

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

TOWN OF NORTH HEMPSTEAD
BOARD OF ZONING APPEALS
PUBLIC HEARINGS

Wednesday
March 22, 2023
10:18 a.m.

BOARD MEMBERS PRESENT:

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

ALSO PRESENT:

Deborah Algios, Deputy Town Attorney
Virginia Wagner, Secretary
Nicole L. Basile, Court Reporter

Proceedings

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

(Whereupon, the Pledge of Allegiance was said.)

CHAIRMAN MAMMINA: Good morning, ladies and gentlemen, and welcome to the Town of North Hempstead Zoning Board of Appeals. And what I'd like to do before we get started is just kind of go through the way that we do things here incase you've never appeared before a Zoning Board before or maybe you have, but we might do things a little bit differently here. So what will happen is, as each case is called, we will ask the applicant to identify themselves by standing up and coming forward to the podium. I will then also ask is there anyone in the room who has interest in the case and would just ask for a show of hands then so that we know that there are other people that wish to speak. And when that is done, the applicant will also put their name and address on the record for our stenographer, as will everyone that will come forward. You know, this is a quasi judicial hearing and, you know, a legal record of that is kept. So what done, the applicant then will have the podium and they will put onto the record their case regarding what they're looking for or whatever they would like to do or if they have any experts or, you know, whatever, then that would be the chance for them to do that. As that is going on, you know, the Board will then ask questions, you know, of the applicant in order to address anything that we would like

Proceedings

clarified. And then at that point, the applicant would have a seat in front row, anywhere, it doesn't matter and if there are people who wish to speak, they would then come up one at a time, name and address. Same thing. They'll put their thoughts on the record, the Board can ask whatever questions it would like to and then they would have a seat. If there is no one else who wishes to speak, you know, then after the applicants presentation, then that's done. And what will then happen is, one of four things. The Board will either approve the application, we will deny the application or we may reserve the application, which means that we have no further questions for the applicant, but the Board would like to deliberate further regarding that or we may continue the application. And continuing might mean -- well, it would mean that the Board is looking for some additional information or the applicant may offer some additional information. You know, and that could be, you know, a closing statement, that could be a survey that needs clarification, that might be some sort of compromise, you know, that's offered and we would like to give them the opportunity to present that. So if we reserve the application, you know, and the Board wants to deliberate further on that, all deliberation is done in person and you don't have to come here. Everything, you know, is televised through, you know, through the town internet. There would be no participation by anyone who comes here to deliberation. But either way, you

Proceedings

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

know, it's all in a public forum and can be heard, you know, if you wish. And I thought I had one more thing I forgot. Oh, yes. And then also what we, you know, what we do is that the applicant puts, you know, their case on the record, you know, and this is not unique to the Town of North Hempstead. Anyone else who wishes to address the Board, generally we give a, you know, three minute timeframe for that so that we don't go on and on and on, you know, if there were 100 people sitting in the room, which happens from time to time. And, you know, we're not going to, you know, take one of those things you see on the old TV where you put it around their neck and you pull them off, you know, but generally we try to keep that to not a minimum, you know, per se. We want everyone to have their say and what I will say is that if someone has already stood up and, you know, and said well the school buses come down the street and I think that's a problem, all you need say is, you know, you don't need to repeat that, because it's already on the record. Just say I agree, you know, with the previous person spoke regarding the school busses and it's on the record again. So we just try not to repeat one another and I guess with all of that said, you know, what -- that's what I'm doing now. Is we would ask that, you know, that your cell phones or whatever else you have would be -- which we all live by, be put onto silent. They don't have to be shut off per se and maybe I'll make everybody laugh a little bit. The other day my

Proceedings

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

internet went off, you know, and my wife and I looked at each other and said oh, my gosh we're gonna have to talk to each other at dinner now. So we so live by all of this. So what I will say further is that if you get a phone call, put it on vibrate. That's okay. You know, if you get a phone call or you need to make a phone call, all you need to do is stand up at any time, make your way out into the lobby. That's okay. If there is anyone who you are expecting who is not here yet, please just ask them the same and then the last thing that we will ask and I don't know how else to express it, crosstalk, please keep that to zero. If you need to speak, you know, with each other, you know, or your representative, if you have a representative here, again, you can go outside and that's fine. You know, we are ladies and gentlemen and we just walk outside. That's all right. So I think I've covered everything. And then I will ask Secretary Wagner, you know, do we have any modifications to the calendar today?

