they use their car, the trunk to
23 store some of their belongings. And in addition, there are
24 only three bedrooms in the family. It's one for the
25 grandparents, one for the couple, and the three kids. Well,
26 luckily, they are still young, so they are all jammed up in one

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2 bedroom. So that is a very difficult situation for my client.
3 Typically, I respect the zoning code. I will say let's do
4 something within the code, but in this case, they need the
5 space. There is no other way. And because of the pandemic
6 itself, his business, unfortunately, cut down like two-thirds
7 of the income, so they cannot move to another house, a bigger
8 one. And the housing market right now is unaffordable.

9 MEMBER DONATELLI: Let's just, if you can, because your
10 application really is for the secondary front yard setback.
11 Are you familiar with the five factors? Can you go over those
12 for us?

13 MS. XIE: Right. So if we decide to do it within the
14 zoning code, that will push back about 20 feet. Right now, the
15 whole addition is about 22.25 feet, the width of the addition.
16 So that will cut down like 10 feet of the addition. We only
17 can create about 200-something square feet for them, which they
18 need more than -- the family size needs more than that. If we
19 decide to keep the same size, 423 square feet, that will mean
20 we have to push the whole addition back into the rear yard to
21 create the same square footage. However, since we are doing
22 the addition, we need to have drywall for the storm water,
23 which is 10 feet away from the rear and the side and as far as
24 possible away from the house. So pushing the house is not an
25 ideal solution for the case, as well. Give me one second.

26 This is the proposed plan that we offer that we were

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trying to honor that by creating one more bedroom. We also want the kids to have a safe designated place to play. So pushing it back to the requirement will cut down the entire play room, that will still jam up everybody at the front of the house.

MEMBER DONATELLI: I understand your client's desire and need for this, but there are five factors under law, which we, as a Board, are required to consider in looking at these applications. Maybe what I can do is go through these factors with you quickly, and then maybe what you can do is try and provide an answer based on the client's needs and the application.

MS. XIE: Sure.

MEMBER DONATELLI: So the first factor: Whether an undesirable change will be produced in the character of the neighborhood or a detriment to other properties, nearby properties, if we were to grant this variance.

MS. XIE: I believe because, number one, we are going to use the same materials as the rest of the house. So the other addition will blend into the house. And the other thing is that we only propose one story. So within the fence and within the house itself, it's on a hillside. So, like, when you are walking on the street, looking up, it won't be so obvious. And also, because it blends in, it won't look like a secondary addition, it won't destroy the character of the

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neighborhood as a look.

MEMBER DONATELLI: Whether the benefit sought by the applicant can be achieved by some other method, which would be feasible for the applicant to pursue, but which would not require a variance.

MS. XIE: That was what I just explained as cutting half is, number one, it doesn't need the fence. And number two, it's the physical constraint that I have to provide storm water drainage in the backyard, that the house cannot extend further back. So a 20 feet reasonable extension is really going to help them to increase their life quality. And also, if I cut down, it also does not look as nice as one piece of flat wall when you are walking in the neighborhood.

MEMBER DONATELLI: Third factor: Whether the requested area variance is substantial.

MS. XIE: What we are asking is only the front -- the second front yard setback. Our GFA, our lot coverage, everything else is within the zoning code. So what we are trying to do is just aligning the side of the house. I don't believe that's substantial. Once it gets constructed, it will blend into the house. It will not be significant to show us a rear piece that we are adding onto the property.

CHAIRMAN MAMMINA: Also, just a partial answer you may want to consider to support that, you had said earlier that the lot was a substandard lot and that it would be a 50-foot lot if

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it was constructed today?

MS. XIE: Yes.

CHAIRMAN MAMMINA: And would that set the building --
the house back further than that if you had that extra 10 feet?

MS. XIE: If we do have to, we may not need the
variance for the 20-feet secondary setback. But right now, we
only have 40 feet.

MEMBER DONATELLI: Let me just be clear. These are
five factors that we, as a Board, are required to consider. We
weigh them. It's not absolute that you have to meet each and
every standard. We try and weigh each and every instance, the
benefit to the applicant versus the detriment to the community.
I would argue -- and again, not necessarily saying either for
or against, but I would argue that an 11.1 foot variance on a
20-foot secondary front yard setback is significant. I don't
know that you can argue that it isn't significant. On the
other hand, that's only one of five factors that we are
required to consider. So I might disagree with you. And I
think that it's important that we put that on the record. Let
me go on.

The fourth factor: Whether the proposed variance will
have an adverse effect or impact on the physical or
environmental conditions in the neighborhood.

MS. XIE: I believe the addition will increase the
volume of the house. It will benefit the neighborhood. And

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then physically, it will blend in. It's being blocking partially by the fence and it will not destroy the physical look of others in the harmony of the neighborhood.

MEMBER DONATELLI: And how about the environmental aspect of the neighborhood?

MS. XIE: We keep all the rain water out on the side. We do all the right things to make the house environmentally friendly. So I don't believe that it will destroy the environment of the neighborhood, as well.

MEMBER DONATELLI: Fifth factor: Whether the alleged difficulty is self-created? So in effect, yes, by making this application, this is self-created. However, as I said before, no one answer to these five factors is determined that it's necessarily one way or the other, but do you want to address that?

MS. XIE: By doing the rear addition, yes, it's our choice, but due to the current site constraint, to my client's economic situation, the family situation, I will believe that that's a necessary step for us to create a better living environment for my client. And as a community, I believe everybody loves to live in Great Neck and they would love to stay in the neighborhood as much as they can, so.

MEMBER DONATELLI: Thank you for that. I know that I interrupted Mr. Francis.

VICE CHAIRMAN FRANCIS: Yeah, that's fine. I would

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like to turn your attention to the second page, your page, that shows the actual addition. I'm interested in the -- I'm sorry. Your third page. I'm interested in the deck on top of the addition. First of all, how high is that deck from ground level?

MS. XIE: That is 13 feet 6 and a half. That's, basically, the first floor roof.

VICE CHAIRMAN FRANCIS: Okay. If I'm standing on that deck looking to your backyard, what am I looking at? Is there a house back there, is what I'm really saying?

MS. XIE: I believe behind that it was a community facility. It's buried by the greens.

VICE CHAIRMAN FRANCIS: Okay. So if I'm standing on the deck, I'm not looking into somebody's bedroom?

MS. XIE: No. It's an apartment building group and separated by heavy greens.

VICE CHAIRMAN FRANCIS: Trees?

MS. XIE: Yes, trees. And they also have a setback enough that are far away from my client's rear yard.

VICE CHAIRMAN FRANCIS: So you can't see the windows and you can't see people in the building?

MS. XIE: Hold on. I don't believe so.

VICE CHAIRMAN FRANCIS: Because that's a very, very high deck. It's also a very big deck.

MS. XIE: Okay. So here is the look that you have.

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2 VICE CHAIRMAN FRANCIS: Okay. So that's looking from
3 the house?

4 MS. XIE: That is actually looking to the rear of the
5 house and this lean on is going to be removed.

6 VICE CHAIRMAN FRANCIS: All right. Okay.

7 MEMBER DONATELLI: Now, as I look at the elevation of
8 that page and I am looking at the proposed extension, I see
9 that there are no windows on that side.

10 MS. XIE: The windows are all located in the rear yard.

11 MEMBER DONATELLI: But my question is, if this gets
12 built, are we going to have half a wall or a wall on that
13 section without any windows?

14 MS. XIE: That's what we propose.

15 MEMBER DONATELLI: Is there a reason for that?

16 MS. XIE: The setup of the space is once you walk in,
17 you can see the window directly to the rear yard to get the
18 best view. And then when you walk into the house, because the
19 side yard is a quieter location, so we decided to set the patio
20 off the back facing to the side. So all of the views are going
21 to the rear yard instead of the side yard, that's why you don't
22 see windows on this wall.

23 MEMBER DONATELLI: Are you able to approximate the
24 distance between the side of the applicant's house and the
25 distance between the side of the house and the side of the
26 neighbor's house immediately adjacent?

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MS. XIE: So our side yard is 6.5 feet. So the neighbor's, at a minimum, their side yard is 5 feet.

MEMBER HERNANDEZ: So they have the driveway there.

MS. XIE: Okay. So the driveway makes it another 8 minimum. So we are looking at 15 feet away from the side.

MEMBER DONATELLI: I have no further questions.

MS. XIE: Thank you. Thank you.

MEMBER DONATELLI: So I'm just going to state for the record that the 2009 application that was made by a prior owner for a gross floor area variance, that was granted, but the applicant or the prior owner never built that and therefore, that 2009 application really expired. But I just want to make it explicit on the record that even though the variance was granted then, it has expired. The premise was never built with that variance. And because that is a pretty big ask, that ask would have been a pretty big ask, I think it's the consensus of the Board that we are going to reserve decision on this. I think we probably want to have some findings on it. So I thank you for your application.

MS. XIE: Sure. So that means that I should contact the Board in a couple of days to find out?

CHAIRMAN MAMMINA: Probably, after the next hearing, but you can contact them in a couple of days, if you would like just in case.

MS. XIE: I'm crossing my fingers every single

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application.

CHAIRMAN MAMMINA: You know, we get it. I mean, people are anxious to start and we try our best to assist everyone, but at the same time, we have an obligation to the other constituents of the town. Because as I said, this is a judicial body in some ways. So once we grant something for one person, you know, somebody else comes with a similar application and we have to be able to separate why we granted one, but maybe we denied another one. Okay. Thank you.

MS. XIE: Okay. So I will patiently wait, but thank you for consideration and please help them.

1 APPEAL #21294

2 CHAIRMAN MAMMINA: Thank you. Ms. Wagner, please call
3 the next case.

4 SECRETARY WAGNER: Appeal #21294 - Michael Levitt; 33
5 Crescent Rd., Port Washington; Section 6, Block 33, Lot 11;
6 Zoned: Residence-A. Variances § 70-30(B) and 70-208(F) to
7 construct an addition that will be too close to a street
8 (secondary front lot line) on a non-conforming building.

9 CHAIRMAN MAMMINA: Okay. You heard Appeal #21294,
10 Michael Levitt. Is there anyone in the room interested in the
11 application other than the applicant? Seeing no one. Please
12 give your name and address.

13 MS. MILLER: Janice Miller, Architect; 2 Lincoln Place,
14 Port Washington, New York.

15 CHAIRMAN MAMMINA: Good morning.

16 MS. MILLER: Good morning. I'm here on behalf of the
17 Levitts. They have a 1920s colonial in Beacon Hill in Port
18 Washington, which is on the corner of Crescent Road and Ridge
19 Drive. What we are asking permission for is to construct a 51
20 square foot little addition adjacent to the existing mud room,
21 but as it is, it's non-conforming. And we would be increasing
22 the non-conforming to be 5 by a foot. So we would only have a
23 4-foot setback on the Ridge Drive side. The reason we are
24 doing this is because their refrigerator currently is in the
25 mud room and we are just trying to make the kitchen something
26 that will work better for their family. By getting the

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2 refrigerator out of there and increasing it minimally, the
3 house is going to work much better for them. They would love
4 to stay in this neighborhood. What else can I tell you?

5 I have a letter and a picture from a neighbor who is in
6 support of the application. And she suggests, and I kind of
7 agree, that Ridge Drive might have been added later. This lot,
8 it's in a Residence-A and it's not 8500 square feet, it's
9 something like 7000 square feet. And it really looks like that
10 street carved into their property, the east side of their
11 property. The house, as you can see from -- I don't know if
12 this picture, Ginny, did it ever get to anyone?

13 SECRETARY WAGNER: Yes, that was included.

14 MS. MILLER: Okay. You can see that there is -- did
15 this one also get in? Ridge Drive is quite a bit higher. This
16 addition is not really going to be visible to anyone and it
17 would really change the house for them.

18 MEMBER DONATELLI: Ms. Miller, do you want to go over
19 the five factors very briefly for us?

20 MS. MILLER: I could. Sure. The first one is that the
21 undesirable characteristics of the neighborhood or could you
22 refresh me on the first one?

23 MEMBER DONATELLI: Sure. Whether an undesirable change
24 will be produced in the character of the neighborhood or a
25 detriment to nearby properties would be created if we were to
26 grant the variance.

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MS. MILLER: I feel it's really so minimal, there is no detriment to the neighbors. It's really not visible at all.

MEMBER DONATELLI: Do you want to talk about the fact that Ridge Drive at that point is actually higher?

MS. MILLER: It's quite a bit higher. I supplied a picture that shows it. It's really not visible. I think what they did is build that later to accommodate the neighborhood next to it, to link them to each other. It really looks, to me, if you look at the survey, you can see there was stairs going up, that it was always there and a piece of that was a part of this property, but I don't think it's a detriment.

MEMBER DONATELLI: And second factor: Whether the benefit sought by the applicant can be achieved by some other method that would not require a variance.

MS. MILLER: I really tried. What we are trying to do is just make the kitchen workable. The backyard is only 17 feet. So essentially, we would have had 2 feet to work with. I tried many different ways to attack this, but I don't find anything that works as well, which is why we are here.

MEMBER DONATELLI: Third factor, and you may have touched on this: Whether the requested area variance is substantial.

MS. MILLER: It is substantial as far as this setback because it's non-conforming to begin with. So yes, we are asking for a rather large secondary front yard setback.

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2 MEMBER DONATELLI: But it's in line with the existing
3 bump-out that's already there?

4 MS. MILLER: Yes.

5 MEMBER DONATELLI: Whether the proposed variance will
6 have an adverse effect on the physical or environmental
7 characteristics of the neighborhood.

8 MS. MILLER: I don't believe it does in any way. I
9 think it's designed to incorporate to what is there. It's a
10 lovely home. It's a small addition and it will look like it
11 was part of that mud room. Same one-story hip roof, same
12 materials. I don't believe that it really is deleterious in
13 any way.

14 MEMBER DONATELLI: And the fifth factor, of course, is:
15 Whether or not this is self-created.

16 MS. MILLER: The lot is the way it is. The house was
17 set on a lot in a certain way. I think that it's not
18 self-created. And I really did try other options not to have
19 to, you know, seek a variance.

20 VICE CHAIRMAN FRANCIS: Almost every application when
21 that question comes up, almost all applications are
22 self-created in that your client purchased the house and you
23 are doing the addition, so it is a self-created addition.

24 MS. MILLER: Right.

25 VICE CHAIRMAN FRANCIS: But that's not detrimental.

26 MS. MILLER: I guess, our approach was to ask for as

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little as possible to make it a place that -- they have a young family and they really want to stay. It's a lovely neighborhood. So the approach, you know, was just to make it work.

MEMBER DONATELLI: I will say that I'm right around the corner, so I pass by this house routinely. And it is a beautiful neighborhood and it's a beautiful house. May I ask a question? There is currently right now a fence that comes up right against Ridge Drive, is that your client's fence?

MS. MILLER: I have to check the survey.

MEMBER DONATELLI: It's, I believe, a wooden picket fence or a stockade fence.

MS. MILLER: I have to say I don't know the answer and I don't see it on the survey.

MEMBER DONATELLI: All right. Yeah, it is shown on the site plan.

MS. MILLER: I see a wood fence on the survey, but it's past their property line.

CHAIRMAN MAMMINA: Yeah. I mean, we recognize that, but frequently, there will be or, from time to time, there is a fence that is off of someone's property line, but it is their fence. This is the Town Board.

MEMBER DONATELLI: Did your client or a prior owner, to your knowledge, put up that fence?

MS. MILLER: You know, I can't answer that because I

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don't know. They haven't been in the house that long. I don't know that they put it up. I would guess it was there.

MEMBER DONATELLI: As I said, I do pass by there routinely on the way to my house. And I know that when we do get applications for houses, particularly on corners, fences are very problematic. And all other factors being equal, we would not have approved a fence that is right up against the street and that is in violation of Town Code.

MS. MILLER: How is that their -- it's not their property, so.

MEMBER DONATELLI: Well, we are not really able to answer any legal questions. So that, unfortunately, I can't help you work with through that process, but what I would urge you to do to avoid any problems in the future -- and I would say probably -- but this is not a decision we would make on this application -- but I would urge your client, if he did put up that fence or if a prior owner did, that any fencing on any property in the Town of North Hempstead should be in compliance with the code, and that fence is not, unless we granted a variance, and I don't believe that we would have granted such a variance for this.

MS. MILLER: But they don't even own that, so how could they even ask for a variance?

MEMBER DONATELLI: Sometimes people put up fences even on property that they don't own. And I don't know if this is

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2 the case, but it does create a question in my mind. So I would
3 urge your client to really look into that.

4 MS. MILLER: All right.

5 MEMBER DONATELLI: Does anyone have any comments on
6 this application? Oh, yes. I'm sorry. Did you want to
7 address the issue of the AC conditions?

8 MS. MILLER: Yes. I spoke to my client. We are going
9 to relocate it. There is no air in this house. So it's all
10 new. So we will either put it in the rear or the other side.
11 We won't put it there.

12 MEMBER DONATELLI: All right. So even though the
13 air-conditioning units were not cited in the Notice of
14 Disapproval, you will install them in a compliant spot?

15 MS. MILLER: Yes.

16 MEMBER DONATELLI: So that would not be part of this
17 application?

18 MS. MILLER: No. Since it's new, it really isn't an
19 issue because they are running all of the lines. They never
20 ran them yet, so it's easy to do.

21 MEMBER DONATELLI: Just give us one moment, please.

22 MS. MILLER: Yes.

23 MEMBER DONATELLI: So Ms. Miller, the comment has been
24 made by Ms. Wagner, and I think it's a valid comment, that
25 because the plans show the air-conditioning units that are now
26 no longer part of this application, it will be best for us to

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have plans not showing the air-conditioning unit as part of the plans so that if and when the Board acts, it will be clear on which plans we are voting on. Do you know when you might be able to get such plans back to us?

MS. MILLER: Tomorrow.

MEMBER DONATELLI: Very good.

MS. MILLER: Just whiteout or something or you should put "revised" on them?

SECRETARY WAGNER: What probably would be the best way is you are going to end up showing it in a different spot for the builder, anyway, so you will just submit it to them and give us the same plans. And then whatever is submitted on the portal, that way when they get it back, it's not a different plan than what you are going to give them.

CHAIRMAN MAMMINA: Yes.

MEMBER DONATELLI: So I would suggest that we continue for new plans, with the deletion of the air-conditioning units or the relocation of the air-conditioning units.

CHAIRMAN MAMMINA: And I would say on the next meeting, we can act on the application.

MS. MILLER: So we will get a decision after your next meeting?

CHAIRMAN MAMMINA: Yeah, I would think so.

MS. MILLER: And I don't have to appear again?

CHAIRMAN MAMMINA: No, thank you.

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MEMBER DONATELLI: So just get those over.

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MS. MILLER: I will. Thank you. No problem.

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CHAIRMAN MAMMINA: Thank you.

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2 CHAIRMAN MAMMINA: Next case.

3 SECRETARY WAGNER: Next Appeal, Appeal #21295 - Yitu
4 Zhang; 53 Fairview Avenue, Port Washington; Section 6, Block
5 14, Lot 734; Zoned: Residence-C. Variance § 70-100.2(A)(2) to
6 legalize fencing in a front yard.

7 Mr. Zhang, I just want to let you know that we did
8 receive some correspondence regarding this, but it was kind of
9 late. So I haven't had an opportunity to forward that to you,
10 but I will. So I don't know. The Board is aware of that.

11 CHAIRMAN MAMMINA: Should we second call it?

12 SECRETARY WAGNER: So why don't you give your
13 presentation and then we will read that into the record. And
14 if you want to address anything from that, you can do it again.
15 You give your presentation and then we will make you aware of
16 what the opposition is.

17 CHAIRMAN MAMMINA: So you heard Appeal #21295, Mr. Yitu
18 Zhang. Is there anyone in the room interested in the
19 application other than the applicant? Seeing no one. Please
20 give your name and address.

21 MR. ZHANG: Yeah. Good morning. My name is Yitu
22 Zhang. I live in 53 Fairview Avenue in Port Washington, New
23 York.

24 CHAIRMAN MAMMINA: Good morning.

25 MR. ZHANG: Yeah. The subject of my application is I
26 built in the front of my yard, I built my fence, the metal

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fence that's in front, the front side and the left side.

VICE CHAIRMAN FRANCIS: And the problem is that fences are not allowed where you installed your fence.

MR. ZHANG: Yes. The front of my house is a little special. It's only to the sidewall is just 16 feet. And the head of my house is other two buildings. It's an apartment building and some tenants are there. So during 9:30 or 10:00, some people, they walk around and they smoke. And I saw some people, they stand in front of there. And the next day, I saw the butt of the cigarette and some needle for the shot, so that's one reason.

MEMBER DONATELLI: May I ask you, have you called the police or have you called 311 to complain?

MR. ZHANG: I didn't call police or complain, but my neighbor, the lady on the right side, she write some letter to the owner of the apartment building, but it didn't make that big reaction.