SECRETARY WAGNER: We have an adjournment of Appeal Number 21343, Rajiv & Gayatri Lodaya; 426 Old Courthouse Road, New Hyde Park; Section 8, Block 266, Lot 54; Zoned: Residence-A Variances from 70-30.C, 70-31.A and 70-208.F, to construct additions to a non-conforming dwelling that are too close to the side property line, too close to the street and will have less than required total side yards. Actually, it's not an adjournment. It's a -- they've withdrawn their

APPEAL #21358

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

application for variances.

CHAIRMAN MAMMINA: Thank you. So if there is anyone who was here for that application, it has been withdrawn which means that there would be no further hearings, you know, on that. That doesn't mean that that person may not reapply to the building department, but whatever notification you received today, you would have that same notification.

So then with that said, please call the first case.

SECRETARY WAGNER: Appeal Number 21358, Uri Rosin; 19 Robin Way, Great Neck; Section 2, Block 48, Lot 68; Zoned: Residence-A. Variances from 70-28, 70-29.B, and 70-31.A to legalize additions and a garage conversion that make the dwelling too large, cover too much of the lot, and create smaller than required aggregate side yards.

CHAIRMAN MAMMINA: You heard Appeal Number 21358, Uri Rosin. Is there anyone in the room interested in the application, other than the applicant?

Seeing no one.

Please give your name and address.

MR. BLOOM: Good morning, Mr. Chairman, Members of the Board. Paul Bloom, Harras, Bloom and Archer, 445 Broadhollow Road, Melville, New York, appearing on behalf of Uri Rosin and on behalf of the Rosin Family Trust. I've just handed up for distribution, a package of documents as oppose to handing each one up individually. I'll be making reference to those

APPEAL #21358

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

documents for your understanding and appreciation of those matters that I'm going to raise at this hearing.

Property, as indicated, is located at 19 Robin Way, Section 2, Block 48, Lot 68. It is an R A Zone. The variances that we are requesting today, were variances that were created by somebody in the past and we do not know how long ago or by whom these variances were created. They were construction to the home that was done without benefit of a permit. I will say, as I said, it was by parties in the past. It is definitively none of the work that we're talking about today was performed by the current owners. What we are talking about this morning is the maintenance of a one-story --

MEMBER HERNANDEZ: Excuse me. Excuse me. Before you go on, you said the owners -- you represent the Trust. When you're referring to the owner, are you referring to the Trust or to the people that owned it before the Trust?

MR. BLOOM: The individuals.

MEMBER HERNANDEZ: Okay. Thank you.

MR. BLOOM: The individuals. And they are here this morning.

CHAIRMAN MAMMINA: Okay. And I'm sure, you know, as, you know, that series of events is not held against you and it's not held in favor of you. Everything is looked at equitably, you know, and that, again, I'm sure you know that.

MR. BLOOM: I appreciate that. I think the record is

APPEAL #21358

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

clear to that extent and I'm happy that you did actually mention that.

We are here to ask for variance to maintain a one-story rear yard addition. That is a kitchen that was added to the home in the rear yard. A second-story walk-in closet, which is over a one-story part of the home, which has received a prior variance and we will get into that as we go along. There were interior renovations, which included a garage conversion, finishing of a basement, the kitchen that we just mentioned, bathrooms and a paved patio. Again, none of these conversions, none of the work associated with these variances were performed by the individuals who are the residents of the home and the principals of the Trust.

MEMBER GOODSSELL: Mr. Bloom, can I ask how long the individuals that you represent have owned the house?

MR. BLOOM: Since 2021.

MEMBER GOODSSELL: They're relatively new owners.

CHAIRMAN MAMMINA: And I apologize for interrupting. I try not to. What brings them here today?

MR. BLOOM: When they purchased the home in 2021, they were aware of the fact that these additions were not "legal". They were informed about that by the fact that the prior owner had filed an application to legalize those structures. Now, as I said and I'll get into it in a little more detail, we do not know who actually performed that work. You can assume that the

APPEAL #21358

1 prior owner, the person who was attempting to legalize these
2 structures, did not do it. If I say to you that that person
3 found out about these various variances by filing an
4 application to put in a driveway and a patio. And it would not
5 seem logical to me that somebody who would put a second-story
6 addition on and an addition to the rear of the house without a
7 permit would then come to the town and say I want a permit to
8 actually put in a driveway and a patio. It's an assumption.
9 It could be absolutely wrong. But what happened, in timeframe,
10 was that when they found out, which was in 2018, that these
11 structures were not permitted and were not permitted, they
12 started a process to try to legalize it. Unfortunately for
13 them, whoever was assisting them in dealing with the town kept
14 filing wrong, incorrect documents and that never ever took any
15 steam and ultimately they decided to sell the house. We then
16 took over, in fact, disregarded the prior application, filed a
17 new application and were able to get our own letter of denial
18 so that we can clarify and to rectify the situation. So if I
19 may, again, I might be repeating myself. The house is a 1939
20 construction and at that time, the house did conform to all
21 code requirements, including and I'm going to emphasize this
22 one, the code requirement that's related to side yard. It was
23 10 feet 10 feet, it was an aggregate which was not even a
24 concept in the law in 1939 of 20. An extension was put on the
25 house on the north side. This is where the second-story
26