MEMBER DONATELLI: So you know, people are allowed to smoke.

MR ZHANG: I know.

MEMBER DONATELLI: Are you saying that you find these things on your property?

MR. ZHANG: Yeah, the butt on my property. The person step on the front yard of my property. Because the people just walk around the front from the corner, but sometimes the guy,

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he just step on the property on the sidewalk in front of my yard, and that's the reason. Sometimes, I saw he step on my property.

MEMBER DONATELLI: Did you build the fence yourself?

MR. ZHANG: Yes.

MEMBER DONATELLI: So you installed it yourself?

MR. ZHANG: I installed the fence.

MEMBER DONATELLI: And when did you install it?

MR. ZHANG: The winter. During the winter.

MEMBER DONATELLI: Of this past year?

MR. ZHANG: That's the past year, right.

MEMBER DONATELLI: So it would have been 2021 and 2022?

MR. ZHANG: Yes. It was probably January '22, sir.

MEMBER DONATELLI: All right. Please continue.

MR. ZHANG: Thank you. And also, because it has a school bus stop at the right corner, so sometimes the kids walk around and run from the front of my yard. And I have a dog, it's a big dog. It's a mix of Doberman and Golden Retriever. So it's in the rear of my house because I don't want to scare the kids, that's the second reason I build the fence.

MEMBER DONATELLI: So I'm not sure that I understand. The dog is a big dog and you have a school bus stop in front, but you have an area fenced off in your rear yard?

MR. ZHANG: No. I used to put my dog in the rear yard before.

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2 MEMBER DONATELLI: So does the fence do anything to
3 protect the children from the dog in the front yard?

4 MR. ZHANG: Yes, sir.

5 MEMBER DONATELLI: Can you explain that?

6 MR. ZHANG: Right. So in case they run in the front of
7 my yard. Because the fence is here, so they don't use the
8 hands to touch my dog because of the fence in the front to
9 separate the people and my dog from the property. You know, I
10 have some beautiful flowers and a small pond of fish in the
11 front yard during the summer. And the kids like to walk in
12 front of my yard to look at the fish. So this summer, I didn't
13 bring my fish into the front of the yard.

14 MEMBER DONATELLI: I'm sorry. Your what?

15 MR. ZHANG: I have some flowers in the front yard and I
16 have a tank of goldfish, it's a red color goldfish. Last
17 summer, I put in my front porch, the front yard porch. So the
18 kids, the little girls, they like the red color fish. So she
19 goes to visit with her parents, but this summer I didn't bring
20 the fish in front or from the side because I don't want the
21 girl or the kids.

22 CHAIRMAN MAMMINA: Where is this place? You are saying
23 it's an office building?

24 MR. ZHANG: Oh, yeah.

25 CHAIRMAN MAMMINA: Because it looks like it's all
26 residential. I don't see an office building.

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2 MR. ZHANG: Sir, yeah, it's behind my house. If you
3 check on the Google Map, you can see on the corner, Highland
4 Avenue, that's two small apartments. I heard many, many years
5 ago it was a single house, but some people, they took down and
6 build the apartment so some tenants live in there.

7 CHAIRMAN MAMMINA: But they walk around through your
8 backyard or the neighbor's backyard?

9 MR. ZHANG: Yeah. They walk around from Highland
10 Avenue and they go to my front in the Fairview Avenue.

11 MEMBER DONATELLI: So sir, may I ask you some other
12 questions? You indicated that you installed this fence last
13 winter. Did you do any other work to the house? Did you put
14 any pavers or any paving in front of the house?

15 MR. ZHANG: Correct. This spring it got warm and I put
16 some pavers on the front yard.

17 MEMBER DONATELLI: Pavers?

18 MR. ZHANG: Pavers.

19 MEMBER DONATELLI: Did you do that yourself?

20 MR. ZHANG: Actually, it's my friend and me.

21 MEMBER DONATELLI: A friend and you did it?

22 MR. ZHANG: Personal friend.

23 MEMBER DONATELLI: Did you have a permit from the town
24 to do that?

25 MR. ZHANG: I applied for the permit.

26 MEMBER DONATELLI: I'm sorry?

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2 MR. ZHANG: I applied for the permit.

3 MEMBER DONATELLI: You applied for the permit?

4 MR. ZHANG: But did not get it confirmed yet.

5 MEMBER DONATELLI: I see. So you did the work without
6 the benefit of a permit?

7 MR. ZHANG: Yes.

8 MEMBER DONATELLI: And have you been advised as to the
9 status of the permit for the pavers?

10 MR. ZHANG: I'm sorry. Because I checked and I don't
11 know the policy here. I'm from Stamford in Connecticut. So I
12 checked with my neighbor on the left side. He said just to put
13 the paver. Probably, you don't need the permit.

14 MEMBER GOODSSELL: Well, your property, is it flat or
15 does it slope?

16 MR. ZHANG: It's a slope from my property. My house is
17 a little north.

18 MEMBER GOODSSELL: So from the front to the rear, does
19 it slope down?

20 MR. ZHANG: There is a slope down, yes.

21 CHAIRMAN MAMMINA: Well, it's fairly slight.

22 MR. ZHANG: It could be very slight, but in my
23 basement, you can see about it from the rear of my house.

24 MEMBER GOODSSELL: That's what I thought.

25 CHAIRMAN MAMMINA: I guess, our point here is that I'm
26 not the Building Department, but you are not permitted to pave

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your front yard. I mean, there is only 40 percent that you are allowed to do. You can't pave your entire front yard. And if you did, I think you have to put in drywall for that, I think. Again, I'm not the Building Department.

MR. ZHANG: Yes.

CHAIRMAN MAMMINA: And it looks like your survey shows a hedge that was on there. Now, I know this is an old survey from 2016.

MR. ZHANG: Yes, sir. It has driveway access from the front.

CHAIRMAN MAMMINA: Yes, it's on the right-hand side.

MR. ZHANG: But I didn't include the paver on that part. So the driveway is driveway.

MEMBER DONATELLI: We understand.

CHAIRMAN MAMMINA: Your driveway is already paved?

MR. ZHANG: Yeah, it was.

MEMBER DONATELLI: Again, just as with the other applicant, I'm probably equally distant from your home as I am from the other applicant's home. So I am very familiar with Fairview, I live not that far.

MR. ZHANG: Okay.

MEMBER DONATELLI: People love Port Washington. It is a very special place. In my opinion, part of the reason why people love it is because it looks the way it does. And that is not really not an accident, that is really a product of our

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1 zoning code and of the enforcement and, hopefully, in no small
2 part of some of the work that we do here, as a Board and of the
3 Building Department. So the town does not allow for fencing in
4 the front yard. On extremely limited occasions that I can
5 recall, we have made some allowances, but, really, to my mind,
6 not for something like this. We are not, as the Chairman will
7 often say, we are not in the business of denying applications.
8 We try to hear every application and we try to be as fair as
9 possible in considering the factors that we are required to
10 weigh by law. But again, the reason why people love Port
11 Washington and the Town of North Hempstead is because of the
12 building code, people are not allowed to build whatever they
13 want to build because it looks a certain way and we try and
14 preserve that look. So this is not a problematic application.
15 There are many other ways that you can achieve the same thing
16 as a fence. For example, there are no regulations as to
17 shrubbery. As long as you don't ruin sight lines of traffic or
18 an intersection, you can have shrubbery that will achieve the
19 same thing and might keep people from smoking in front of your
20 house or might provide you the privacy that you crave. I'm
21 only one Board Member, and I certainly haven't reached a
22 decision on this application, but I will tell you that
23 applications like this we typically will not approve.

24 MR. ZHANG: Sir, one more thing is on my right hand, my
25 neighbor, they have a fence there and it's in the front yard of
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her house. So, basically, I just actually did an extended of her to here.

MEMBER DONATELLI: Yeah, I see that. And certainly, that application, we don't know whether or not that was approved. We don't know whether or not that was installed prior to the fence ordinance in the Town of North Hempstead. So there are lots of reasons why that may be there. Or, we also don't know if that person actually just installed it without the benefit of a permit. We just don't know. But what we do know is that when we are confronted with these applications, we try to preserve the character of the neighborhood. And if there is a fence there, it typically should not be there, unless it's approved by this Board or by the Town of North Hempstead pursuant to the building code. Front lawns, everyone loves a front lawn, so that's the reason why, as the Chairman said, we don't allow paving over, I believe, it's 40 percent of the front lawn. Because otherwise, then it starts to look like certain areas of Brooklyn and Queens, which, of course, is part of the reason why people leave Brooklyn and Queens to come here. So your application presents some questions that have to be resolved. May I ask one other question? Did you receive a violation from the Town of North Hempstead?

MR. ZHANG: Not yet.

MEMBER DONATELLI: Not yet?

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MR. ZHANG: No.

MEMBER DONATELLI: Were you visited by the Building Department?

MR. ZHANG: I was visited by the Building Department.

MEMBER DONATELLI: And you were given a warning?

MR. ZHANG: They gave me an e-mail. They said you have to send the application, so I sent the application. They said you have to apply for a variance.

MEMBER DONATELLI: But you don't have anything pending in court just as of yet?

MR. ZHANG: No. I build the small fence, it's very beautiful. Probably, it's more like this material, the steel pole.

MEMBER DONATELLI: I'm sorry? It's more what?

MR. ZHANG: I built the fence, it's very beautiful there. So I can provide picture, if you want.

MEMBER DONATELLI: No. I understand. And in preparation for this hearing, as do all of our Board Members here, we try to visit the properties. We go around the properties, we try to visit them. So I actually have been up and down your street and I have been to look at it. We are not an aesthetic Board. So, you know, if you built something to code and it's the ugliest thing that you could have possibly built, we have no right to say anything. On the other hand, you may build the most beautiful thing in the world, but again,

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2 if it's not to code, we are not allowed to consider that. I
3 am, again, very familiar with this area. It's the park section
4 of Port Washington. We try to preserve the character of the
5 neighborhood. There are a few properties that come to mind
6 that do have fences. However, the large majority of the houses
7 in this area do not have fences. And again, as one Board
8 Member, I can't remember approving a fence in this particular
9 area. And when we have done it, we've really done it, I think
10 in one situation, we had it for a medical reason. A doctor
11 actually submitted a letter that one of the children in the
12 house required some special attention, that's the only
13 instance. Because if there is a fence in that area that was
14 installed without this Board's approval, it is against Town
15 Code and we are not really free to vary from that without a
16 compelling reason.

17 CHAIRMAN MAMMINA: I will just echo, you know, what
18 Member Donatelli, you know, had said. We don't write the
19 zoning. We don't enforce the zoning. The Building Department
20 enforces the zoning. But the Zoning Board is here to say,
21 well, maybe in this instance there is, what we call, a
22 balancing test. You know, there is a reason for that fence in
23 this instance. And as Member Donatelli had said, in very rare
24 instances, potentially, where we have a house on a corner lot
25 that's just so small and they have nowhere to have any outdoor
26 recreation space at all, we might approve a fence with

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2 landscaping in front of the fence that will cover that fence.
3 But in this instance, your house is no different than any other
4 house up and down the whole block. And the Town Board creates
5 the zoning, as I said and as Mr. Donatelli said, and the
6 continuous lawns and landscaping is what the Town Board is
7 looking for. So by giving you that fence in a front yard and a
8 side yard, we can't differentiate yours from anyone else that
9 comes in to ask for a fence like that. You know, for myself,
10 just as one Board Member, I don't see how we would have any
11 mechanism based on the consistency of this Board to grant
12 either one of those fences. You have the option to put your
13 landscaping back. I mean, that's okay, and that's considered
14 acceptable to the Town Board, but I would not be able to vote
15 for this fence based on a lack of meeting those five standards.
16 Does it change the character of the neighborhood? Yes, it
17 does. It's got a fence in the front yard that was built
18 without a permit. I mean, we have people who come in. Just so
19 you understand, we have people who will come in with pictures
20 of other people's fences on corner lots. And we will ask them,
21 were those put in without permits? And typically, either they
22 might know or they may not know. We are not looking for one
23 person to create a problem for all of their neighbors. And
24 certainly, you can call the Building Department and say, you
25 know, I think that this fence was put in without a permit or
26 you could go and research that, you know, yourself. And I'm

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going to tell you probably 99 times out of a 100, it was put in with no permits. So I just don't see what we can do in this instance.

MR. ZHANG: Okay.

MEMBER DONATELLI: But I would urge you again to consider landscaping. That, will achieve a lot of what it is that you are trying to achieve and still be compliant with the code.

CHAIRMAN MAMMINA: And continue to what your neighbor next door has.

MR. ZHANG: I'm sorry?

CHAIRMAN MAMMINA: And continue to what your neighbor next door has, who has a continuous hedge across the whole front of his property.

SECRETARY WAGNER: So we have a letter that was sent in opposition, so I am just going to read that.

CHAIRMAN MAMMINA: Sure.

SECRETARY WAGNER: So this is a letter that was sent in by the owner of 49 Fairview Avenue in Port Washington.

"Thank you to the Board for the opportunity to submit comments into the record."

It's stating that as your neighbor, they are aware that you have lived there for three or four years. And they advised you that when you started construction that, perhaps, you needed to apply for permits. And you assured them that

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1 everything was being done in the correct way. And then they
2 witnessed that you were removing your front lawn and replacing
3 it with patio bricks. And they were concerned about that
4 because of the potential for water damage and run-off. And
5 then with regard to the fencing, they say that it obstructs the
6 ease of parking in your driveway. And as a result, guests are
7 forced to park on the street. And they recently had reminded
8 you that there is no parking within 20 feet of the corner of
9 that street. They said that they are a dog owner. And when
10 you also got a dog, they understood the necessity of a fence
11 because there have been several pets that have been killed on
12 that street. However, all of the pet owners in that section
13 constructed fences, which are in line with the homes and not in
14 the front yards. And once again, reiterating that if you had
15 applied for a permit, you would have been aware that that was
16 not allowed to have the fence in the front yard. And that
17 there is the fence -- that the dog that the fence was
18 constructed for no longer lives in the home and there doesn't
19 make a need to have the fencing in the front yard. They just
20 state that the fence should be removed and that will allow
21 access to your driveway and that will eliminate the crowding on
22 the street. And also to recommend that you further investigate
23 how drainage will be provided for the bricked front yard, which
24 is not part of this application.

25
26 There was another letter that was submitted by a

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1 neighbor at 56 Fairview Avenue pretty much stating the same
2 concerns. That if you had asked any of the neighbors, they
3 would have recommended that you filed for permits in order to
4 put up the fence. That the area is very congested and that
5 they feel that if the fence were removed, there would no longer
6 be a need to park vehicles in the street. That some of those
7 vehicles are project vehicles and they are parked on the
8 street, and it's hard for them to back out of their driveway
9 when those vehicles are parked on the street. We just note
10 that the street is the location of daily bus stops and school
11 traffic. So in the mornings and the afternoons, it's
12 particularly difficult to navigate that street. And that the
13 fence deters visitors or delivery trucks from pulling into your
14 driveway to make room, which makes it difficult for school
15 buses and regular traffic to get by. It makes an unsafe
16 condition for the neighborhood. So it is their position that
17 the fence be removed.

18
19 CHAIRMAN MAMMINA: May I say one other thing just in
20 case you are not clear, which I think was, at least, intimated
21 in the letter from the neighbor, is that you can have a 4-foot
22 fence at the setback of your house, and that is permitted.
23 That's still not going to take care of your front lawn area.
24 Well, I guess, it's brick pavers now. But you are allowed a
25 fence there with a building permit. So I don't know that it
26 helps you there, but, that, you don't have to come to the

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Zoning Board for.

MR. ZHANG: Just state that again.

CHAIRMAN MAMMINA: Excuse me?

MR. ZHANG: Could you repeat that again?

CHAIRMAN MAMMINA: Certainly. Where the front line setback of your house is, okay. I don't have the drawing here, but let's say it's setback 25 feet. You are allowed to have a fence that goes straight in line with that 25-foot setback. And where you have your driveway going to the backyard, you can put a gate on there that you can open when you are driving your car in or taking your dog for a walk. But there, you are permitted a 4-foot fence on that point without coming here.

MEMBER DONATELLI: So the fence cannot be forward of the front building or cannot come farther toward the street than the front of the house. And at that location, you can have, as the Chairman said, a 4-foot fence. Along the side, you are allowed a 5-foot fence. Along the rear of your property line, you are allowed a 6-foot fence. The reason why you're here and what we are having so much difficulty with is the fact that you put the fence right up in front on the street on the sidewalk. If you had done that at the front of your house, at the front building line, then the permit would have been granted. You still need a permit from the Town.

MR. ZHANG: Right.

MEMBER DONATELLI: But that is allowed under code.

1 APPEAL #21295

2 MR. ZHANG: Okay. So currently, my front, the fence,
3 it is at the front of my house.

4 MEMBER DONATELLI: No.

5 VICE CHAIRMAN FRANCIS: We are talking about your
6 physical house.

7 MR. ZHANG: Oh, the physical house.

8 VICE CHAIRMAN FRANCIS: The front wall of your house,
9 that's where we are talking, where the location of your fence
10 would be legal. Not all the way to the front of your property.

11 ATTORNEY ALGIOS: If this is your house and this is
12 your front door where my finger is, you can have a fence going
13 here and a fence going here to the side. You have the fence up
14 here on your street, you can't have that.

15 MR. ZHANG: I got you. So I need to submit an
16 application for that, right?

17 CHAIRMAN MAMMINA: Yes.

18 MEMBER DONATELLI: And we encourage neighbors to --
19 because everyone loves their neighborhood. So these neighbors,
20 they submitted the letters and we encourage good neighbors.
21 But again, our job really is to try to assist in enforcing the
22 Town Code where ever possible. And again, I would urge you if
23 you do want some level of privacy, that maybe you consider some
24 shrubbery. Anything else that you want to add?

25 MR. ZHANG: How about the pavers?

26 MEMBER DONATELLI: Well, that's not before us. So I

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would urge you to follow-up with the Building Department.

MR. ZHANG: Yes, thank you. Thank you very much.

MEMBER DONATELLI: So sir, regrettably, I make a motion
that we deny the application.

CHAIRMAN MAMMINA: Do we have a second to that motion?

MEMBER HERNANDEZ: Second.

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

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. So the application is denied
for the factors.

MR. ZHANG: Okay. Thank you.

MEMBER DONATELLI: Thank you for coming.

1 APPEAL #21296

2 SECRETARY WAGNER: Next Appeal is Appeal #21296-
3 Clarence Domingo; 88 Greenway, New Hyde Park; Section 8, Block
4 209, Lot 38; Zoned: Residence-A. Variance from
5 §70-100.2(A)(4)(b) to legalize fencing that is too tall.

6 CHAIRMAN MAMMINA: You have heard Appeal #21296,
7 Clarence Domingo. Is there anyone in the room interested in
8 the application other than the applicant? Seeing no hands.
9 Please give your name and address.

10 MR. HAO: I am an architect. C-H-U-A-N-D-O-N-G H-A-O.
11 I'm an architect from Bayside, Queens. I represent my client,
12 Clarence Domingo, for the fence. The ex-owner, he installed
13 6-foot vinyl fence on the side yard. My client bought this
14 property in 2007. Also, he have three kids. They want to keep
15 the 6-foot fence, so they ask me to submit an application to
16 maintain application for the 6-foot fence. This is the fence
17 on the side yard. This is the rear yard, another one. And
18 this is a corner lot. They want to keep the 6-foot fence,
19 maintain this.

20 VICE CHAIRMAN FRANCIS: Why does he need a 6-foot fence
21 in that location?

22 MR. HAO: Because the ex-owner, he install it.

23 VICE CHAIRMAN FRANCIS: I don't care about the
24 ex-owner.

25 MR. HAO: Okay.

26 VICE CHAIRMAN FRANCIS: Why does he need a 6-foot fence

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on the side of the house as opposed to a 5-foot fence?

MR. HAO: Yeah. Because they have three little kids.
And also, large adult. They want to keep this for the kids
safety. And also, if we keep the 6-foot fence for the
environment --

MEMBER GOODSSELL: Mr. Hao.

MR. HAO: Yes.

MEMBER GOODSSELL: One of the charms of the Greenway,
which is where your client lives, it's like 200 homes, no
sidewalks, lots of green. There is a limited number of fences.
Are you familiar with the Town's Code that says 4 foot in the
front, 5 on the side, 6 foot in the back? That is the Town
Code.

MR. HAO: Yeah, I know. The property that is in the
rear yard, this is a 6-foot fence.

MEMBER GOODSSELL: Correct, I'm looking at that. I see
that.

MR. HAO: Also, this side, it's 6 foot. Ex-owner
supplement the Appeal by the Town.

MEMBER GOODSSELL: I see that there is a prior Appeal,
and that's probably what they are discussing. I see there is a
prior Appeal that was granted by the Board of Zoning Appeals in
1989.

MR. HAO: Yes.

MEMBER GOODSSELL: We have to look at that to see how

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far that fence 6 foot was granted because it does not mean that your client may replace the 6 foot with a brand new 6-foot fence. We have to look at that decision. We don't generally allow a 6-foot fence on a side yard. You have to have a reason why you need a 6-foot fence for the side yard.

MR. HAO: Okay. The reason is this rear fence is 6 foot. This fence is currently here by 1989. This is 6 foot. Now, the ex-owner, he put 6 foot.

CHAIRMAN MAMMINA: I don't think there was a fence ordinance in 1989. If you can submit that, that's good.

SECRETARY WAGNER: This will be Exhibit 1.

CHAIRMAN MAMMINA: And if you have a certificate that shows that it was put in with a permit and it is 6 feet, then the 6-foot fence is fine on that side.

MR. HAO: Okay. I think the ex-owner wanted to keep the same height. They put the 6 foot. Also, this is the interior lot. This is a corner lot. My client just want to keep three little kids inside this playground in the rear yard for safety.

CHAIRMAN MAMMINA: Are his kids going to climb a 6-foot fence?

MR. HAO: They want to keep, so I submitted.

MR. DOMINGO: May I?

SECRETARY WAGNER: You have to come up and give your name and address.

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MR. DOMINGO: My name is Clarence Domingo. I am the owner. I have been living there for 15 years. So when we purchased the house, the fence is that height already, so it is there. And my fence are also my neighbor's fence. They don't have a fence. My backyard is 6 feet, which is, I think, legal.

CHAIRMAN MAMMINA: That's permitted, that's fine.

MR. DOMINGO: And the right side of my house is the backyard of the other house, which is 6 feet, too, which I think that's his fence, too. So we just --

MEMBER HERNANDEZ: On one side of your house, it's part of the backyard and part a side yard.

MR. DOMINGO: Yes, part of the side yard. Yeah, a little bit. It's split.

MEMBER HERNANDEZ: So we can agree that the part that faces the backyard of your neighbor, that could be considered a 6-foot fence, but the part that faces the side yard of your neighbor needs to come down to 5. So the fence will have to, basically, have a notch like this in order for it to be side to side, because the sides need to be 5 feet. And your other neighborhood is side to side. There is no backyard on the other neighbor, correct? It's all a side yard.

MR. DOMINGO: Yes. It's like you can't even notice it. It's like side and then back.

MEMBER HERNANDEZ: Right. So the side yard on the other side also needs to be 5 feet in order for it to be legal.

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So what you should have is this is your house and this is the

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street. This is 5, this is 6, and this part could be 6 because

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it's the backyard of this neighbor. But the moment the

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property changes to the corner neighbor, that needs to be 5.

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That's what the code is. And then coming this way in front of

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your house is 4 feet.

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MR. DOMINGO: Yeah, we have that.

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MEMBER HERNANDEZ: 4 feet, that's what the code calls

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for.

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MR. DOMINGO: The right side, I think we have the

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permit, an old one.

13

MEMBER GOODSSELL: Well, that's what we are looking at.

14

We need to look at that decision. It's not part of your

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application and you didn't submit a copy of that. And in 1989,

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were you even on this Board, David?

17

CHAIRMAN MAMMINA: No. This is 1992, and this was

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about three months before I was on the Board. But being that

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as you may, you know, as was said by Member Goodsell, there is

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a case number 13899 and we don't know what case 13899 says, so

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we are not sure where that is.

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MR. DOMINGO: I'm not sure. I'm thinking probably the

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oldest owner probably had a swimming pool there before so

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that's why we have that fence.

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CHAIRMAN MAMMINA: Then it would not have been a 6-foot

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fence and it would have to be an inground pool.

1 APPEAL #21296

2 MR. DOMINGO: Oh, I see. I see. I'm just thinking.
3 It's been like that and my neighbors never complained.

4 MEMBER GOODSSELL: That's not the standard. When nobody
5 complains, that's not our standard. The fence looks very new
6 to me. It does not look like it was put up in 1989. Did you
7 replace the fence that was there?

8 MR. DOMINGO: Probably, the owner before us, you know.

9 MEMBER GOODSSELL: So that white vinyl fence, you didn't
10 put that up?

11 MR. DOMINGO: No.

12 CHAIRMAN MAMMINA: I am confused only because this
13 certificate of completion says conformed substantially to be
14 approved and on file in this office, permit 3817, 12/5/89, yet
15 the referral to the Zoning Board is April 30, 1992. So again,
16 I'm confused as to the three-year difference, unless the
17 variance was granted in 1989, but they didn't put the fence up
18 until 1992. But unless the grant was renewed several times,
19 you would not legally have that approval anymore, but I'm not
20 refuting.

21 SECRETARY WAGNER: Do you mind waiting a few minutes?
22 So we are going to call the next case and then we will call you
23 back up because we want to investigate the prior variance.

24 MEMBER GOODSSELL: We want to see what that prior
25 variance says.

26 MR. HAO: Okay. I saw this PCE approved in 1989 for

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6-foot.

CHAIRMAN MAMMINA: So you saw the application?

MR. HAO: Yeah, I saw.

CHAIRMAN MAMMINA: Did you take a copy?

MR. HAO: I can mail you the copy.

MEMBER GOODSSELL: Well, we are going to get it now.

MR. HAO: Okay. Just this is 6 foot currently there
since 1989. Okay.

SECRETARY WAGNER: Thank you.

CHAIRMAN MAMMINA: We will do a second call on yours
once we have the application.

MR. HAO: Okay. Thank you.

1 APPEAL #21297

2 SECRETARY WAGNER: Next Appeal is Appeal #21297 - Gary
3 Russell; 190 Urban Avenue, Westbury; Section 11, Block 28, Lot
4 20; Zoned: Residence-C. Variance S70-50.C to construct a 2nd
5 story addition that is too close to the street.

6 CHAIRMAN MAMMINA: You heard Appeal #21297, Gary
7 Russell. Is there anyone in the room interested in the
8 application other than the applicant? Seeing no one.

9 MR. COSTELLO: Good afternoon. My name is T.J.
10 Costello from Hierarchy Architecture in Manhasset. I am here
11 today representing Mr. and Mrs. Russell regarding their request
12 to add a second-story addition. Essentially, it's a very large
13 dormer. Not changing the footprint at all, just a second-story
14 expansion. It already has a second story. It's a cape-style
15 house and we are adding a large dormer.

16 Since the requirement of average setbacks was
17 instituted in 2006, while this project was built in 1958, when
18 all the other homes on the street had conformed to, roughly, a
19 25-foot setback and some further back, when the enactment of
20 the average setbacks was instituted, some that are sitting back
21 further than 25 now cause the others to become out of alignment
22 when requests, such as this, come before the Board. So we
23 believe it's a fairly straightforward addition in a sense that
24 it won't change the streetscape, it will not change the
25 character of the neighborhood. In fact, one could argue that
26 it would improve with the improved facade.

APPEAL #21297

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2 I will just take you through the dimensions being
3 requested. And in summary, that dimension being 26.83 is
4 caused by averaging, but if it were left alone to just a
5 straight number of the required 25 foot, we would already be in
6 compliance, whereas it's already 25.05. So in a sense, one
7 could argue it already complies, but, of course, the average
8 grade throws that over. So this is just a diagram of the
9 streetscape. The shaded portion is the subject parcel and the
10 neighbors to the left and right are 29 and 24. And further to
11 the left are 28 and 24. And further to the right, they are 25,
12 25 and 30. So it's those that are in the 30 to 29 category
13 that cause them to create a 26.83 requirement. The footprint
14 foundation does not change. The first floor does not change.
15 I'm pointing to my origin. And the second floor does not
16 change. The reason that the second floor facade, again, which
17 is, basically, like a large dormer, is aligned with the front
18 facade below is for structural bearing. If I were to conform
19 by bringing the addition in another 1.78 feet, I would have to
20 create a significant bearing load and it has a very complicated
21 point load framing situation near the existing staircase.

22 VICE CHAIRMAN FRANCIS: The fact of the matter is the
23 addition is not going to come any further front forward than
24 the house already is existing?

25 MR. COSTELLO: That's right. And this is an image of
26 the facade. This is the front facade that we are proposing

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with a large dormer and the same plan. And this is an image of what it looks like today, two small tiny doghouse dormers. So if there are any questions?

MEMBER HERNANDEZ: Mr. Costello, the house has those dormers towards the front and from the side, I could see something going back. Has it been dormered back already?

MR. COSTELLO: It has been dormered back already.

MEMBER HERNANDEZ: So you are dormering it forward now?

MR. COSTELLO: Right.

CHAIRMAN MAMMINA: In reverse.

MEMBER HERNANDEZ: Right. But I'm looking at the elevation of the roof. Is the roof going higher than the existing house?

MR. COSTELLO: The roof is going higher and staying within code. It's staying under. The required height is 30 feet and we are 29 and 11 and change.

VICE CHAIRMAN FRANCIS: I guess, the picture is deceiving you because it looks very boxy on the pictures that we are looking at. From the side view, it's much more conforming to what you are saying.

CHAIRMAN MAMMINA: Mr. Costello, I would also, just as a recommendation, say don't make it 29 feet 11 and a half, make it 29.6. Because if it's one inch over, we are going to see you again and we always like seeing you, but we don't want to see you.

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MR. COSTELLO: So you hired that same contractor I have?

CHAIRMAN MAMMINA: That's right. You know exactly what I mean, I never push it, you know, to that.

VICE CHAIRMAN FRANCIS: Also, the one who measures by eye measurement only. Yeah, I think it's a lovely addition. I think it's going to be a very nice addition to the house. I'm very familiar with the block. And unless there is any other comments by any other member, I would move that we grant the application.

MEMBER GOODSSELL: I will second that. It doesn't seem at all out of character with the neighborhood. And it's not like there are a lot of dormers on that block, there is not, there is a few. And I'm surprised more people didn't do that.

CHAIRMAN MAMMINA: So we have a motion by Vice Chairman Francis and a second by Member Goodsell. Deborah, could you poll the Board? Thank you so much.

ATTORNEY ALGIOS: Member Goodsell.

MEMBER GOODSSELL: Aye.

ATTORNEY ALGIOS: Member Hernandez.

MEMBER HERNANDEZ: Aye.

ATTORNEY ALGIOS: Member Donatelli.

MEMBER DONATELLI: Aye.

ATTORNEY ALGIOS: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

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APPEAL #21297

ATTORNEY ALGIOS: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. The application is granted.

MR. COSTELLO: Thank you. Thank you very much.

MEMBER GOODSSELL: Thank you.

ATTORNEY ALGIOS: Why don't we take a five-minute
break.

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

APPEAL #21296 - Second Call

SECRETARY WAGNER: Second call, Appeal #21296, Clarence Domingo; 88 Greenway, New Hyde Park; Section 8, Block 209, Lot 38; Zoned: Residence-A. Variance from §70-100.2(A)(4)(b) to legalize fencing that is too tall.

So the Board has looked at the prior variance and would like to make some comments about it.

MR. HAO: Okay. Thank you.

MEMBER HERNANDEZ: Mr. Chairman, we just received the file back from the Building Department and looked at the prior variance and, as was mentioned earlier by the applicant, there was an approval back in 1989 for a partial 6-foot fence. I cannot see where the north arrow is on this house, but if we are looking at the house, it would be the fence on the right side of the house for the full length of the backyard at 6 feet. The code allows a 6-foot fence on the back of the property, so they kind of were entitled to have the back of the property and the backyard on the right side of the house. What they are now asking for is that we grant a variance for a continuation of that right side of the fence going forward to the front of the house rather than just the back of the house. In addition, they want to mimic the same exact fence on the left side of the house. Now, the left side of the house poses a little bit of a difference in that part of it is the side yard for both houses and part of it is the backyard of their neighbor. Now, because their neighbor already has a right to a

APPEAL #21296 - Second Call

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6-foot fence on their backyard, it wouldn't be unreasonable to allow a 6-foot fence on the applicant's backyard. So what we are really talking about is that section, which comes forward of that rear yard on the side yard, if that makes any sense. So we are talking about two sections of fence both on the client's front yard to make it all 6 feet around is what we are talking about.

MEMBER DONATELLI: I'm sorry. On the side yards.

MEMBER HERNANDEZ: On the side yards, correct. But one has been approved already. They wish to extend it a little more alongside their house to separate the two houses. The backyard has already been raised to 6 feet. We are now talking only of the property right alongside of the house. And the other side, part of what is already for their neighbor's purpose, is at 6-feet height. So there is a lot of work through here, but I want to get all of it on the record so we all know what we are going to talk about. Although, I think we should reserve it so we can pack it all up later, make sure it's clear why this house is in a unique situation because it already has a pre-existing approval or a variance and it also has this part backyard of a house. So with your permission, Mr. Chairman, I would like to request that we reserve decision for the next meeting.

CHAIRMAN MAMMINA: Is that a reserve or a continue?

MEMBER HERNANDEZ: No. There is no additional

APPEAL #21296 - Second Call

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information. We have everything.

SECRETARY WAGNER: Does that make sense to you?

MEMBER HERNANDEZ: Yeah, you are right.

CHAIRMAN MAMMINA: That's fine. It's all good.

MEMBER HERNANDEZ: We will deliberate on this later on.
We will talk about it. We will get it all down and clear so
that there is no confusion for anyone and you will have a
decision by, at the latest, our next Board meeting, which is in
two weeks.

SECRETARY WAGNER: We will possibly make a decision on
October 26th.

MR. DOMINGO: Okay. Are we going to get it by mail or
do we have to come back?

CHAIRMAN MAMMINA: Normally, it will come by mail.

SECRETARY WAGNER: Yeah. We send all of the decisions
out to the applicant, whoever is on the application. Thank
you. Thank you so much.

ATTORNEY ALGIOS: Thank you.

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APPEAL #21288

COMMERCIAL CALENDAR

SECRETARY WAGNER: Next Appeal is Appeal #21288 -
Manhasset 1577, LLC.; 1577-1595 Northern Blvd., Manhasset;
Section 3, Block 181, Lots 171, 401 & 402; Zoned Business-A &
Residence B. Conditional Uses §§ 70-126(A) and 70-126(H) and
Variances from §§ 70-34, 70-103(A)(1), 70-103(B), 70-103(F),
70-103(O), 70-202.1(C), 70-203(G), 70-196.J(1)(a),
70-196.J(1)(b), and 70-196.J(2)B for parking spaces in a
residence district (a conditional use), to construct interior
alterations for a new restaurant (a conditional use) and site
work requiring variances for a trash enclosure in a residence
district (not a permitted use), not enough parking, parking
spaces that are too small, no loading/unloading areas, parking
aisles that are too small, retaining walls exceeding the
permitted height, elimination of a required landscaped buffer,
too many signs on a wall, a wall sign that is too big, and a
ground sign that is too big.

CHAIRMAN MAMMINA: Okay. You heard Appeal #21288,
Manhasset 1577. Is there anyone in the room interested in the
application other than the applicant? Just a show of hands is
fine. Okay. Thank you. And as I said earlier, everyone will
have the opportunity to speak after the presentation. Thank
you for coming down.

MS. DICKSON: Good afternoon.

CHAIRMAN MAMMINA: Good afternoon.

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MS. DICKSON: Kathleen Deegan Dickson, partner in the Law Firm of Forchelli Deegan Terrana; 333 Earle Ovington Boulevard, Uniondale, New York. Here this afternoon on behalf of Manhasset 1575, LLC and Manhasset 1577, LLC, which are the owners of the properties at 1575 to 1595 Northern Boulevard in Manhasset.

An overview of the project, we have a 1.23 acre site that is currently improved with two existing buildings. The 1575 site has always been owned separately from the site to the west, which is 1577 and 1595 Northern Boulevard. Although, while they are now still in separate ownership with different LLCs, the principles are similar, if not identical. And I have with you this afternoon, Adam, who is the principal of both of those LLCs who will be available and would also like an opportunity to address the Board in a few minutes.

So the 1575 Northern Boulevard building is this one here. It's the former Sleep Number building. It's a standalone. And then the westerly building. You have the survey in your packet. The existing building on 1577 to 95 is actually this entire area west of the common access drive, and that currently has Investors Bank, Mayweather Boxing gym, and then two retail stores, a vacant Destination Maternity and a Mystique, two women's clothing stores that are there. Building A, which is the westerly building. If you don't mind, I will call it Building A, is currently 6292 square feet. And

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2 Building B, as it's presently configured, is 14,961 square
3 feet. Both are single-story buildings with basements. And the
4 site is currently accessible by a single two-way driveway,
5 which is located between the buildings with cross access
6 between the two. So this presently is a two-way driveway
7 between the buildings, that's the only access to the two
8 parking lots that are behind this site.

9 So my client is going to do something that is a little
10 bit unusual in the world of commercial real estate. He is
11 going to demolish a portion of the building to create better
12 access and to create more parking on the site and better site
13 circulation. So the proposal before you today is for the
14 demolition of, approximately, 1124 square feet from Building B,
15 from the middle of Building B, which would result in two
16 separate buildings being created. And then the elimination of
17 -- I'm sorry, I don't want to misstate the number -- of,
18 approximately, 1125 square feet from the rear of Building A.
19 So right now, there is a portion of this building, the Sleep
20 Number building, that is going to be demolished and eliminated
21 and then this center section of Building B will be demolished
22 and eliminated. And then that will allow one way in, site
23 circulation, and then one way out. So the purpose is to make
24 this parking an egress and ingress much safer than what the
25 current conditions are.

26 Building A will be reduced to 5168 square feet, so the

There will also be substantial improvements to the site, most particularly in parking and circulation, and the replacement of an old retaining wall that is failing in some places and is in need of replacement, either in the immediate or in the not-too-distant future to prevent failure of that wall. While we require a parking variance, we have increased the number of parking spaces on the site while reducing

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building square footage. So the conditions onsite will be improved over what is there now.

One major change to the plan, and you don't have the plan in front of you, but it's up here -- and this came from discussions with some of the neighbors and hearing some concerns. There is a proposal. The plan that you have before you shows the dumpster located in the northeast corner of the property. We have relocated that a little further south and to adjust the circulation. So the dumpster enclosure will now be further away from the residential properties and will be abutting the commercial property to the east. The owner has agreed that that will be a dumpster enclosure with a cover on top to make sure that there will be no visual impact to any of the uphill neighbors and also to prevent any kind of spillover or any kind of debris falling out of that.

So before I go into the details of the variances, I do just want to introduce Adam, and you have met him before. He did the renovations to the shopping center, the CVS shopping center on Willis Avenue in Roslyn Heights. He was most recently here a few months ago for the Orwashers Bakery. I think you will know from what he did there, if any of you have been to that site or go to that site, that it was a transformative and beautiful upgrade to that shopping center. It was something that really was accredit to that in the community. He created a lifestyle center, which is what he is

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2 proposing to do here, but on a smaller scale. What he does is
3 he, basically, curates tenants that have synergistic qualities
4 so that it maximizes the synergies and minimizes any kind of
5 conflicts between tenant uses as far as time of day and the
6 types of uses. And it encourages people to come and do sort of
7 one-stop parking, where you come in, and you go to the bank,
8 and you go to the gym, and then you grab your lunch, and then
9 you get your facial, and then you leave. So the proposal is
10 really -- the vision for it is to create that type of a
11 synergistic site.

12 So I would like to introduce Adam, he will just say a
13 few words, and then I will start talking in a little more
14 detail in the variances and the special permits that they are
15 seeking of the conditional use permit.

16 SECRETARY WAGNER: So this will be Exhibit 1.

17 MR. ADAM: Good afternoon, Mr. Chairman, Vice Chairman,
18 and Members of the Board. Nice to be back before you. Thank
19 you for hearing this matter. So you are getting a booklet,
20 which I'm not going to read every word because we will be here
21 for a while, but I will let you flip through and I will touch
22 on some of the high points. So on the first page, you will see
23 references to some of the commercial vacancies within the
24 Northern Boulevard, Manhasset corridor. And when we got into
25 this project, as we dug into the area, you see all of these
26 properties that are vacant, and we asked the question of why

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2 some of those vacancies, being at the subject property that we
3 are here to discuss today. So why? Phenomenal location.
4 Northern Boulevard is, obviously, a heavily-trafficked roadway.
5 Manhasset is a phenomenal area with phenomenal demographics.
6 So why? Why are these buildings, so many of them vacant and
7 underutilized? So the second slide in your book analyzes the
8 vacancies at the subject properties going back about 17 years.
9 And looking at it, you can see that in those 17 years, there
10 was at least one vacancy, if not two, throughout the course of
11 this 17-year tenure. And one of the vacancies has gone back to
12 about 2010, and that's the Ethan Allen building, the westerly
13 portion of that building. And then where Mayweather Boxing
14 sits now, that property sat vacant for about 16 years. So why?
15 So as I said, we looked to analyze what was it about it.