APPEAL #21358

1
2 addition was placed. That came before the Board in 1965 and in
3 the package that you have there, you will see there is a Zoning
4 Board approval for that one-story addition to be placed. Now,
5 instead of having two 10 foot side yards, the variance granted
6 then a side yard of seven feet on the north side, 10 feet
7 remained on the other side. In 1999, the town code was amended
8 and a new concept of aggregate side yard was then incorporated.
9 Part of that legislation which is now Code Section 70-31.A.1.A,
10 indicates that if you have a prior condition prior to 1999,
11 which we did have. We had a deficit of three feet on one side,
12 then the provision with respect to aggregate did not apply. As
13 an aside and, again, an assumption, we don't know this for
14 fact, whoever it is that decided to build this second-story
15 addition on top of that now legalized one-story addition was
16 astute enough to set that back 10 feet so that you have the
17 variance that permitted the one-story addition to invade that
18 10 foot by three feet, but built the second-story addition at
19 the full 10 foot setback. So you do have, at least with
20 respect to that new structure, the minimum 10 foot setback.
21 But you don't have the aggregate and I would say that the
22 provisions of 70-31.A.1.A still require that this received a
23 variance. So there's no claim here or argument that in fact
24 this should be considered as of right. It is not and that is
25 why we're here. I think it was right in called out by the
26 building department as requiring a variance. Sometime, again,

APPEAL #21358

1
2 in the period that we don't know, but based upon the
3 information that we have in surveys, which have been attached,
4 there is a gap and that gap is somewhere between 1982 and 2016.
5 What you have in the assessor's card is what was approved by
6 the variance. So that shows a seven foot setback. So it
7 doesn't show the original house. It shows the house with that
8 addition and the seven foot variance. But between 1982, you
9 have three surveys there. The first survey that shows these
10 additions is in 2016. So we are only guessing as to who did
11 this and when they did the work with respect to these
12 additions. As indicated, the prior owner filed an application
13 for a gravel patio and for a driveway, that then resulted in a
14 letter of denial, which is also attached in your packet that I
15 have given to you. And from that period of time, because of
16 either ineptitude, lack of motivation, maybe even had something
17 to do with the Covid-19 period, I have no idea. I'm not going
18 to provide any excuses. They were unsuccessful in coming
19 before this Board and asking for a variance. We purchased the
20 property in September of 2021 and agreed to take it subject to
21 and we would then continue with the process. There was a new
22 letter of denial, also attached in the materials presented to
23 you dated January 18, 2023, which callout the three variances
24 that we are here before and let me now, unless there are other
25 questions, discuss those three variances.

26 If I might, in my mind, these variances are generally

APPEAL #21358

1
2 di minimus. The first is for lot coverage. That's 70-28. The
3 variance on this 7,500 square foot lot is for .2 percent of lot
4 coverage and is approximately 14.18 square feet. Now, also
5 keep in mind you do not see a variance here for a rear yard
6 setback. Everything that was built after the fact, would have
7 complied with code, other than floor area ratio. And again, I
8 think there was some deliberate action on the part of whoever
9 it is that did these additions. For instance, pushing it back
10 10 feet on the side yard making sure you didn't have a rear
11 yard setback. There was some, I would say, knowledge or
12 deliberate nature on the part of that individual. And with
13 respect to lot coverage, I would say under the circumstances, a
14 .2 percent, 14.18 square feet on a 7,500 square foot lot, the
15 lot coverage is di minimus and we would ask the Board to grant
16 that variance.