16 So in what we do is we look at an acronym of VAPS,
17 Visibility Access Parking Signage. Today, this is what
18 translates to successful retail, Visibility Access Parking
19 Signage. So if you look in that corridor in the Northern
20 Boulevard, Manhasset corridor, our building and some of those
21 other vacancies I showed you, what don't you have? Well, you
22 have great visibility and, generally, you have great signage.
23 But looking at the two in the middle, access and parking. And
24 I'm sure if you are not familiar with the site, I am sure many
25 of you are, also across the street, getting in and out of these
26 properties over by Barnes & Noble and over by nuBest, it's

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2 tough. Those driveways are really designed for one-way travel,
3 and yet they serve for two way. So our property, we will come
4 back to that in a second.

5 So looking at the history of our site. The buildings
6 on our property were built in the late 40s. The houses behind
7 were built in the early 50s. And it's funny, actually looking
8 at the Sanborn maps, which it was before my time, the subject
9 property was actually utilized as a restaurant for quite a
10 period of time. And now I'm on the slide that has the drone
11 aerials of the property. So taking VAPS in mind, look at the
12 subject properties. So Access, you currently, as Kathy
13 mentioned, you have one way in and one way out in between the
14 two buildings. That driveway is, roughly, 19 feet, which is
15 substandard by any code definition of how wide a driveway
16 should be for a two-way access. So from an Access perspective,
17 we fail miserably. From a parking perspective, I would say the
18 same thing. In addition to not having enough parking and too
19 much building, the site circulation to get to that parking back
20 there is also substandard.

21 So the next page shows what I just built on the terms
22 of site circulation. Currently, from the sidewalk on the north
23 side of the 1595 building to the retaining wall, we have 82
24 feet. That 82 feet provides 16 foot, 15 foot, and 17 foot deep
25 parking stalls and two driveway aisles. Similarly, by any
26 stretch of whatever code you use, these all are deficient. And

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2 as you can see from the pictures here, we took a picture of a
3 FedEx truck who was trying to circulate the site, and with cars
4 there, it is just extremely, extremely tight. The next slide
5 is our engineer ran an AutoTURN exhibit with a passenger car.
6 And you can see the car coming in, circulating the site, and
7 then leaving. Now, the two things that are noteworthy is in
8 the driveway, you can see these cars. If this was two cars
9 here, they would be conflicting with each other. Then when you
10 look and you circulate the rear of the site, the car has to
11 encroach into parking stalls to get around. So again, just
12 another way of indicating the substandard circulation that the
13 site currently offers. Then we show the exhibit with the
14 truck, which requires a three-point turn, for lack of a better
15 word, to circulate.

16 If you have driven by the building and you are familiar
17 with it, you may drive by and it looks nice. It doesn't look
18 awful, but it doesn't look beautiful, and so that's at a quick
19 glance. As we dug in -- and we purchased the 1595 property
20 Summer of '21, we purchased the 1575 property the end of '21,
21 so we have been at this now for some time and we really studied
22 the properties. And at quick glance, they look okay, but as
23 you really dig in, the buildings are tired. The site is tired.
24 The parking lot has cracks everywhere. The front sidewalks,
25 you have the curbs, which are actually the reveal on them,
26 which should be 5 or 6 inches is closer to zero or 1 to 2

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2 inches, and that has actually promoted, at times, that people
3 will park in front of the building, and that's just
4 unacceptable. And the solution to that is, of course,
5 replacing the curbs with a proper reveal. You also have a,
6 roughly, 10-foot setback front curb to property line and then
7 you have, roughly, another 10 foot from the property line to
8 the building. So you have 20 feet of open space in front of
9 the buildings. And right now, it is all concrete in front of
10 the 1595 building, and it's concrete that is not in good shape,
11 either. So part of our plan is to replace the curbs, add a
12 grass utility strip, put in ADA-compliance sidewalks, and then
13 landscape from the back of the sidewalks to the building. Just
14 make this far more aesthetically pleasing for the community.
15 And you also see in the pictures, the prior owner,
16 interestingly, piped drainage from the building into the
17 street. Don't know how he figured that out, but that was an
18 interesting one when we figured that out.

19 So moving along then. The retaining wall is currently
20 -- well, I think we will deal with that later because that's
21 going to trigger some additional discussion, so we will come
22 back to that. The other sort of point you can see here is
23 right now the dumpsters just sit free-form, no enclosure, no
24 regulation, no, you know, orderliness to it. And as Kathleen
25 mentioned, we had originally proposed the trash enclosure in
26 the northeast corner of the site in residentially zoned land.

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2 And based on community feedback, we have since relocated that
3 to within the Business Zoning District of the site. As a
4 courtesy, we are also willing to covenant that it will be fully
5 enclosed. We have even offered to put a roof on top of it to
6 truly make it a true trash enclosure. We will come back to the
7 retaining wall. But at a quick glance, you can see from trees
8 and vegetation and poor drainage, the wall is failing. And I
9 don't know if you had a chance to see it yet because it was
10 submitted this morning, but our engineer on the retaining wall
11 is Titan Engineers. One of their focuses is retaining walls.
12 They have done, I believe, a number of retaining walls within
13 the town, and they submitted a letter, which I believe was
14 e-mailed to the Board this morning, really analyzing in great
15 detail the existing walls, the conditions, what should happen,
16 why this is happening, and what the fixes are. So we will
17 certainly come back to that.

18 Then, the trash enclosure we touched on. The next
19 picture is a drone-shot of the shopping center that Kathy
20 mentioned earlier on Willis Avenue in Roslyn Heights. In the
21 lower-right corner, we have a picture of what it was. The rest
22 of the page is filled with what it has become. And similar to
23 what we did there, looking at every angle of the property,
24 putting it back together, taking a tired piece of real estate
25 and making it beautiful and lively and energetic, that is the
26 same thing we are looking to do here at this property. So how

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do we do that? We talked about VAPS, and Kathy touched on it a little bit, but the next page shows what is being removed from this property. So the purpose of demolishing portions of the building is fewfold. One is, as I mentioned before, we have too much building, not enough parking. By demolishing the inner third of the 1595 building, that reduces building footprint and also allows us to increase parking. Then, in the northwest corner of the site, the 1575 building, there is, what we call, the tail of the building. That, was added around 1960. It is very unfunctional space. It's very tough to rent and it also creates a parking lot configuration that is impossible to navigate. So we came up with the idea of also removing that portion of the building. And in addition to demolishing the inner third of the building, that also allows to facilitate improved access. So where you see that middle portion of the building coming out, we are proposing to add a curb cut for ingress only. Now customers, patrons of the shopping center will enter that new driveway. They will come in and they will be parking. And, I guess, we will get to the plan in a second, but they will enter in between that building where the building is currently. There will be parking on either side. They will then be able to circulate the site, come around the north side, and then leave the current two-way driveway. And the westerly side of that building will become egress-only. In formulating an access management plan, we have

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Frank Filiciotto here, he will speak far more intelligently than I can about the access management plan, but that's the high level of that.

The next slide just summarizes what we have and where we are going, and I won't read it verbatim because you can see it in front of you, but, as we discussed, we are reducing square footage. This will allow us to add 8 parking spaces. We are taking 1 inefficient in terms of width driveway and creating 2, one ingress, one egress properly-sized driveways. We will be adding about 5,000 square feet of landscaping. We will be adding street trees, all new drainage to the site, bike racks, and implementing a trash enclosure.

The next page is the proposed site plan, which just now you can see what we are proposing to do. By removing the two sections of the building, we have created the new way in. It will allow for customers to circulate around the site. The westerly building, the 1575 building, that parking lot becomes more efficient without the tail of the building. We still are working on a landscaping plans. And this is schematic in nature, but you can see the extent and depth of landscape that we propose to add. It also shows the right-of-way area in front of the property line. As I mentioned before, new curbs, add a grass utility strip, properly-sized width sidewalks, and then landscaping from there.

Here, the next few pages are a few renderings showing

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2 what the building will look like. After the rendering, we will
3 get back to the retaining wall, I think, at a later time, but
4 we are proposing to push the retaining wall back 10 feet to
5 allow for better improved circulation behind the 1595 building.
6 And as I said, we will get more into it shortly. The retaining
7 wall is failing. Part of it is in need, I would say, immediate
8 repair, another portion is in need of soon-to-be repair. So we
9 made the decision that if we are going to do this, we should do
10 it in one shot while all of this work happens. So that extra
11 10 feet makes circulation improved behind the building. We
12 have an AutoTURN exhibit showing that that additional 10 feet
13 does, in fact, make for far improved circulation behind the
14 building. And just to keep things moving because we have a few
15 others to speak, we put together showing what the operating
16 hours will be for the new tenant mix. Then, there is a slide
17 just a little bit about each of the new tenants, Sweetgreen,
18 Laser Away, and Trek. And then these are preliminary
19 renderings of what the Sweetgreen is going to look like. Then,
20 the next slide -- and then we heard in speaking to the
21 community, we heard some concerns about restaurant use. So we
22 did a deep-dive into the Northern Boulevard, Manhasset
23 community of what restaurants already exist in this corridor,
24 and that's what you see before you here. We acknowledge some
25 of them are not faced with residential behind, some of them
26 are. And we looked at their hours and that's what we presented

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2 here. And we have also included the distance to the nearest
3 home from each of these restaurants that are situated in front
4 of restaurants. And just to give a metric, our building is,
5 approximately, 100 feet south of the nearest residential
6 property line. We did the same thing in the corridor with
7 fitness uses. We have Mayweather there.

8 This next few slides is, as I said, the current. Our
9 property is significantly below-grade relative to the
10 neighboring residential. Rolling Hill Road runs around the
11 back of the property and then feeds into Chase. And so if you
12 look at Rolling Hill Road, a portion of our rear neighbor is a
13 town-owned strip. So I have met with the neighbor that lives
14 directly across the street from that. And in connection with
15 some tree work that we performed, because of the roots of those
16 trees were negatively impacting the retaining wall, she reached
17 out to me. And in a number of conversations with her, we
18 planted several trees along this strip. I met with her again
19 the other day and I have offered, and she has willingly
20 accepted, that I will work with her at whatever she desires.
21 And we are planning to replant that entire area that's
22 town-owned. Currently, there is a stockade fence, which you
23 can see in the picture, which stockade, there is slots, there
24 is openings. It allows transmission of light and noise, et
25 cetera. So we have offered to replace that fence with privacy
26 and something with more of an acoustic-mitigation

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2 characteristic to it, and we have also offered to replant that
3 entire area. And you can see on the next slide, it's about a
4 2000 square foot strip of town-owned land. The retaining wall,
5 I will come back to.

6 Then, outreach. So as you may recall with our last
7 project, this one has been no different. Before, as we were
8 just conceiving this project, we met with the Town of North
9 Hempstead Planning Commissioner. This was before a submission
10 was made. After that, we had a follow-up meeting with the
11 planning commissioner, Councilman Lurvey, then-Supervisor
12 Bosworth, Commissioner Levine was there, as well, and then the
13 Building Department Commissioner Glen Norjen. In addition to
14 that, we also had one formal presentation and a number of
15 conversations and e-mails and phone calls with the Council of
16 Greater Manhasset Civic Association. I have been in touch with
17 Rich Bentley on countless occasions to talk about the project,
18 meet with him, officially present to his organization, and then
19 some of the neighbors. So one of them I mentioned is who we
20 discussed planting along the town-owned strip, another
21 neighbor, who is here today, we had a meeting in our office
22 earlier this week. There are a few other neighbors here, who I
23 believe their biggest concern is about the retaining wall,
24 which is why we will table that. And we had sent letters to
25 each and every one of them regular mail, FedEx, and
26 hand-delivered, and I have copies of those, if there is a need

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to insert them into the record. And that was my intent to be a brief presentation was a little bit longer, so I will turn it back to Kathy.

MEMBER DONATELLI: Before we continue, may I just ask a question? And I'm not sure who you want to have address this question. You mentioned moving the garbage spot, the dumpster spot, will that have any impact on what is before us now in terms of the property flow or in terms of the parking because, obviously, that's not reflected here?

MR. ADAM: Right. So good, good question and I missed touching on that, so I'm glad you asked. So from a parking perspective, relocating the trash enclosure from here where you see it to here outside of the residentially zoned land into the business district was a net positive of three parking stalls, so an excellent trade in that respect. Took it out of the residential and added three parking spaces. And, no, from a truck-turn perspective, there is no negative impacts by shifting it down, which is at the end of the drive aisle now at the easterly side of the property.

MEMBER DONATELLI: So it does not interfere with the traffic-flow pattern?

MR. ADAM: That is correct.

MEMBER DONATELLI: And it doesn't result in any loss of parking stalls behind the easternmost building?

MR. ADAM: Correct. It actually was a net positive of

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three stalls by making that switch. So I'm glad we already looked at it and were able to make that accommodation because it's a positive for everybody.

MEMBER DONATELLI: Thank you for that clarification.

MR. ADAM: No problem.

VICE CHAIRMAN FRANCIS: I have a question. I am sure it's somewhere in your plans, you have a notice of the measurements of the actual parking stalls. I just don't see it, so if you could tell me.

MR. ADAM: Sure. So currently, we have 82 feet from the start of the parking lot to the retaining wall, that excludes the sidewalk. We are proposing to push -- I'm sorry. Before I get to that, that 82 feet is made up of three, effectively as you see it there, although, that has the wall being pushed back, you have 17-feet deep, 15-feet deep, and 16-feet deep for the parking stalls. However, these are angled stalls. So Town Code requires 20.1 feet deep for 60-degree stalls. So these parking stalls are extremely tight for anything, but a compact car at 17, 16, and 15-feet deep. The drive aisles, as exist today, are 16 feet and 18 feet wide. On a 60-degree stall, Town Code requires an 18-foot drive aisle. So one of the drive aisle width's is compliant with code. The 16 foot is not. However, on one of the pictures, you see a FedEx truck circulating and it is very tight because of the depth of the parking stalls. And what we have in here, too, is

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2 a passenger car on the AutoTURN exhibit, showing that when a
3 car looks to loop around, they would hit cars that are parked
4 in the northeastern section of the property. So that extra 10
5 feet that we are looking to grab was distributed to the drive
6 aisles and the depth of the parking stalls. And what we did --
7 and Frank, as I said, can speak more intelligently about it
8 than I can, but what we did was we made the parking stall
9 depths all compliant, 20.1 feet. And then we took whatever
10 space was left over by shifting the wall and adding that to the
11 drive aisles. And while we do not comply with the town's
12 18-foot requirement for one-way drive aisles with the 0-degree
13 stalls, we do comply with the Urban Land Institute's
14 recommendation for drive aisle width, but I will let Frank
15 touch on that. I can state it, but he can speak more
16 intelligently to the depth.

17 CHAIRMAN MAMMINA: And those parking spaces are a
18 compliant width?

19 MR. ADAM: Width, no, they are not. The existing
20 stalls are 9-foot wide and we are maintaining the 9-foot width.

21 CHAIRMAN MAMMINA: All right.

22 MEMBER HERNANDEZ: You mentioned that that change was
23 very recent of moving the garbage enclosure more towards the
24 middle of the parking lot on the side. I am assuming you have
25 submitted new plans to the Building Department showing that
26 change or you will be submitting them?

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MR. ADAM: Correct. So that change was agreed to on, I want to say, Monday. I got the plan yesterday. So we will be submitting and, of course, we will covenant to that, as well. The engineer is here and he has been waiting.

MEMBER HERNANDEZ: Your proposal for rendering between Sweetgreen and Mayweather show your new aisle, your new travel aisle. In the back of that, we see the retaining wall. We see some greenery and then we see a fence on top of that retaining wall. When I look at the retaining wall schematic that you presented towards the end of your presentation, when you compare the new to the old, I don't see any space between the retaining wall and the privacy on top of it. So which one is one?

MR. ADAM: So the rendering took the artistic license. The rendering is not accurate. So should we? So to start to touch quickly on the retaining wall. If you may, let's table the retaining wall, that question.

VICE CHAIRMAN FRANCIS: Thank you.

MR. ADAM: Gentlemen, thank you.

MS. DICKSON: Mr. Adam does a great job. He doesn't really need me, but here I am. And everything that he spoke about this afternoon about traffic patterns and parking, we do have our expert witness here who has submitted a report to you, Frank, and he will testify also today. So just so you know, these things are going to be verified and you will have an

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2 opportunity to question an expert, as well. And a lot of these
3 things that we are talking about, the site drainage and
4 lighting and landscaping, those are going to be -- if we
5 receive the variances and conditional use permits today, we
6 will be appearing before the Town Board for a site plan review
7 hearing because the site is greater than 25,000 square feet and
8 we are altering access lanes and circulation on the site. But
9 we did want to put it out there that this really is a
10 comprehensive project. This isn't just, you know, something
11 that was done quickly without a lot of thought. As you can
12 see, Adam and his consultants have put an awful lot of work
13 into trying to make this into a better, more functioning site.

14 As you heard from Ms. Wagner, she read the notice of
15 hearing. We do require a substantial number of variances, many
16 of them are continuations or increases of pre-existing
17 conditions, things like parking. Right now, there is already
18 parking in the residential district. We are seeking to extend
19 that by about 10 feet as the retaining wall moves back, so
20 that's a modification. I don't see any evidence in the Zoning
21 Board's documents that there was a conditional use permit
22 granted for this. My records in my office only go back to the
23 early 70s. I don't have the codes prior to that, so I don't
24 know if it was required in 1948, but it certainly has been an
25 existing condition since the buildings were built and the walls
26 were constructed.

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2 The number of parking spaces, this tenant configuration
3 requires 85 parking stalls. We are going to be providing 61
4 general parking stalls with four designated pick-up spaces for
5 the Sweetgreen restaurant. So even though it's more parking
6 than is currently provided onsite, it still requires a parking
7 variance from this Board. The parking stall dimensions, I
8 think we touched on it. We have the compliant depth of the
9 parking stalls, but the width will continue on with that
10 pre-existing non-conforming 9-foot parking stall width. And
11 the parking aisle width, by making the stalls compliant
12 length-wise, the parking aisles, the circulation aisles are a
13 little bit diminished, but as Adam mentioned and as Mr. Frank
14 will testify, they are very, very workable.

15 The height of the retaining walls on the north and
16 west, we require variances from that. The code allows a
17 maximum of a 5-foot high retaining wall in a residential
18 district. Because this property is split zoned in the rear, we
19 have the rear portion of the property is in the residential
20 district, although it's always been commercial. And you can
21 see, that's a pre-existing non-conforming that already exists.
22 We are seeking to increase the height of those walls another
23 few feet, but that, as Adam touched on and we will get into a
24 little more detail, that is necessary in order to make this
25 site function properly. I want to point out that there is no
26 restriction on the retaining walls existing on the property

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2 line. There is no requirement for a setback for retaining
3 walls. There is a requirement for a 15-foot wide buffer on
4 commercial property where it abuts the residential district.
5 That, also has never existed here. Even the portion of, I will
6 use the term loosely, greenery on top of the retaining wall,
7 that is all in the residential district. So technically, it
8 has never complied because the requirement is to have it on a
9 commercial property, which would effectively put 15 feet in the
10 middle of the parking lot, a 15-foot parking strip. We have
11 the existing retaining walls. I would like to submit some
12 photographs. And I was having issues with my printer, so I'm
13 going to apologize. I have three pictures, three sets of the
14 existing conditions of the retaining walls and the adjacent
15 properties, if you don't mind looking on with one another. So
16 these photographs have the advantage of showing not only the
17 existing conditions on the site, but also how the transition
18 works between the commercial site and the residential
19 properties to the rear and to the west. The walls are,
20 essentially, three retaining wall systems, with the retaining
21 wall, the tallest portion, being abutting the residences
22 directly to the north. Then the second section being the
23 diagonal where it is closest to Rolling Hill Road, and then the
24 third section being behind 1575. Each one has different
25 situations where we are going to, as Adam said, need to replace
26 all of them at some point, but there is an immediate need to

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2 replace some of them now. So just for expediency and I think
3 to minimize disruption not only to the site, but also to the
4 uphill neighbors, to do it all at once, it makes a lot more
5 sense than doing it as they fail or get closer to failure. So
6 the wall height presently varies between 9 and 10 feet
7 immediately behind 1577 to 1595 and it is, approximately, 10
8 feet behind.

9 MR. ADAM: 12. Currently, about 12.

10 MS. DICKSON: I'm sorry. 12 behind 1575. So dealing
11 with them individually, the retaining walls behind the Building
12 A on 1575, the demolition of that portion of the building in
13 the rear is going to cause the need for a new retaining wall
14 there because right now, the building acts partially as a
15 retaining wall for that property. So as they comes down, a
16 retaining wall will have to be built in its place.

17 MEMBER HERNANDEZ: And that's the retaining wall on the
18 western side of the building, not on the northern side of the
19 building?

20 MS. DICKSON: Correct.

21 MR. ADAM: Correct.

22 MEMBER HERNANDEZ: So it's a brand new retaining wall,
23 not a replacement of a retaining wall?

24 MS. DICKSON: Correct. So that will be brand new. And
25 also, there will be a brand new wall constructed in front of
26 the existing retaining wall there on the west side and that

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will also continue around to the south side of that westerly property.

MEMBER HERNANDEZ: Yes, we see.

MS. DICKSON: Then an additional replacement of the retaining wall in the diagonal over here. This is the second system that I'm talking about. And then the third portion would be on the northerly property lane. The new retaining wall will be 2 feet off of that northerly property line, 2 feet into the site, which will allow the new retaining wall to be constructed before the old retaining wall is demolished in order to be protective of the upland properties. On top of that retaining wall, we are proposing a 6-foot tall acoustic PVC fence. I know Adam had just quick conversations with the neighbors. They said an 8-foot fence is something that they would prefer. I know that's not something that the code contemplates in a residential district, but that's something that we would be happy to provide, an additional height.

CHAIRMAN MAMMINA: What makes a fence acoustic?
Acoustic fence, is it a special fence?

MS. DICKSON: So we have Matt Manis from AKRF here today. He submitted a report to you. I'm going to have him speak to some of these issues about sound, attenuation, and about how sounds flow and noises flow. Because I have to say, a lot of thought went into this. And Adam actually had the acoustical engineer onboard before we had even gotten any

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2 comments from the neighbors. It was one of those things that
3 he wanted to make sure that he wasn't going to be creating a
4 situation that was going to be problematic. Once we heard some
5 of the feedback through the e-mails that the Board forwarded to
6 us, Adam reached out and asked him to look at this a little
7 harder, put together a report, and be prepared to answer to the
8 Board because we know the Board is very concerned with the
9 quality of life of the surrounding neighborhood.

10 MEMBER HERNANDEZ: One question. You said a 6-foot
11 fence on top of the retaining wall. And I know the retaining
12 wall varies depending on the location of that, but how high is
13 that visible from the other side, from the street side versus
14 from the property side? How high up is it?

15 MR. ADAM: So right now, we are really focused on this
16 area where the two neighbors are. Currently, as Kathy
17 mentioned, the wall is about 9 to 10 feet high and has a 6-foot
18 chain-link fence, which Matt can speak to, who, obviously,
19 knows acoustics. Then, the top of the retaining wall to the
20 grade of the neighbors properties is up --- I'm sorry. The
21 retaining wall was, roughly, 3 to 5 feet lower than the grade
22 of the houses. So the houses are sitting above the retaining
23 wall. What our new proposal is -- so effectively, you have a
24 net height acoustical attenuated qualities between wall and
25 fencing, 9 to 10 feet. Our new wall will be, approximately, 12
26 to 15 feet high. That height brings you, roughly, to the grade

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2 of the neighbors. Then the 6-foot fence will come above that.
3 So I will let Matt speak to the technicalities, but from the
4 net currently at 9 to 10 feet of what the existing condition
5 is, we are now going to 18 to 21 feet, 12 to 15 foot wall, plus
6 6-foot fence gives you -- if you looked at it in a section, you
7 drastically increased what offers attenuating characteristics
8 to the neighboring property. So Matt will speak to the
9 technicalities, but as you will see, what we are doing here --
10 and I want to take a step back. Replacing the retaining wall
11 wasn't something I was cited to do. It's costly, it's
12 time-consuming, you know, it's a big scope. We are not taking
13 it lightly. Some of it needs to be done more immediately.
14 This part of the wall is not immediate, but it's reaching the
15 end of its useful life. So as Kathy mentioned, now is a good
16 time to do it. So in looking at it and hiring Matt and talking
17 to our structural engineer, who submitted a memo this morning,
18 we didn't just want to look at it from our perspective. We did
19 genuinely look at it from the neighboring perspective and how
20 it will have an impact. So Matt will touch more on that. But
21 the long-winded answer to your question is, currently, we are
22 at 9 to 10 feet, throw away the fence, and we are proposing to
23 be at 12 to 15 feet, level with the homes, and then add a
24 6-foot fence. And I think your pictures have it. The
25 neighbors have their own, I would say, 6-foot fence and then
26 the neighbors have also done a nice job of their own planting

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at their side of the property as a living privacy fence.

MEMBER HERNANDEZ: So the retaining wall will eventually be replaced, but you will also be creating additional square footage between the parking stalls?

MR. ADAM: Correct. You are increasing circulation.

MEMBER HERNANDEZ: So it's a win-win, no doubt about it.

MR. ADAM: Correct.

MEMBER HERNANDEZ: I'm trying to just make sure that I understand clearly where your fence starts and ends. If I were to lay down on the grass of that neighbor behind you and they have nothing in their backyard at all and I looked over the grass, am I going to see the wall, am I going to see your fence or am I going to see over your fence?

MR. ADAM: So if you are laying on the grass of your residential here, you will see a 6-foot fence.

MEMBER HERNANDEZ: Perfect. So if the neighbor has a 6-foot fence, they will be back to back, and you won't see anything?

MR. ADAM: The wall is being raised up to be level with their grade, not higher, not lower, level. And then the fence will be above that.

MEMBER HERNANDEZ: Got it. Thank you.

MS. DICKSON: And we mentioned the engineer's report from Titan Engineers, the structural engineers who designed the

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2 wall. I e-mailed them. I apologize. It was just prepared in
3 the last couple of days and we just received it this morning.
4 So I had e-mailed it to Ms. Wagner this morning. I have
5 hardcopies here if that would make it easier. I don't know if
6 they were distributed or not.

7 SECRETARY WAGNER: So this will be Exhibit 3.

8 MS. DICKMAN: So I want to move on just to make sure
9 that my record is complete. The elimination of the -- or the
10 failure to provide the 15-foot buffer, I touched on it just
11 briefly before. The buildings, the commercial buildings were
12 built in 1948. The residential buildings were built in around
13 1953, the early 1950s. We don't have any real evidence of when
14 those retaining walls were constructed, but they were somewhere
15 between that 1948 and 1953 period, it seems to be from the maps
16 that we have seen. As I mentioned, what people are referring
17 to is the buffer is not really a buffer, not in terms of what
18 the code requires. And I think that between the testimony and
19 what Adam has pointed out about the heights of the retaining
20 wall and the scattered plantings that were there, it didn't
21 really even effectively act as a buffer. The proposed fence
22 that we are discussing and that we are committing to putting on
23 top of the retaining wall will actually do more to create a
24 buffer-effect than a 15-foot wide planting strip would. Also,
25 I think you can see from the site that it is impossible,
26 really, even with the retaining wall where it is, to provide 15

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1 feet of planting there. You know, in Adam's package, you will
2 see his proposal for replanting the area along Rolling Hill
3 Drive that will be with whatever the neighborhood asks for and
4 the town permits, but it will have some low pretty plantings,
5 but also some taller evergreens that will grow taller than the
6 fence that is proposed.
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8 The parking variance stall size and conditional use for
9 parking in the greater restricted district, I want to point out
10 that this Board approved a parking variance for the
11 Mayweather's gym in 2019. They received a variance to permit
12 the easterly property to exist with 42 parking spaces when 55
13 were required. So there is already a 13-car variance that
14 effects the property. I have copies of the decision, and I
15 know it's your decision so you have it, but I can submit it as
16 an additional exhibit for the record.

17 SECRETARY WAGNER: That will be Exhibit 4.

18 MS. DICKSON: And that was Appeal #20868, Peregrine
19 Funding, LLC. So our proposal for this site, as reconfigured,
20 is 48 spaces or are there 51 now? So with the relocation of
21 the dumpster, we have 51 spaces in the easterly lot, which
22 includes 12 between the buildings and 39 behind the buildings,
23 plus 17 on the westerly property for a total of 68 spaces,
24 which includes the take-out stalls, which technically don't
25 count toward our parking requirement. So it will be 64 spaces,
26 plus the 14 stalls. We are required 88 spaces scattered

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2 throughout the site. As we already discussed, the parking
3 stalls are already substandard, but the proposed layout will
4 include all appropriately depth spaces with 9-foot widths. If
5 we were to increase them to be a compliant 10-foot width, we
6 would just lose parking spaces, which I don't think that is
7 something that is desirable. But again, Frank will speak with
8 more expertise. But with the increased aisle width and the
9 angle of the spaces, it's more than adequate to permit safe and
10 accessible parking throughout the site.

11 We also require a variance for loading spaces on the
12 site, and Frank will speak about that, as well. We are not
13 providing a loading space onsite. Through discussions with
14 tenants and with their loading needs, it was determined that it
15 really was not going to be a good use of the space there, that
16 the parking spaces really were a better use. The bank, the
17 gym, and the laser spa, typically, their deliveries are going
18 to be your typical UPS or FedEx spaces. And we all know that
19 if there is a loading zone over in the back corner of the
20 property, they are never going to use this. They are going to
21 pull in and jump out of their trucks and jump back in their
22 truck. Or worst-case scenario, pull into one of the parking
23 spaces that is available there. The bike store and the
24 restaurant will receive deliveries, but they can schedule them.
25 The restaurant will receive them in the early morning before
26 the site wakes up, before the tenants uses are really starting

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to be active. So again, those trucks will have plenty of room to pull up, unload, and be out of there before there is any opportunity to interfere with parking.

When I get into the conditional use permit criteria for the restaurant, we will talk a little bit about their deliveries, but their deliveries are going to be by box truck. There is no tractor trailers coming to the site. So the biggest truck will be a box truck or the garbage pickup truck that will be coming.

MEMBER DONATELLI: I'm sorry. Going back. Where do you anticipate that -- I would imagine that there is -- that the bank will have an armored car come on occasion. Where would you anticipate that happening?

MS. DICKSON: Can I leave that to Frank? I think it's, essentially, the same. I don't know what time the bank has their armored car come.

MEMBER DONATELLI: Only because Investors Bank, if I remember correctly, will be on the drive aisle.

MS. DICKSON: It's over on this side.

MEMBER DONATELLI: Right. So would that interfere with the proposed new entrance and exit?

MS. DICKSON: No. Well, it's our expectation. And I don't believe there is any public doors along that facade of the building. There may be an emergency exit or something. That, I don't know. But the access to the bank would be --

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MEMBER HERNANDEZ: Is through the rear?

MS. DICKSON: Through the rear. So that's where we would expect the truck or the armored car.

MEMBER DONATELLI: So are you anticipating any entrance to the bank from the front?

MS. DICKSON: There is an existing entrance to the bank from the front, which I think will remain. Right, Adam?

MR. ADAM: Yes.

CHAIRMAN MAMMINA: That shows an access from the parking. No. No. No, that's in the fence.

MEMBER HERNANDEZ: But if you look at the proposed site plan, it shows Investors having the front aisle and they also have the back aisle.

CHAIRMAN MAMMINA: Everybody just make sure your phones and things are off. Thank you.

MEMBER DONATELLI: One of my concerns, obviously, is Northern Boulevard is heavily-traveled. I would not want to see anything interfere with traffic on Northern Boulevard going westbound.

MS. DICKSON: Yes, that's an understandable concern. And Frank will speak to it in more detail, but there is no shoulder there. Really, there is no ability for a vehicle to stop there without blocking traffic. And we are going to have a permit from DOT, from New York State DOT, to do this curb cut. They have taken a look at the entrance to the site and

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the access to the site and they haven't raised a question about that truck, but the condition of any permit is going to be that there be no activity on Northern Boulevard at all.

MEMBER DONATELLI: And going back to the traffic flow and the truck turnaround, I would assume that the truck for one of the other tenants or for the bank that with the reconfigured parking lot with the dedicated in and a dedicated out, that there would be enough turnaround for a truck to exit?

MS. DICKSON: Yes. So we have the AutoTURN that was prepared by Bohler Engineering and we do have Mike with the long Italian last name. So Mike is here from Bohler that can talk about the AutoTURN, as well.

MEMBER DONATELLI: That's great. And the one question when he does get up to testify is what size truck? The turnaround that we have here, what size truck is he contemplating?

MS. DICKSON: So I will leave that for Frank. Actually, I was just about to introduce Frank.

MEMBER DONATELLI: I'm sorry. I didn't mean to step on your presentation.

MS. DICKSON: No worries at all. So you do have a report from Creighton Manning talking about trip generation and traffic demand and also parking demand for the site. But Frank will elucidate or elaborate on that and will be available to answer any questions, as well.

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2 MR. FILICIOTTO: Good afternoon, Chairman and Members
3 of the Board. Frank Filiciotto with Creighton Manning
4 Engineering. It's F-I-L-I-C-I-O-T-T-O. It's been probably
5 four years since I have appeared in front of you, so just to
6 refresh the credentials. I am a licensed professional in
7 engineering in New York State. I have over 19 years of
8 experience in the field of traffic and transportation planning,
9 site design, parking, et cetera.

10 We have prepared a July 20, 2022 report that I believe
11 the Board has had an opportunity to review it. I am going to
12 hit on some of the high points. A lot of testimony has been
13 given already so it would be duplicative if I went through it
14 all. But I think what I would like to focus on is the access
15 and circulation changes, address some of the questions from
16 Mr. Donatelli regarding the truck loading and circulation, and
17 then get into some of the parking aspects of the project. I
18 want to just amplify the access, because that's one of the most
19 important parts of this project. As you heard before, it is
20 unique to see a commercial building reduced in size by a third.
21 And really, the benefit of that provides for completely
22 separated access for ingress and access for egress. Right now,
23 you have a substandard two-way drive aisle sandwiched between
24 two buildings on the west end of the site with about 19 feet in
25 total width. There is not a lot of room for error there, and
26 that drive aisle serves the existing operations for the bank

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1 because the bank is existing. So that truck uses that two-way
2 drive aisle now. In the future, all ingress traffic will be
3 destined to the easterly one-way entrance curb cut. We had
4 reviewed this with DOT initially. They did not have any
5 comments on our initial submission. We are working through the
6 Highway to work on that process and, obviously, we need a
7 permit in order to effectuate this plan. One of the other
8 benefits of moving the ingress farther east is that what is not
9 shown on this plan, but right on the west side of this, there
10 is a traffic light and there is a left-turn lane into a big
11 building on the south side here. If you are trying to make a
12 left turn into the existing driveway now, you back up against
13 the opposing queue that is making a left into this building.
14 By sliding the driveway, approximately, a 100 feet east, it
15 provides separation between those maneuvers. So now you
16 isolate the ingress and you isolate the egress, so they are not
17 contending with one another.

19 The other benefit of a one-way circulation is that it
20 completely removes conflict throughout the entire site, as
21 well. So from the moment you enter the site until you exit,
22 with the exception of this parking behind Building A, which is
23 two-way traffic, you are in a one-way flow. So there is no one
24 trying to duck in front of you to get to a parking space. You
25 are the only person who is competing for that open parking
26 space. The person behind you has to find theirs, but no one is

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2 opposing you trying to find that parking space that you are
3 looking for. In the event that you can't find parking in this
4 initial area here, you are put into the one-way route, which is
5 great because it's far from the road. So if there is issues
6 with someone finding a space because they don't like the space
7 that was available, you are recirculating as far from the busy
8 road as possible. It's a 30,000 vehicle per road roadway.
9 It's a business roadway. We all know Northern Boulevard. So
10 that circulation is happening back here in a one-way fashion.
11 So if you get through this initial bank of parking and you
12 don't find a space, you can enter this one-way loop here and
13 you have ability to access all of those parking spaces. So
14 from an access and circulation standpoint, the plan is superior
15 from the existing condition by a lot. And so we now have
16 properly sized one way in and one way out that are separated.

17 In terms of parking, what the Town Code requires is 85
18 parking spaces. As with most town codes, what you are looking
19 at is peak demand for all of the uses summed up together and
20 that's what you require. What is here is a little bit
21 different. It's a synergistic center in that the parking
22 demands are complementary. You don't have everything peaking
23 at the same time. So for example, we are proposing a
24 Sweetgreen restaurant, a typical peak demand for parking occurs
25 in the lunchtime hour, not surprisingly, during the week and on
26 Saturday. By synergy, I mean the Mayweather Boxing and Fitness

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1 site is completely inactive in the lunchtime hour. So the Town
2 Code requires a certain amount of parking for Mayweather and a
3 certain amount of parking for Sweetgreen, but their peak
4 demands are not happening at the same time. So you are able to
5 utilize the parking on your site in a complementary way. You
6 don't have to build as much parking in volume because the uses
7 are overlapping one another. And I want to point out that in
8 terms of the overall use, there is 65 spaces, 4 will be
9 available in the front here for short-term pickup for
10 Sweetgreen, someone running in, grabbing their lunch, and
11 running out. The other thing here is there is obvious other
12 synergies that could take place. If you are an employee of the
13 bicycle shop or you are an employee of the bank, you now have
14 somewhere to eat, so that's a park-once interaction. You come
15 onto the site, you park, and you work at the bank, maybe you
16 work at Trek, the bicycle store, and you can utilize the
17 parking space that you are already in and walk to lunch or
18 somewhere else.

20 In terms of dimensions, it was some discussion about
21 the shortness in the aisle width. So what we are proposing on
22 the plan is a 14.8 feet aisle width in the rear. Town Code
23 requires 18 feet for 60-degree spaces. So we are about 3 and a
24 half feet or a little less than 3 and a half feet deficient.
25 What we looked at is an industry standard publication known as
26 Dimensions of Parking, and it's published by the Urban Land

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2 Institute, it's a recognized body in site design. And the ULI
3 for a 60-degree parking space specifies a typical aisle width
4 of 13 feet 6 inches, so 13 and a half feet. So we are actually
5 about a foot and 3 inches in excess of that recommendation from
6 the ULI. And we have run the AutoTURN analysis to show that
7 passenger vehicles, even the largest passenger vehicles, like a
8 large SUV, can access those parking spaces circulating out. In
9 addition, when it comes to traffic generation, we studied this
10 site during a variety of peak hours. The weekday morning peak
11 hours, the weekday midday peak hour, p.m. peak hour, and
12 Saturday midday peak hour. So we looked at four different peak
13 times and we unmasked the amount of traffic that is currently
14 using the site and figured out, well, we have a certain amount
15 of traffic that is existing, we are going to layer on the
16 proposed uses. And so we analyzed the proposed condition,
17 assuming full build-out of the center with the restaurant, with
18 the medical office active, and we analyzed that in terms of
19 level of service. We found that the driveways will operate
20 adequately at a level of service, which is a more than adequate
21 and acceptable level of service, and that's partly due to the
22 fact that we are separating the two out. We don't have to
23 contend with the driver who is leaving if you are coming in, et
24 cetera.

25 Finally, in terms of the loading, operationally, the
26 uses again have a variety of hours of operation. So

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2 Sweetgreen, for instance, will receive a daily delivery in the
3 morning prior to the store being open. It opens at 10:30.
4 There will be an employee there early to receive a delivery.
5 And that's important because a lot of the uses on this site
6 won't be active in the morning. The Mayweather Boxing facility
7 has classes in the early morning, but by 8:00 or 9:00 a.m.,
8 that's a quiet use at that point. And the bank doesn't open
9 until 9:00 a.m., either. So you have a site that is quieter in
10 the morning. The truck can come around the back and then
11 deliver to the Sweetgreen restaurant from the back. Similar to
12 the trash enclosure, the trash enclosure, as of yesterday, we
13 relocated it to the east end of the site. The truck will come
14 in, front-in, take the garbage, and then recirculate back out.
15 And we ran what is called an SU-30 truck, it's a single-unit
16 box truck of 30 feet in length from nose to tail. Sweetgreen,
17 though, expects only a 25-foot truck as their maximum truck. A
18 30-foot truck is to represent a garbage truck, worst-case
19 scenario, and, perhaps, the produce truck, although I think the
20 produce trucks are shorter than 30 feet.

21 That pretty much summarizes what I wanted to get to in
22 terms of traffic and parking. If there is any questions, I am
23 happy to answer them. I think this is, obviously, an
24 improvement upon existing conditions. The additional driveway
25 allows for better circulation, better parking dimensions, and
26 we are reducing square footage and increasing the total number

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of parking spaces, which is a net positive on the application when compared to the existing condition. Thank you.

MEMBER DONATELLI: I do have one additional question, again relating to the garbage enclosure. From time to time, we have situations where we do have a commercial establishment that abuts a residential area. One of our concerns that we hear routinely are the beeping sounds of trucks as they back up. Can you address that with the garbage? Are there stipulations that are being made as to times for pickup of garbage so as to avoid certain disturbances of the residents at night?

MR. FILICIOTTO: I think the applicant would be completely open to having those discussions and making it workable for the residents. I am not the acoustical engineer, but I did hear some of the testimony before about there being an acoustic buffering, so, perhaps, that could also offer an abatement to that sound. The truck will need to reverse, but it will only be for a brief moment. So if you front-in to the trash enclosure, your reverse will be a matter of a couple of feet before you then swing a left and then around, and there would be no other reversing needed for the rest of the journey.

CHAIRMAN MAMMINA: But if you are putting a roof on that, though, you are going to have containers on wheels. So the carting company would have to understand someone is going to have to get out of the truck, roll those things forward, and

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get them positioned so that the folks that get in there can pull up. And I think even if we were to consider this, there would be absolutely no question of hours of when the garbage pickup would be, something that is mandatory.

MR. FILICIOTTO: Sure. I will let the applicant address that, but I'm sure there is a workable solution to that.

CHAIRMAN MAMMINA: Me too. And I remember you.

MR. ADAM: Just to respond to the trash. Yeah, the short answer is we are absolutely amendable to imposing restrictions to mitigate any concerns of the neighbors. As mentioned, we already agreed to put the dumpster within not just a four-sided enclosure, but, I guess, we will call it a five-sided enclosure with the roof. So yes, we are happy to consider that. Before Matt Manis from AKRF comes up to talk about acoustics in connection with the retaining wall, I just thought it would be appropriate just to give a quick high level and then let him take it from there. So as Kathy gave her high level of it, we effectively have a few different conditions of the retaining wall. Currently, you have the section here along the northerly property residences, which is setback 12 feet and is, roughly, 9 to 10 feet tall, as we discussed. The grade here is about 3 to 5 feet high. Then the retaining wall curves along Rolling Hill Road. It's, roughly, the same height as it is here. Then, that finishes the retaining wall on the 1595

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2 property. Now you get to the retaining wall on the 1575
3 property. Here you have two different conditions. The first
4 condition is a retaining wall that runs where I'm pointing
5 along the property line, along the northerly property line.
6 Now, unlike here where there is a setback, here it is along the
7 property line, it then makes a turn to head south to the tail
8 of the building. If you were there, the wall stops there.
9 Upon investigation, currently the westerly wall of the tail,
10 which we are proposing to remove, acts as a retaining wall.
11 That, westerly wall also sits on the property line. So the
12 plan for the new retaining wall -- and I won't bore you with
13 what is in the memo from Titan Engineering, but he talks
14 through all the issues and concerns with the wall, roots
15 growing into it, no proper drainage, the walls failing, et
16 cetera, and replacing it, so the means and methods of the
17 construction. We will start here. This existing wall, the
18 westerly wall of the building, will get temporarily shored and
19 then a new wall will be placed in front of it. The reason for
20 having to remove that wall and then put in a new wall on the
21 property line, wildly insufficient, disturbing to the neighbor,
22 so that was an easy decision not to explore that. So that
23 section of wall will sit proud of the existing wall. That
24 existing wall will actually remain with a little separation to
25 the new wall. Along here and along here, that wall also sits,
26 as I mentioned, on the property line. Same means of

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2 construction for here. A new wall will be installed in front
3 of it. That existing wall will remain. So that existing wall
4 will actually act as temporary shoring while the new wall goes
5 in. And then the new section of wall at 1595, that wall will
6 remain, serve as temporary shoring. And the memo touches on it
7 in great detail, but one of the questions I've heard is that
8 it's going to be very noisy. So instead of driving piles, the
9 engineer has designed a system with auger piles, which is,
10 basically, an 18-inch hole, it's just like a little drill bit
11 going down. And he talks about it in there. It causes little
12 to zero vibration. Much safer methodology for close to the
13 neighboring properties. This existing wall will remain to act
14 as temporary shoring. And so that wall will sit as proposed 2
15 feet in front. And then once that is safe and settled, we will
16 be able to remove the existing wall. So that's a high level of
17 what we are looking to do with that. And Matt can speak to the
18 acoustics, to the benefits, et cetera, of the new wall.

19 MR. MANIS: Hello to all of the Board Members here
20 today. Good afternoon. Thank you for your time. My name is
21 Matthew Manis. I am a technical director in the acoustics
22 noise and vibration group at AKRF. AKRF is a multidisciplinary
23 engineering firm in New York City on 440 Park Avenue South, to
24 be precise.

25 At Adam's request, I performed a desktop review of the
26 proposed retaining wall and privacy fence, I will call it. I

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1 think the high level takeaway for me is that there is more
2 acoustical advantages to this design over the existing design.
3 As Adam mentioned, the primary acoustical advantage is the
4 height of the new retaining wall and the privacy fence. There
5 were many, many orders of magnitude feet above where we are
6 now. The existing chain-link fence is not an acoustical
7 material, which I think it's pretty plain to see. We did raise
8 a question about what makes the PVC fence an acoustical fence.
9 I wouldn't call it an acoustical fence other than the fact that
10 it can provide acoustical protection because it is non-slotted.
11 It's a solid material and certainly with the heights of the
12 retaining wall and the privacy fence, I think the biggest
13 advantage we have is, I believe, we are breaking lines of
14 sights from the residences down to the parking lot. That
15 breaking of line of sight is very critical in acoustics.

16 I also visited the site this morning. And based on my
17 observations, it looks as if the receptors, the noise receptors
18 behind the retaining wall with the residences, the homes will
19 actually be closer to the new location of the retaining wall.
20 In acoustics, the acoustical properties of a barrier are really
21 functioning of a few simple variables: The height of the
22 source, the distance from the source to the barrier, the height
23 of the barrier, the height of the receiver off the ground, and
24 the distance the receiver is to that barrier. So it's all
25 about geometry and heights. I was pleasantly surprised because
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2 with the retaining wall being pushed back, it actually puts the
3 receptors of the residences closer to the barrier. What that
4 effectively does is put the residences in what is called a
5 "shadow zone." A barrier will block noise naturally, but there
6 will always be some noise that will get over a barrier, and
7 that's where the height comes in. The taller, the better. But
8 invariably, noise will get over any barrier. You see these
9 barriers on the Long Island Expressways, right. So a shadow
10 zone is effectively this zone where there is a little bit more
11 protection acoustically behind the barrier. As you take a
12 noise-sensitive receptor and you pull them away from that
13 barrier and certainly if they get taller, now they are not in
14 that shadow zone. So it looks to me as if the geometry is very
15 much in our favor on the acoustic side. And the usage of the
16 parking lot is not changing. So I don't expect -- there is no
17 tractor trailers going behind here. There is no louder noises
18 than expected in the parking lot. It's still a parking lot
19 usage.

20 MEMBER GOODSSELL: No, but it doesn't seem to me that
21 the trash trucks that come to remove the dumpsters do it at any
22 other time other than 5:00 in the morning and you can't do
23 anything about that noise. I know it's a safety issue and I
24 think again that's part of what we expressed with our concerns.
25 But talk to us, if the trash removal comes first thing in the
26 morning, and that's when they want to get it done because there

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is nobody else around, what the neighbors could possibly hear?

MR. MANIS: I did not study that.

MEMBER GOODSSELL: Give me your best opinion.

MR. MANIS: The applicant will have to discuss that.

MEMBER GOODSSELL: There is nothing you can do to stop that.

MR. MANIS: Back-up alarms are very challenging because they are tonal, beep, beep. They are very tonal. And actually, you know, even sometimes the tallest barriers, it's just a very tonal sound. So I do think that that aspect of the design, the applicant will have to address the timing of that activity.

MS. DICKSON: I would also just add that there is trash pickup today. While the site activity is less than what it can be and should be, there is trash pickup already, but we have no problem making it a condition that trash pickup would only happen after a certain hour in the morning. Also, that idling time, which is already prohibited by law or restricted by law in a lot of instances, that we won't have any truck idling and minimize the back-up alarms. But, you know, obviously, it's a safety issue that the Federal Transportation Board, DOT, requires trucks have back-up alarms. I do think, though, that with the new site circulation and also to Mr. Mammina's point, Chairman Mammina's point, that the carts will have to be rolled out. I think it will minimize the amount of backing up that

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2 will have to be done onsite. And I'm sure, and I think you
3 could see from Adam's personality and your experience in other
4 sites, he is responsive. And all the neighbors will have his
5 phone number and will call.

6 VICE CHAIRMAN FRANCIS: Short of putting a dome over
7 the whole property, I mean there is really no way to keep the
8 noise down. I mean, we all hear it, it's just a part of living
9 in modern world.

10 MR. MANIS: And I will say this was a very thoughtful
11 design and very proactive on Adam's part.

12 MR. ADAM: Just two points to build on what Madam Kathy
13 said is that currently those dumpsters sit in a residential
14 district. As we touched on many times, we are shifting it down
15 into the business district. It will be in an enclosure. So
16 the status quo is not what we are proposing here. We are
17 proposing to improve it. The wall is getting higher, et
18 cetera. And also to what the Chairman said, with the roof over
19 the trash enclosure as a five-sided enclosure, as I now called
20 it, the trucker will really have no choice but to pull it out
21 because if he picks it up in the enclosure, he will rip the
22 roof off. So it sort of is an inherit way of forcing them to
23 get out and open the gates and pull it out and then take it
24 out.

25 MS. DICKSON: So I just also just wanted to mention,
26 for the record, that you do have a copy of Matt Manis' report.

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In it, it has his CV that establishes him as an expert in this field. And I just want to make sure that that is part of the record that the Board uses in making its decisions. Thank you.

MEMBER GOODSSELL: Thank you very much.

MS. DICKSON: I don't want give short trip to the rest of this, but I think the next few items are going to be a little bit less involved. We have the conditional use permit for the Sweetgreen restaurant. It's a new fast-casual concept that is coming to Long Island. They have a 180 shops throughout the country and they have several in New York City. Over the course of COVID, there was a big clamoring for their New York City clients -- from their New York City clients to come out to the suburbs, as a lot of folks from the city did. At the risk of getting everybody's juices flowing so close to having missed lunch, I do have some details about their operations that I would like to share. They are a regionally and seasonally specific type of venue. Different stores and different locations may have different menus depending on what is in season in that area, what the season is. Their goal was to bring fresh and locally sourced food to a convenient and affordable setting, so that's their goal. They are very environmentally conscious. They are really focused on sustainability and environmental responsibility. And their food is very fresh. They do receive deliveries daily as we touched on, but they will come in the morning before the store

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is open and before the site is active. But that allows for their fresh ingredients to come in every day.

As required by the code, all food waste will be stored inside the building in a refrigerated garbage locker and will be brought out as the collector comes to take away the garbage. So there will be no food waste stored outside for any period of time. And with the daily garbage pickup, that's their model. There should be no waste whatsoever that spends any time outside in the open.

CHAIRMAN MAMMINA: We really wouldn't permit any food waste to be outside. There has to be an interior refrigerated garbage.

MS. DICKSON: Yes, and that's shown on the floor plans that you have as part of your package. All of their other waste, interestingly with their business model, it's all compostable. All of their utensils, all of their serving wear and things of that nature, while they are technically considered garbage, they are compostable and they contract with local garbage services that will accommodate their recycling and composting priority.

They will be open 7 days a week from 10:30 a.m. to 10:00 p.m. They are proposing 63 seats, including both indoor and outdoor seating. The outdoor seating, obviously, is seasonal. And I think they are hoping to capture some of those seats inside as the weather gets colder, but there is not

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enough room inside to have all 63 seats.

CHAIRMAN MAMMINA: I think they might have to check that. That might have changed.

MS. DICKSON: We weren't cited for it, but if so, we will see you again.

CHAIRMAN MAMMINA: I'm almost certain, you know. I don't know if that's changed.

MS. DICKSON: So they expect about a 50/50 ratio of eat-in and takeout. And they said that differs from market to market, but most of their sales in suburban markets are takeout. I'm putting a lot of this on myself. I had Jason Hershfeld here from Sweetgreen, but he had to get back into the city. So he is not available to answer questions, but we had a pretty thorough debrief with him the other day. So I think between Adam and I, we can answer some questions for you if you have any regarding the conditional use permit.

And the last variances that we seek are for signage, signage for the restaurant. If I can direct you to the sign package that was part of your submission. So according to the code, there can only be one wall sign for each wall where a sign is permitted. You will see the renderings in the beginning of the sign package where you will see their branding is a white-painted building with Ivy accents hanging on the building. And they are proposing to have the Sweetgreen sign, which is, roughly, 36 square feet on all three of their

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frontages. And then with two additional, they are called blade signs that stick straight out from the side of the building on the Northern Boulevard frontage and also on the interior drive aisle frontage.

CHAIRMAN MAMMINA: Does Sweetgreen need a variance for spelling their name wrong?

MEMBER DONATELLI: You got four Es in there. So if they cut it down to two.

MS. DICKSON: Then they can make the sign smaller, right.

CHAIRMAN MAMMINA: I'm sure that's a logo.

MS. DICKSON: So the size of the signage is permitted on the front of the building on Northern Boulevard, that's a completely conforming sign. The one facing the drive aisle, the ingress aisle in the middles exceeds the maximum of the 24 square feet, but they felt for the symmetry of the building as you are coming down Northern Boulevard, that it would look awkward having two different sized signs that are, essentially, fronting on Northern Boulevard. The one in the rear for consistency is the same size, also 36 square feet. And they propose the two blade signs, which would assist with pedestrian direction to where the entrances are.

VICE CHAIRMAN FRANCIS: As opposed to the big sign already? I don't see the purpose of it.

MS. DICKSON: It's part of their branding. It's part

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of what they like to have with their sign package.

VICE CHAIRMAN FRANCIS: Okay.

MS. DICKSON: And then the last sign variance is relating to the ground sign on the site, which is the landlord, the owner's sign. You will see that.

VICE CHAIRMAN FRANCIS: The pylon sign.

MS. DICKSON: The pylon sign, yes. So the idea is to have a shopping center branded sign that would then list the 6 tenants in the shopping center so that as tenants drive down Northern Boulevard heading west, they will be able to see that the Trek, for example, in the further west building is at that entrance. So they will know to turn in as opposed to driving past it and then have to loop back around.

VICE CHAIRMAN FRANCIS: And is that at the new proposed entrance?

MS. DICKMAN: Yes. Currently, there are two ground signs. There is one pylon sign and one ground sign on the two buildings because they were a separate ownership. But now with the combined ownership, we are actually reducing the number of signs. Although, again, the ground sign is limited two 24 square feet and we are proposing a 30 square foot sign, which I think is appropriate just in light of the high-traffic area for visibility. Again, it will have each of the tenants' names in one of the six slots and for just an identification of the shopping center.

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2 MEMBER HERNANDEZ: Can you point out where the pylon
3 sign is going to be? Is that going to be in like by the
4 parking by the entrance?

5 VICE CHAIRMAN FRANCIS: In the grassy area, I'm
6 assuming.

7 CHAIRMAN MAMMINA: What is its setback?

8 MS. DICKSON: It's right here and it's going to be
9 setback 10 feet from the property line and you will see it's on
10 the left-hand side of the ingress.

11 CHAIRMAN MAMMINA: That's the requirement.

12 MS. DICKSON: And it doesn't interfere with any
13 parking. It complies with the setback with the heights. The
14 only thing that it exceeds is the square footage of the sign
15 that's permitted.

16 VICE CHAIRMAN FRANCIS: And it's lit or it's not lit?

17 MS. DICKSON: It is lit internally.

18 VICE CHAIRMAN FRANCIS: The boxes?

19 MS. DICKSON: Yes.

20 MR. ADAM: And the existing pylon, there is one in here
21 and there is one in here.

22 MS. DICKSON: So that's all I have for you now. I know
23 that we have some neighbors who have been waiting patiently to
24 address you. We have our whole team here ready to answer any
25 additional questions and to have any discussions that you would
26 like to have on the record.

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2 CHAIRMAN MAMMINA: So what we will do, as we said
3 earlier, is one at a time, people come up and put their name
4 and address, and then the podium belongs to you. Sometimes
5 people have spokesmen, and that's okay.

6 SECRETARY WAGNER: We had a couple of people register
7 to speak.

8 MS. CAPOGNA: I had registered to speak. My name is
9 Dr. Michelle Capogna. I reside at 20 Chase Road. This is my
10 husband, Anthony Capogna. So I know we are only allowed three
11 minutes, but as you can understand, there are a lot of details
12 that are spoken about with these variances.

13 CHAIRMAN MAMMINA: We are not going to chop your head
14 off.

15 MS. CAPOGNA: Okay. So one of the main concerns was
16 the interior alteration of the building to become a restaurant.
17 There hasn't been a restaurant there for many, many years. My
18 understanding, at least 50 or more. So we are concerned, yes,
19 about the noise. There is going to be increase in traffic,
20 loitering, deliveries.

21 CHAIRMAN MAMMINA: Just so you know, the restaurant
22 will have to come back here separate.

23 MS. CAPOGNA: So it's unfortunate that he didn't get to
24 stay.

25 SECRETARY WAGNER: No, that's part of this application.

26 MS. CAPOGNA: So I guess, if I may ask a question just

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2 to make sure I understand properly. What is it exactly? They
3 are requesting a variance to create the space for a restaurant?
4 Are they requesting a variance to have a restaurant?

5 CHAIRMAN MAMMINA: It wouldn't be a variance, it would
6 be a conditional use. A conditional use extends out to a
7 permitted use upon which the Board can put conditions, like
8 what we discussed just a few minutes ago, that their garbage
9 has to be maintained inside the building in a refrigerated
10 storage locker. Any doors into the restaurant have to be
11 closed so that there is no noise going out into that. I'm
12 trying to remember all of the conditions offhand, but it's
13 things like that that we can put on as conditions.

14 MS. CAPOGNA: Okay. Understood. So I know the
15 developer is concerned that he wants to improve the value of
16 their site, make it more profitable. And how it's existing
17 now, I guess, it's harder for them to do that. So I understand
18 the rationale and the reasoning of why they are proposing what
19 they are proposing. Adding more noise for us, there is a value
20 to our backyard. We use our backyard a lot. We have four
21 children. It's used a lot, more than a lot of families, I
22 would say, that would use their backyard. So we are concerned
23 about the loitering. We do get loitering now, even though it's
24 not as heavily as it could possibly be. We do smell marijuana
25 if people are hanging out and smoking in that parking lot. We
26 are concerned about the lighted signs. More access to Northern

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2 Boulevard. So now that the building is split into two, more
3 noise would be coming from the front of the street, that is a
4 big concern. I understood that someone was here discussing the
5 traffic. Like, I guess, a traffic study was made. I don't
6 know that I understood all of it. I think the traffic concern
7 was really mainly or primarily to discuss the flow of the cars
8 going in and out of the parking lot, but not really taking into
9 consideration the noise of the traffic that we are going to
10 hear, that's definitely going to increase. More traffic on
11 Northern Boulevard.

12 Also, the reduction of the landscape barrier, I know
13 that's a hot topic. I feel genuinely that there was a reason
14 for this easement behind our property that is abutting the next
15 property. We have children that play with balls. They go over
16 the fence. There are times that they are trying to climb the
17 fence. We've had to get a ball. If the easement is removed,
18 next to our fence would be their retaining wall, which is
19 abutting our fence, it's so close. There is going to be about
20 a 22-foot drop instantly. So we are concerned about the
21 safety. The noise reduction, I appreciate the thought that's
22 going in to have this extra fence with a noise buffer. I don't
23 know really how much that is really going to work. The
24 dumpsters as they stand are on that side that they are
25 proposing. And with the infrequent use of them now, I believe
26 it's still around 5:00 a.m. It's been lessened recently

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because I understand it's not used to the potential of what it could be. It is a loud bang. It's a boom. They get the dumpster and they slam it.

MR. CAPOGNA: 5:00 a.m.

MS. CAPOGNA: We are going to hear that much more frequently with restaurants with the garbage that is going to be needed to be taken from there.

CHAIRMAN MAMMINA: They will have a private carting that will pickup. The restaurant will have a required private carter that will pickup their garbage, and they do that directly from the restaurant.

MEMBER DONATELLI: So that is one of the conditions that if we were to act on this, when we act on this, if we were to grant it, that would be one of the conditions that we can impose as to the times for the garbage pickup. And, perhaps, we should have said this at the beginning, and I know your time is up, but just for the other people who are also here, I think that the applicant is actually taking notes and will address your questions. So, you know, please feel free to tell us what your concerns are and the applicant will address them.

MS. CAPOGNA: So just the fact of their retaining wall going right next to ours. I don't understand the whole engineering process of it, but my concern is drainage. I didn't hear that addressed. If they did, I didn't realize it was being addressed.

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CHAIRMAN MAMMINA: That will be required by the Building Department.

MS. CAPOGNA: So the drainage with possibly the wall buckling if it is not supported correctly. I have a neighbor here that, unfortunately, was not able to register to speak, but he was explaining to me of his experience and his concern with the retaining wall being at a certain height. There was an instance in the early 2000s in Strathmore around the 20 Mill Spring Road address where a retaining wall buckled. The drainage wasn't appropriate. It just completely buckled and the soil went into the neighbor's backyard. So I'm concerned about that. I'm concerned about the actual construction at the time of it being so close to our property, will something happen to the soil, that it's going to collapse? I don't know, but that is a concern of mine. Their wall is going directly against our property. It seems like a couple of inches. As of right now, it's about 10 feet. The lighting is actually a concern, as well. I'm not sure what their photometric plan or observation was with how much lighting we are actually going to get, how much unwanted lighting is going to spillover onto our property.

CHAIRMAN MAMMINA: The Town Board will look at that when they come on into the Town Board. And again, should we approve this, I would encourage you to come to the Town Board hearing, as well.

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MS. CAPOGNA: I took off the day of work and canceled a day of patients because this is very important to me.

CHAIRMAN MAMMINA: I get it.

MS. CAPOGNA: So I will continue to come. So finally, one of the main things is we purchased our property with the understanding of how it had been used. There wasn't an eatery there. We knew that there was an easement there. We were very well-aware of there being a certain separation from our property to the next property. We are concerned of our home value being less now, that future home buyers are going to look at that as a negative effect. So the developer's property will increase and I feel like our value will be decreased as a result.

ATTORNEY ALGIOS: I'm so sorry. So I did give you an additional three minutes since you are speaking also for your husband, so if you can just wrap up your comments.

MS. CAPOGNA: Yeah, sure. So basically, the last thing I just want to state is the existing building codes are to protect the residential area. Allowing the variances may potentially cause other commercial-type properties to request similar changes affecting other homeowners in Manhasset, not just us. Thank you for your time and consideration of us, as the homeowners directly impacted by the requested variances.

CHAIRMAN MAMMINA: Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

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CHAIRMAN MAMMINA: Very precise with your thoughts on that and we truly try to take everything in consideration.

MS. CAPOGNA: Thank you.

SECRETARY WAGNER: Anyone else?

CHAIRMAN MAMMINA: Yes, ma'am. Come on up.

MS. RUSSO: So I tried to condense mine in the cards.

CHAIRMAN MAMMINA: So just give your name and address.

MS. RUSSO: Hi. My name is Joanne Russo. I am the resident at 26 Chase Road in Manhasset. I just would like to say thank you for the opportunity to speak to all of you, some of which I am familiar with. I am here mostly as a 20-year resident. I tend to speak from experience, what it's like to live behind an office building. So whatever I am saying, you will need to accept it with credence because I have 20 years of that. I first received this notification only one week ago. I went into fast gear. I actually spoke with Adam, who was very gracious to take the time to speak with me along with another neighbor. That was very proactive for him and that was great for us. However, in speaking to my fellow neighbors, we are very concerned about the impact, as we said, of this particular hearing and its variances. I heard very clearly there are five factors that need to be met. And actually, those five factors are very clear are being met here in regard to detriment to our community, preserving our community as it exists now. There are substantial variances. Also, it could impact even our

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2 environment, and these are all self-created by the developer.
3 So as far as the factors are concerned, they are all met, all
4 right, and I will embellish on that. As you know, there hasn't
5 been a restaurant in this location for years. So the question
6 is why? From my understanding, it seems like retail is dead
7 and maybe restaurants are in. This seems to be, you know, the
8 health of this generation and salads are in, but one day salads
9 might be out. So my question is, and from what I understand
10 from the gentleman that just left, but I posed this question to
11 both Adam and to the gentleman at Sweetgreen, it seems and it
12 appears that it's a 10-year lease. However, after 10 years,
13 now this conditional use restaurant, what does that mean? Who
14 will move in? What are we subject to? Right now it's salads.
15 Next it could be hotdogs, it could be hamburgers. I live
16 directly across. And getting back to the signage. I can smell
17 IHOP smells in my backyard. Thankfully, they smell good. But
18 how do I know? It could be a different restaurant with
19 different menus that have adverse smells coming our way. So
20 this is a precedent.

21 CHAIRMAN MAMMINA: If there are any changes in kitchen
22 equipment, another restaurant would have to come in for that.

23 MS. RUSSO: I understand, but this is our concern.
24 Right now, we won't have any smells. And from what I
25 understand, and the developer has listened very clearly and he
26 made a revision to the garbage enclosure, which I truly

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2 appreciate. I just want to take just 10 seconds to acknowledge
3 that Adam was very gracious. He FedEx'd everything to me right
4 away. He made himself available. He setup a meeting. So
5 kudos to him for being very on top of things with neighbors.
6 He wants to make us happy. And just hearing all of this,
7 eventually the lease of this property, if it wasn't bought by
8 Adam, it would have been bought by someone. So I am thinking
9 about this that maybe, you know, this retaining wall was going
10 to be a reality down the road, okay. So now it's a matter of
11 living with whoever the developer is, and right now, it's Adam.
12 So in regard to that, the Sweetgreen seems to be the burning
13 issue here right now. I'm okay with, you know, offices,
14 retail, all of that, because I have lived with that. I have
15 seen Smith & Hawken. I have seen Destination Maternity. I
16 have seen all of that, so I understand. But the key element
17 here is the Sweetgreen and opening up that passageway. I think
18 it's a great idea because I can literally -- when I went to
19 Ethan Allen when I first moved into this neighborhood, I found
20 it very hard to park there, so I get it. I understand.
21 However, however, these folks who are next to me or adjacent to
22 me, they don't have the full impact of the boulevard. I do. I
23 understand.

24 ATTORNEY ALGIOS: Ms. Russo, I'm sorry to interrupt
25 you, but your time is up and I did give you a little additional
26 time, so if you could just warp up.

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MS. RUSSO: Yeah, I need one more minute or two. All right. Make believe my husband is here, too, and my daughter.

ATTORNEY ALGIOS: Unfortunately, it doesn't work that way, but if you could just wrap up. Thank you.

MS. RUSSO: Well, we waited long enough.

ATTORNEY ALGIOS: I know and I do understand.

MS. RUSSO: Yeah, so thank you very much, Board, okay. So the parking lot literally will be in our backyard, okay, that's number one. We talked about the retaining wall, I get it. Regarding the deliveries and the noise from the garbage. If you have never lived near anything where they are picking up garbage, I can only tell you that's your wake-up call. No matter what, you call I don't know how many times to change the pickups. Sometimes the garbage truck people decide to do what they want to do, okay. In regard to the enclosed garbage, I thank you for doing that and listening to us. I think and I heard that there is a town review. I think that we need to -- since this is a precedent in this location to change now to a restaurant, I think we need to be involved in that. And I believe that also Adam wants to make this work. Once this is developed, everybody goes home, but we are living with the reality, the real reality every day. The noise, possibly the smells, possibly the traffic. And also, as my fellow neighbor said, Michelle and Anthony, a possibility of our value of our properties going down. So open dialogue is very necessary and

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I feel very confident that the developer will listen to us.
And basically, if all parties are satisfied, I think it should
be in this order. All right. I think it should be the
residents first, the town next, and the developer last.

ATTORNEY ALGIOS: Okay. Thank you so much, Ms. Russo.
I did give you some extra time.

MS. RUSSO: Thank you. I appreciate that.

ATTORNEY ALGIOS: You're welcome.

MS. RUSSO: I hope it's helpful to understand and make
your decisions. Thank you.

MS. JACOB: Hello. I'm Dr. Lena Jacob. I live at 14
Chase Road. My house is directly behind the property. I
bought my house 11 years ago. I had a choice of where to buy a
house. My friends told me to definitely buy in one of the
neighboring villages, but I chose the Town of North Hempstead
because I was assured that it had a strong Board and a strong
building code. I knew that it was a gamble to buy a house
behind a parking lot. But again, I had full faith in the
Board. So my main concern is the reduction of the landscape
barrier. When I bought my house, there were a lot of big
beautiful trees behind in that landscaped area that have since
been cut, and I know I hear a difference. We spend a lot of
time in our backyard. And since those trees have been cut, I
hear the sounds from Northern Boulevard. I hear the sounds
from the center. I did come earlier. I, too, canceled my

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1 sessions and asked the patients to reschedule, but I learned a
2 lot sitting here. So I learned that from your own words,
3 people love the Town of North Hempstead because of the way it
4 looks. That's why the Board is here, to preserve the character
5 of the neighborhood. People love their front lawns, but I just
6 want to point out, people love their backyards also. The
7 proposal brings the retaining wall right up to the property
8 line. So with that, there will be more noise. There will be
9 more danger because my children play in the backyard also and
10 sometimes the ball does go over the fence. Then they have to
11 climb over to get the ball, but now it's going to be like a big
12 20-foot drop. And if that ball hits a car, what is going to
13 happen? So my child will not be able to play in the backyard
14 with their ball because in case it goes over the fence, what is
15 going to happen if it hits a patron's car, who is liable for
16 that? And we talked about the garbage, the smell, and the
17 noise. And when I bought my house, I was told there wasn't
18 going to be a restaurant there and there hadn't been a
19 restaurant for 50 years. I believed that because it's also the
20 walkway for school. My children walk home from the school. A
21 lot of children walk from the secondary school of Munsey Park
22 Elementary School down Northern Boulevard. And I was told that
23 having a restaurant, all the turns that go through Northern
24 Boulevard will be a safety concern for these children who are
25 walking unattended alone down that side of Northern Boulevard.
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2 Then finally the hours of operation. We talked about the
3 garbage, the noise, the loiterers, like bringing Northern
4 Boulevard closer to my house. That, definitely will reduce my
5 property value. So I'm here to ask you not to approve the
6 variances. The building codes are there for a reason, to
7 protect the residential area and maintain the safety and health
8 of our community. Allowing the variance will defeat the
9 purpose of having building codes in place to protect the
10 residential community, which includes small children. We all
11 have small children. It also sets a precedent for other
12 developers, like my neighbor just mentioned, to break the rules
13 that were set in place to protect us, the residents. As you
14 guys had also said earlier today, you cannot differentiate the
15 rules for someone else coming in. So I think that this is
16 really, you know, like it's up to us today to set that
17 precedent to maintain and preserve the integrity of our homes.
18 Thank you.

19 CHAIRMAN MAMMINA: Thank you very much. Please.

20 MR. DOYLE: My name is George Doyle. I live at 32
21 Chase Road. It's been a long day, gentlemen, ladies. I will
22 be brief. I have been here 65 years. I have seen developers
23 come and I have seen them go. I have seen the effects of what
24 they do, both good and bad. My concern is that this developer,
25 taken as a whole, are cursory services. They are not primary,
26 they are cursory. What does what mean? It means they depend

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1 on disposable income. Right now, we are heading into a very
2 high probability of a global recession. Why? Why do I say
3 that? Because rates are going up. You have every indication
4 they are going up. You have a war going on in Eastern Europe.
5 God knows, Taiwan might get invaded, too. That's the general
6 background, but I'm saying if this is a tertiary development,
7 pretty much heavily dependant on disposable income. If we get
8 hit with a deep recession, what is that going to do to that
9 kind of a developer? We don't know. But the risks will
10 increase. The restaurants are a high-risk business and a
11 high-turnover business. I have some peripheral experience with
12 that. So this restaurant goes out, what comes in? I don't
13 know. It's just something I would ask you to consider because
14 if it works, yes, fine, but it depends entirely on disposable
15 income or I will say heavily on disposable income. I don't
16 know the credit ratings of the underlying companies or outfits,
17 that's something to consider. If we get hit with a serious
18 deep recession, this kind of a project will be affected
19 severely. Thank you.

21 CHAIRMAN MAMMINA: Thank you very much.

22 MEMBER HERNANDEZ: Anyone else?

23 MS. DICKSON: So thank you. I just want to comment on
24 a couple of things, and I'm happy to hear that Ms. Russo
25 acknowledged the meetings with Adam because Adam has attempted
26 to reach out. It is his M.O., that he really wants to engage

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2 the neighbors and have a lot of back and forth. So everything
3 that we have heard today, we take very, very seriously. I know
4 this Board knows, but just for the sake of the public, with the
5 restaurant, we are talking about a special permit. We are
6 talking about something that is a permitted use. We expected
7 this Board to impose some conditions. Those conditions, I'm
8 sure are the ones that you talked about that you impose on
9 restaurants, you now, refrigerated garbage with limiting the
10 hours of garbage pickup. You know, if there are other
11 reasonable conditions that this Board wishes to impose, we are
12 certainly open to them. As you know, the way retail is it's
13 very different than it used to be. I'm sure most of the
14 applications that come before you today are for restaurants and
15 fitness centers and medical uses as opposed to traditional
16 retail. It's just the way that things are. I do think that
17 this shopping center was thoughtfully curated by Adam and his
18 partners to make sure that there are synergies and lack of
19 conflict.

20 I think, while I didn't say factor one, factor two,
21 factor three, I think it's very clear from our presentation
22 today that we worked very hard to minimize any detriment to the
23 neighborhood. By showing the benefits -- well, obviously, the
24 benefits to the applicant are what they are. They are benefits
25 to the shopping center, which are also benefits to the
26 community. The retaining wall getting closer to the property

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2 line may be perceived by the neighbors as being a detriment,
3 but as our acoustical engineer stated, it actually will reduce
4 the sound that would be coming from the parking lot and from
5 the uses there. That's something that we are happy to have an
6 ongoing conversation with the neighbors about. We do have to
7 appear before the Town Board for site plan review, and I am
8 sure that that will be an issue that will have to be addressed
9 at that point, as well.

10 There was reference to an easement area. That area on
11 top of the wall is not an easement. As I mentioned in our
12 opening statement or our opening comments, there is not a
13 restriction on the location of the retaining wall, really, it's
14 a height issue. And if we could make it lower and not impact
15 their properties, we would, but to have a lower retaining wall
16 in that location, it would be problematic. It would be much
17 worse for the neighborhood.

18 The concern about loitering, I understand whenever you
19 have a parking lot, there is this concern about loitering. I
20 do want to mention that Sweetgreen does not have a liquor
21 license. So you are not going to have a bar crowd or a rowdy
22 nighttime crew spilling out at 2:00 in the morning and making
23 noise. It's a fast-casual restaurant, all of us are familiar
24 with them. Their menu is, I would say, a mix of cooked and
25 uncooked things, but it's a lot of greens, a lot of fresh,
26 uncooked products, and their method of cooking is a combination

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of that. They don't have fryolators. They don't have open flames. It's combination ovens. And the fire marshal and the town will put restrictions on the ventilation and make sure that there will not be odors that are going to be emanating. A lot of the restaurants that are in the packet that Adam pulled out and that some of the neighbors talked about, those are older restaurants they have been there for a long time. So they don't have the benefit of the restriction that the town will now impose on a restaurant here.

So those were my only comments. I think Adam wanted to add another word or two.

MR. ADAM: Thank you. I just have a couple of things to touch on. Dr. Capogna, if I'm pronouncing that correctly, had some concerns about the wall. So the new wall could buckle; the soil could collapse; is there drainage on the wall? So ironically, these are all things that we have concerns with the existing wall. There is limited drainage on the existing wall. What drainage we do see is clogged. The new design provides for weep holes throughout the panels. In addition to that, there will also be drainage going behind and piping that will bring any water from the top of the wall into the drainage system in our parking lot. So from a drainage perspective, vastly improved. In terms of wall buckling, the wall is currently buckling. So yes, I can't guarantee that the new wall, at some point, won't buckle. Obviously, no one can

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guarantee that, but it will be built to today's standards, not the standards of probably the 1950s. And the terms of concern of, well, will the soil collapse while it's being built. So as I touched on earlier, and the memo from Titan Engineers touches on it in great detail, these piles will be auger, not driven. Auger eliminates vibration. And as a means of a backup, for lack of a better word, the existing wall remains while those piles are driven. So all done designed to keep safety in mind for the neighbors and as well as our property.

In terms of lighting, the Doctor, I believe, mentioned that also. There will be site lighting. There is very limited site lighting now. It will all be shielded. It will all be dark-sky compliant and notwithstanding that the light fixtures, which say they will be 15-feet high, which is a typical height for the light fixtures, that is, roughly, at the grade of the house behind us. So even if they weren't shielded, which they will be, the height spillage wouldn't really get anywhere behind the rear property line. But all lighting -- and the Town Board will have a look at this -- will be shielded and dark-sky compliant.

Other than that, I think that touched on everything I had. The only other thing, which I think did you submit it?

MS. DICKSON: Oh, no.

MR. ADAM: So as I mentioned earlier on in the testimony, the property is really -- it was troubled, for lack

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2 of a better word. Finding tenants to fill the entire property
3 was a challenge. The predecessor who owned the property, it's
4 been a 17-year journey of never being able to fill the entire
5 property up with tenants; not enough parking, poor access, poor
6 circulation. So prior to our ownership, the owner had hired
7 Ripco Real Estate and he was hired to lease the vacant space,
8 which ultimately was leased to Mayweather. Then during that
9 tenure, Destination Maternity filed for bankruptcy and they
10 vacated and he took on that assignment. After about a year and
11 a half, he was able to secure Mayweather as a tenant and lease
12 that space to them. That, shifted his energy to the
13 Destination Maternity space, they submitted the site to dozens
14 of tenants and the feedback was all identical: We would love
15 to be on Northern Boulevard in Manhasset, but the site doesn't
16 work, not enough parking, poor access, poor circulation.

17 When we acquired the property, we came up with this
18 plan, which is many iterations later, but the concepts remain
19 the same and the excitement and the action for this property
20 was significant. So he prepared an affidavit just sort of
21 explaining that, so here is a copy of that.

22 SECRETARY WAGNER: So this will be Exhibit 7.

23 MR. ADAM: And just Matt Manis is going to say one
24 thing, but from my closing perspective, again, I would be lying
25 if I stood here to say the property won't get busier, it very
26 well will and likely will. But I hope the Board has seen that

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2 we really looked at every possible way to mitigate the
3 residents concerns, and I mean it, I have done it before. They
4 have my cell phone number. I have never sold a property. I
5 grew up in Great Neck. I live in North Hills. I'm not going
6 back to Ohio after this today. I'm going home to my family
7 right near here. So I will be a customer of the shopping
8 center. So I understand there are concerns. Even just this
9 morning, I was up early and I drove around just to see all the
10 other restaurants on Northern Boulevard in Manhasset, and
11 almost none of them have trash enclosures, the dumpsters are
12 just open. So we really tried to look at this from every angle
13 and do anything and everything we can to mitigate any possible
14 concerns. So thank you. And Matt --

15 CHAIRMAN MAMMINA: Just before you go down. Is there
16 any way to get any kind of landscaping on top of that wall?

17 MR. ADAM: So we did look at it and what we did come up
18 with to maintain compliance with the depth of the parking
19 stalls and maintain the compliance with ULI, we have about 2
20 and a half feet of cushion. So in the interest of trying to
21 make it concession and be helpful to the neighbors, we could
22 agree to shift the wall back from the proposed location another
23 2 feet. And as I said, that will maintain compliance with the
24 town standards for depth of parking stalls and the ULI
25 standards for drive aisle widths. So we are borrowing from one
26 and borrowing from the other in the interest of being a little

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more aggressive and pulling that wall further away another 2 feet.

CHAIRMAN MAMMINA: Are you saying that you then could put something on top of that?

MR. ADAM: So that would create about a 4 foot. Instead of the wall being 2 feet from the property line, it would be about, approximately, 4 feet from the property line. So yes, that would afford an opportunity to plant something there.

CHAIRMAN MAMMINA: Get some evergreens up there and have it more vertical, more in line with what one neighbor has.

MR. ADAM: Correct. So Matt just wanted to touch on one thing.

MR. MANIS: Thank you. So it's been brought to my attention that Adam had removed, approximately, 8 or 9 trees from the subject property site. So I briefly wanted to touch on the topic of vegetation and acoustics. With the amount of time that I had with the limited research I did, if you look at acoustical literature, you know, vegetation is one of those things that everyone thinks, oh, you plant some trees and you get this acoustical attenuation. It doesn't really work like that with the physics. It, roughly, takes a 100-foot deep of planting of trees or dense shrubbery to even provide some acoustical benefit or attenuation. That, is straight out of David Egan, Architectural Acoustics, a widely published book in

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2 my industry. You will find some other publications that might
3 cite that plus or minus, but effectively, trees do not block
4 sound well. They provide a little defraction and they do
5 provide some blocking and high frequency. But at the end of
6 the day, a 100 feet of trees is quite a bit. So the removal of
7 8 or 9 trees at the subject property site, in my professional
8 experience, I don't think that would have impacted any of the
9 acoustics at the site.

10 There is a psychological benefit or detriment.
11 Sometimes if we remove a physical object that is blocking, you
12 know, your visual sight from your property down to something
13 that might be making noise, psychologically, sometimes you see
14 it, now you think you hear more of it. But 8 or 9 trees of
15 removal, I would not anticipate that providing much of a
16 difference.

17 CHAIRMAN MAMMINA: I think if they are leafed trees,
18 there might not be improvement, but if you have a stand of
19 evergreen trees, there is some effectiveness to that because
20 they are going to grow and they are going to knit and things
21 like that. I think that's what we are talking about.

22 MEMBER HERNANDEZ: It's the density of it.

23 MR. MANIS: Right. Exactly.

24 CHAIRMAN MAMMINA: Thank you.

25 MEMBER HERNANDEZ: Thank you.

26 MR. ADAM: Before Kathy comes up, just to bolster that,

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2 I just wanted to put on the record that those 8 or 9 trees were
3 removed subject to a tree removal permit from the Town of North
4 Hempstead Building Department. It wasn't just we woke up one
5 morning and said those have to go. And as mentioned
6 previously, in the memo from Titan Engineers, it states that
7 even if we weren't going to remove -- push the wall back from
8 our perspective of our property, those trees would have had to
9 go, anyway, because the roots were causing damage to the
10 retaining walls. So that was the rationale for why they were
11 removed.

12 CHAIRMAN MAMMINA: Okay.

13 MS. DICKSON: I have nothing further.

14 CHAIRMAN MAMMINA: All right. So I guess, whatever
15 your revisions to plans and things that we may be looking for
16 here in terms of some additional details and all of that would
17 be greatly appreciated. So I think we will continue this. And
18 I know we have Mr. Canzoneri here, but I think you did a very
19 thorough job.

20 MR. CANZONERI: I'm here to answer questions that you
21 have, that's all.

22 CHAIRMAN MAMMINA: Thank you, I appreciate it. Job
23 well done.

24 MS. DICKSON: Just a question about the continuation.
25 Do we come to the next meeting or just send that additional
26 information that was discussed this evening?

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SECRETARY WAGNER: Well, those are plans that have to be submitted to Building Department, just so Joe can take a look at it because that's the plans that you want to move forward with.

MS. DICKSON: Okay. That's it. Thank you.

CHAIRMAN MAMMINA: Thank you all. Thank you very much.

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

1 APPEAL #21298

2 SECRETARY WAGNER: Neat Appeal is Appeal #21298 - Kura
3 Sushi; 47 Old Country Rd., Carle Place; Section 9, Block 670,
4 Lot 27; Zoned Industrial-B. Conditional Use § 70-187(P) and
5 variance § 70-103(A)(1) to construct interior alterations to
6 convert a commercial space into a restaurant (a conditional
7 use) with insufficient off-street parking.

8 CHAIRMAN MAMMINA: You heard Appeal #21298, Kura Sushi
9 Restaurant. Is there anyone in the room interested in the
10 application other than the applicant? Seeing no one. Please
11 give your name and address.

12 MR. SBARRO: Good afternoon. My name is Gianni Sbarro.
13 I'm an associate with Forchelli Deegan Terrana, LLP with an
14 office at 333 Earle Ovington Boulevard, Suite 1010, Uniondale,
15 New York 11553.

16 VICE CHAIRMAN FRANCIS: Just relax. I know your boss
17 is here.

18 MR. SBARRO: She is a good boss. Thank you for having
19 me here today. So the requested application relates to the
20 site known as 47 Old Country Road located in the Country Glen
21 Center on the north side of Old Country Road in Carle Place.
22 The site is, approximately, 27.65 acres and it's located in the
23 Industrial-B District of the town. This property is developed
24 with 285,000 square feet of commercial space, including
25 restaurants, general, and medical offices, a supermarket, and
26 other retail space. A proposed addition to this center is Kura

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2 Sushi Restaurant, which will be located in the southwest corner
3 of the site with the front of the restaurant facing Old Country
4 Road. This innovative concept features small plates of sushi
5 and other Japanese food that are placed on two rotating
6 conveyor belts that wind throughout the restaurant and move
7 past every table, counter, and seat for customers to grab and
8 enjoy. The final bill is based on the number and type of
9 plates selected. The proposed restaurant will have a total of
10 109 seats, which includes counter seating, as well.

11 I have some menus and brochures for the Board to
12 review.

13 SECRETARY WAGNER: Those are menus and this is the
14 brochure. So the brochure we will consider as Exhibit 1 and
15 then the menus as Exhibit 2.

16 MR. SBARRO: Sure. Due to its unique revolving
17 conveyor belt concept and high level of automation, the average
18 Kura Sushi Restaurant functions with minimal staff.
19 Specifically, there will be anywhere from 5 to 7 servers in the
20 front of the house and 15 to 18 employees in the back of the
21 house, which includes chefs, sous-chefs, and prep workers, et
22 cetera, during peak hours. The restaurant will open at 11:00
23 a.m. and close at around 9:00 p.m. 7 days a week. The proposed
24 upgrades to the existing 3365 square foot site include
25 improvements to the interior design, signage, lighting, and
26 more. As a result, this restaurant will have an attractive and

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modern appearance and it will be a valuable addition to the community.

We are requesting a conditional use and a variance pursuant to the Town Code. Specifically, the project requires conditional use approval under Section 70-187(P) for the proposed restaurant use. The Board should grant the restaurant use because it's in line with the purposes of the zoning as set forth in the town law and the use is permitted in the Industrial-B District in the Town of North Hempstead. The restaurant will be appropriate and in harmony with the surrounding properties in the community and will contribute to the proper growth and development within the community. Additionally, the proposed restaurant will not have any negative impact to the immediate neighborhood or nearby residences. And the new restaurant in the center will provide another desirable food alternative for local employees and residences in the area to enjoy.

As previously mentioned, we are also seeking a variance of Section 70-103(A) (1) for the 224 space parking deficiency here. Under that section, 1268 off-street parking spaces are required for this project. While 1044 spaces would be provided. However, there is really only a 39 space deficiency, which is the difference between the existing and new use. And the reason that the number is so high is because there was a recent change in the code that Sean Mulrayn will speak on in a

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2 bit. The requested variance will not create an undesirable
3 change in the character of the neighborhood, nor a detriment to
4 the nearby properties. The site is designed to attract
5 customers who will patronize multiple tenants businesses in a
6 single visit. Therefore, there is less typical off-street
7 parking demand than necessary here as a result of less vehicles
8 visiting the site. Additionally, this area is very commercial
9 in nature and the nearest residential properties are located on
10 the south side of Old Country Road opposite the subject site,
11 so there is attenuation. With the abundance of off-street
12 parking available at the center, it's very unlikely that the
13 subject site will have any spillover parking in the surrounding
14 area. This is a very self-contained and self-regulating
15 shopping center.

16 Second: The benefit can be achieved by some method
17 feasible for the applicant to pursue, other than a variance.
18 Due to the configuration of the subject site, we are not able
19 to comply with the parking requirements set forth by code. The
20 site is fully developed and its current arrangement of tenant
21 spaces has existed for more than 17 years. As such, we seek to
22 maintain the existing square footage of the space while only
23 changing the use from personal service to restaurant.

24 When considered in conjunction with the size of the
25 center and the number of existing off-street parking spaces
26 available, rather than the space in itself, the requested

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2 variance is not substantial. This is a 1.2 million square foot
3 site with 1044 off-street parking spaces for customer use. The
4 224 parking space deficiency will not have any effect on the
5 surrounding community, again for the reasons that I said before
6 and the for the reasons that Mr. Mulryan will explain in a bit.

7 Given the site's longstanding commercial status, the
8 proposed improvements will not cause any physical or
9 environmental effects on the surrounding neighborhood. Old
10 Country Road is recognized as one of the main thoroughfares for
11 commercial businesses in Nassau County. Therefore, there is
12 numerous restaurants just like these ones all throughout the
13 neighborhood.

14 Lastly, while this is a leased space and the Board may
15 view the alleged difficulty as self-created, it should not be
16 dispositive in its decision for there are no other practical
17 alternatives available to complete this project. I would now
18 like to introduce Sean Mulrayn of Mulryan Engineering to speak
19 a bit further about the traffic and engineering report his
20 company conducted for the proposed project and the changes that
21 have occurred since the height of the COVID-19 pandemic. Also,
22 I would like to introduce Chelsea Prior who is here from the
23 Kura Sushi team as well as Mike McNerney and Nick Cifaretto,
24 both architects. They will not be presenting, but they are
25 available for any questions that the Board will have.

26 MR. MULRYAN: Good afternoon. Sean Mulryan of Mulrayn

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Engineering; 1225 Franklin Avenue, Garden City, New York.

We prepared a parking study for this site, specifically for this application. However, we had also looked at this subject site in October of 2018. During both of those studies, we found that the site provides ample parking for the use and mixture that was brought in at the time. This subject site is located in the front, closer to Old Country Road. The site, as you can see from the aerial photograph to my right and your left, is quite large. It extends backwards from Old Country Road and abuts the Long Island Railroad to the north and Glen Cove Road to the east. As was mentioned previously, this does not abut any other residential properties. The properties to the north side of the Long Island Railroad are also commercial. To the west, there is office buildings and other commercial uses. The nearest residential homes are further to the west and also on the south side of Old Country Road beyond the commercial properties. This is a self-contained shopping center. It has a large number of parking spaces and it has numerous types of uses, including a Stop & Shop Supermarket and various retail stores. As you heard earlier today, restaurants and retail uses have a synergistic effect with each other. One person might go to the Stop & Shop, then stop and get something to eat or vice versa. And the restaurant, since it has a large dinner crowd, would operate when other businesses are closed or less active. This is close to the Barnes & Noble, which is

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2 around the corner, essentially, from this portion of the
3 subject property, and that also attracts people who come in
4 with different things they have there and then sometimes they
5 will go out for lunch while they are in the center. Again, we
6 looked at this site in June of 2022 for this application and
7 also previously in October of 2018. And during both times when
8 we went to this site, there was ample parking for the stores
9 and the restaurants that are currently on the subject site.
10 Any questions from the Board, I would be happy to answer.

11 MEMBER GOODSSELL: Well, I just want to make a comment.
12 I understand what you are saying, that there is a thousand
13 parking spaces in there, but if I am going to go to this
14 restaurant, I'm not going to park all the way down by Stop &
15 Shop and walk all the way back. So I'm really focused on the
16 parking lot that is right there in front of by Old Country Road
17 right in front of the restaurant. But I agree in the sense
18 that there is a number of businesses there and I don't think
19 the bagel store is going to be open for anything beyond lunch.
20 So I don't find the conflict. And even just perusing the site,
21 there is always a spot or two that you can park. So I
22 appreciate the fact that there is a thousand parking spaces,
23 but you and I both know, you are not going to park in front of
24 Anthony's Coal Fired Pizza and walk all the way back to go to
25 this particular store.

26 MR. MULRYAN: I would like to address that and only

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2 just to say that I have heard similar arguments before and I
3 always like to bring up when I hear things like that, downtown
4 areas, such as Port Washington where if you have a 20 or 40
5 foot storefront, there are only one to two parking spaces
6 directly in front of your store. If we were to acquire
7 additional properties in the back and build additional parking,
8 we might not need a parking variance, but those spaces would be
9 no closer to this building. The aerial photograph does show a
10 large concentration of vehicles in front of the Stop & Shop.

11 MEMBER GOODSSELL: Yes, because the busiest seem to be
12 Stop & Shop and Barnes & Noble.

13 MR. MULRYAN: And it also centers. Obviously, this is
14 a center. Although, there is a separate wing, if you will, of
15 the center on this site. This area in the middle or towards
16 the front --

17 MEMBER GOODSSELL: Nobody ever parks there.

18 MR. MULRYAN: That was exactly my point. In that it is
19 in close proximity to these stores and these restaurants, it is
20 underutilized. Even these businesses, when these restaurants
21 were open, would filter somewhat into this area, but somewhat
22 this is an underutilized portion of the lot. This aerial
23 photograph does show that there is a heavy concentration closer
24 to the stores. As you look at the row of parking closest to
25 Old Country Road, you will see there that there is,
26 essentially, no one in that row. That's what we observed when

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1 we were out there. So even within this area, although it does
2 become congested because as I said, similar to Port Washington,
3 everyone wants to be that first car in front of the door, which
4 is not possible, obviously. There is parking in that specific
5 area that you mentioned. And again, if you are at Barnes &
6 Nobles, you are going to have to park somewhere else in the lot
7 and then walk.

8
9 MEMBER GOODSSELL: That's true.

10 MR. MULRYAN: Thank you very much for your time.
11 Again, I'm here if there is any questions.

12 CHAIRMAN MAMMINA: Thank you.

13 MR. SBARRO: Are there any other questions that I can
14 address?

15 CHAIRMAN MAMMINA: I know the shopping center really
16 well, but I think I was looking at the wrong part of the
17 shopping center as to exactly where this store is in the
18 shopping center.

19 MR. SBARRO: Yes, it's in the southwest corner.

20 CHAIRMAN MAMMINA: So it's over where Ben's is, okay.

21 MR. MULRYAN: It's around the corner from Ben's along
22 that set of stores.

23 MEMBER DONATELLI: Any part of this application, does
24 it include any outdoor seating?

25 MR. SBARRO: I don't believe so, no.

26 CHAIRMAN MAMMINA: I see it in the rendering.

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2 MR. SBARRO: Outdoor seating, no.

3 CHAIRMAN MAMMINA: If you look in the rendering, you
4 will see outdoor seating.

5 VICE CHAIRMAN FRANCIS: Those are existing.

6 MR. MULRYAN: If you look in this corner of the
7 property, so this is Ben's. As you are coming around, this is
8 the former nail salon that we are occupying. This corner piece
9 of these two buildings is currently outdoor seating, so that is
10 subject to remain.

11 MEMBER HERNANDEZ: That's part of the shopping center.

12 MEMBER GOODSSELL: It seems there is no outdoor seating
13 and it's really -- we don't find that there is insufficient
14 parking. So I don't know. I have no objection to this. God
15 bless them. Hopefully, so many people will want to go here
16 that they will be willing to park on the other side and walk.

17 VICE CHAIRMAN FRANCIS: What is the sushi disposal
18 robot?

19 MR. SBARRO: I can just tell you at a high level.
20 Essentially, the plates come by and the way that they count
21 your check is they come along on the conveyor, so whatever you
22 take from the top level is, you know, pretty commonly consumed
23 items and then lower items is more specific food items, and
24 then you dispose your plate in order for them to count.

25 MEMBER DONATELLI: I would note for record that it
26 sounds to me like your business model is highly automated.

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And to my knowledge, robots don't drive and don't park cars.
So I think it would be less intensive than if it were a
regularly staffed restaurant.

MR. SBARRO: That's correct.

MS. PRIOR: I can speak more to the robots.

CHAIRMAN MAMMINA: Sure.

MS. PRIOR: Hi. I'm Chelsea Prior. I'm the
construction project manager for Kura Sushi.

MEMBER GOODSSELL: Tell us about the robots.

MS. PRIOR: The robots are so fun. We actually have
two, but the disposal robot itself is actually on the inside
line of our kitchen. We have a QR system. And Nick has a
picture. And then we have -- yeah. So right along on the end
here, we have a QR system that is on the top that says
Mr. Fresh, and that's how we keep all of our items fresh along
the conveyor belt. And after two hours, if it has not been
picked up off the belt, the QR system alerts the robot and it
flicks the Mr. Clam up and it pulls it and disposes of it
automatically. So there is a lot of technology built into this
system. We also have robot servers, which we call KurB,
K-u-r-B. And so you will order from our tablet system that you
can see here in this picture and your drinks will automatically
come to you on the robot.

VICE CHAIRMAN FRANCIS: The Chairman wants to know if
he can purchase the disposed item at a discount?

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2 MS. PRIOR: No. I thought you were going to ask if you
3 can purchase a KurB because I want one of those for my house.

4 CHAIRMAN MAMMINA: I will tell you, in Stop & Shop,
5 they have robots there, maybe they can go on a little date.

6 MS. PRIOR: Maybe we can get something going.

7 MEMBER DONATELLI: So if someone gets in the way of a
8 robot, they stop and it just freezes for about five minutes.

9 MS. PRIOR: Ours do have a boundary system and it is
10 alerted and it will start doing a little dance to get around
11 somebody.

12 MEMBER GOODSSELL: Is this the first restaurant of its
13 kind on the island? Is this the first branch that your company
14 has opened?

15 MS. PRIOR: Yes. This the first Kura. Actually, in
16 the packet that we have presented to you today, I believe it
17 had 37. We actually just opened our 40th location on August
18 31st of this past year. We are rapidly growing, and Long
19 Island is definitely one of the locations that we are looking
20 at.

21 MEMBER GOODSSELL: I can't any think of anything that I
22 have seen that is even close to this.

23 MEMBER DONATELLI: Does anyone have any questions or
24 comments?

25 MEMBER GOODSSELL: Is there a rear entrance to this food
26 establishment?

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2 MS. PRIOR: Yes. So it's the service entrance.

3 MEMBER GOODSSELL: It's not for patrons?

4 MS. PRIOR: No.

5 MEMBER DONATELLI: If no one has any other questions or
6 comments, Mr. Chairman, I make a motion that we grant the
7 application.

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

10 VICE CHAIRMAN FRANCIS: Second.

11 CHAIRMAN MAMMINA: Okay. We will leave that to Vice
12 Chairman Francis. Please poll the Board.

13 SECRETARY WAGNER: Member Goodsell.

14 MEMBER GOODSSELL: Aye.

15 SECRETARY WAGNER: Member Hernandez.

16 MEMBER HERNANDEZ: Aye.

17 SECRETARY WAGNER: Member Donatelli.

18 MEMBER DONATELLI: Aye.

19 SECRETARY WAGNER: Vice Chairman Francis.

20 VICE CHAIRMAN FRANCIS: Aye.

21 SECRETARY WAGNER: Chairman Mammina.

22 CHAIRMAN MAMMINA: Aye. Application is granted.

23 MR. SBARRO: Thank you very much.

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26 SECRETARY WAGNER: Thank you very much. Does somebody

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want to adopt SEQR?

MEMBER GOODSSELL: I move that we adopt SEQR.

CHAIRMAN MAMMINA: Okay. We have a motion by Member
Goodsell.

MEMBER DONATELLI: Second.

SECRETARY WAGNER: Second by Member Donatelli.

All in favor?

(Whereupon, all Board Members voted affirmatively.)

SECRETARY WAGNER: SEQR is adopted. We have an
extension of time request that we want to adopt on the record.

MEMBER GOODSSELL: I thought that that was a very
interesting application. I found the explanation to be very
reasonable.

SECRETARY WAGNER: So does somebody want to motion to
extend the time request for 30798?

VICE CHAIRMAN FRANCIS: I will make it.

MEMBER GOODSSELL: And I will second that.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

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SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. The extension is extended.

SECRETARY WAGNER: Now we need to reopen Rosa's Pizza.

So we need to take a vote to reopen for additional information
and also some comments.

VICE CHAIRMAN FRANCIS: I move it also.

MEMBER DONATELLI: I will second.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

SECRETARY WAGNER: So it's not on the summary sheet,
but we are going to take a vote to keep the record open for
Appeal #21287, I believe.

ATTORNEY ALGIOS: Well, it's continued to a specific
date, so we are going to extend that.

SECRETARY WAGNER: We are going to continue it so that
the applicant can respond to some of the concerns that were
raised, that's Appeal #21287.

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MEMBER DONATELLI: So I'm happy to move it. I just want to say something. I think it's very important that we have a complete record. And in the course of the hearing, we asked members of the public to substantiate their concerns about the traffic. And to their credit, they did have something to submit. And now it's my understanding that the applicant wants to be able to respond to that. And again, I think it's important that we have a complete record. So based on all that, I make a motion that we need to grant the application to --

SECRETARY WAGNER: A request to keep it open.

MEMBER DONATELLI: I'm sorry. For a request to keep it open until the next hearing date, 10/26. Thank you.

SECRETARY WAGNER: Someone want to second?

VICE CHAIRMAN FRANCIS: Second.

SECRETARY WAGNER: So you are recused on this one?

MEMBER HERNANDEZ: Yes.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

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SECRETARY WAGNER: And the record should show that Member Hernandez is recusing himself.

Now for Appeal #21269, we are going to vote on closing the record on that. That's the property in Manhasset, 8 Hillcrest Avenue in Manhasset. People had submitted their comments and the applicant said he didn't want to respond.

MEMBER HERNANDEZ: Which one is this?

MEMBER GOODSSELL: 8 Hillcrest.

SECRETARY WAGNER: Right down the street here.

MEMBER HERNANDEZ: Oh, the Karate studio one.

SECRETARY WAGNER: We are closing the record on that now. You were here for that one.

MEMBER HERNANDEZ: Yeah, I was here. So motion to close.

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

MEMBER DONATELLI: Second.

CHAIRMAN MAMMINA: Second by Mr. Donatelli.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

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VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

SECRETARY WAGNER: So the record is closed on Appeal
#21269. Now do you want to adopt the calendar on the record?

MEMBER DONATELLI: I make a motion that we approve to
adopt the calendar.

CHAIRMAN MAMMINA: So we have a motion from Member
Donatelli. Do we have a second?

MEMBER GOODSSELL: I will second.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

TIME NOTED: 3:20 p.m.

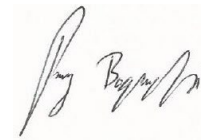
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C E R T I F I C A T E

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