17 I'm doing this in order. Normally I would take the
18 floor area last. But I think under the circumstances, we are
19 still talking about di minimus numbers. 70-29.B, gross floor
20 area. We are over by 4.2 square feet percentage. 4.2 square
21 feet, which is 313 square feet. The kitchen in the rear, which
22 is an addition, alone, is 217 square feet, 216.19 square feet.
23 So the greater percentage of the overage of the FAR is
24 represented by the one-story kitchen structure. If you take a
25 look at either the older surveys or the assessor's card, you
26 will see that the south side of the house extends beyond the

APPEAL #21358

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

balance of the house in terms of footprint. This kitchen was put in behind that extension and in effect, filling in the gap area. It is not seen by anybody. It doesn't invade a rear yard. It looks -- it's existent and this is probably why the town never picked it up, would never have called attention to its existence whatsoever. It's no a two-story addition. One-story addition which backs up to a one-story addition, which blocks its view from the neighbor to the south. With respect to this variance, again, I would, under the circumstances, consider this to be di minimus. I think that the detriment to the applicant and the benefit to the town, with respect to your, as you said before, Mr. Mammia, the weighing is certainly outweighed. At this point, to remove that kitchen would be, I would say not appropriate in the balancing act that you are doing with respect to the state law and the guidelines this Board must follow.

MEMBER HERNANDEZ: Excuse me. Just one question before you move on, please.

MR. BLOOM: Sure.

MEMBER HERNANDEZ: You said that the kitchen was built to fill in a gap, I guess, in the building structure. Wasn't that gap created by the first floor bedroom that was added?

MR. BLOOM: No. No. They are on different sides of the house. The second --

MEMBER HERNANDEZ: Am I looking at the wrong thing?

APPEAL #21358

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Thank you.

MR. BLOOM: It is confusing. As one of the interior renovations, they converted the garage to a bedroom. The shed in the back was there as you can see from day one. It was behind the garage and when they then created the bedroom in front of the house, they then closed off what would have been the rear portion of the garage and created a storage area. But the fill in is equal to in distance and aligned with that area. So again, it is not seen either from the roadway, even by the neighbors.

The third variance is 70-31.A, which is the aggregate side yard. And again, I think I've explained that the seven foot side yard setback on the north side of the house was approved by the Zoning Board. The addition, which is above it would setback three feet from that seven so that there is a full 10 feet. It is actually a walk-in closet and if you take a look at the plans, there are no windows on the north side of that house whatsoever -- of that addition whatsoever and it is attached to the master bedroom it cannot be used for another room. And we believe that under the circumstances, again, this, I believe about 180 square foot area is a variance that this Board should consider.

VICE CHAIRMAN FRANCIS: And the dimensions of the walk-in closet are what?

MR. BLOOM: The dimensions are 9.7 wide or 9.6 wide by

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

19.

Now, it did does not violate that second-story addition. The second-story addition, the closet, does not violate the minimum side yard setback. It does have an impact on the aggregate, but the aggregate is created by the seven foot setback which was granted by a variance by this Board previously. I think on the balancing of the benefits to the applicant, the cost, expense of having to remove or otherwise bring the house into conformity, even if we were to take the entire kitchen off, we'd still be over on FAR and that's larger than the closet. Kitchen is larger than the closet. I believe that this Board should grant the variances as requested.

MEMBER DONATELLI: Mr. Bloom, are you aware of any other houses in the area that have done similar type of extension for the kitchen in the rear of the premises?

MR. BLOOM: I'm sorry, I'm sure there are but I do not know of them.

MEMBER GOODSSELL: Mr. Bloom, I think -- well, you're talking to three real estate attorneys up here who have seen tax cards like this and I've always hated them. I don't know how you guys feel. Where the additions are documented, they're taxed, they're documented, they're taxed. I just want to take issue with one thing that you said and that is, when you were talking about the period of time prior -- the prior owners and I just quickly looked. There was one prior owner for an

APPEAL #21358

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

extended period of time. There was a second prior owner from it looks like 2007 to 2021 and then there's your clients. It's not up to the town to catch people putting additions on the rear of their property. And when you said something about well, that the town didn't pick up when the kitchen went in. The town didn't pick up, because there was no permit for the extension off the back. The town doesn't go around and go onto people's properties and go to the rear and say wait a minute, you have not permit for that. It looks to me that the additions were quitely added and there was no way to see them from the front of the house.

MR. BLOOM: I would agree with that.

MEMBER GOODSSELL: Okay. Thank you.

MR. BLOOM: And I think that maybe I may have overstated. My point was that not even the town had caught this. The neighbor next door didn't see it. It was done, as you say, in a very, I would say astute manner to try to perceive.

MEMBER GOODSSELL: A quite manner. Yes.

MR. BLOOM: Very quite manner.

MEMBER GOODSSELL: And I can almost tell you what I think -- which owner I think did this. But, you know, even though your clients are not to blame and your clients didn't do anything, they stand in the shoes of the prior owner.

MR. BLOOM: There is no question.

APPEAL #21358

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MEMBER GOODSSELL: Because as I've explained to a hundred clients, if it wasn't legal when it went it, it doesn't make it legal when the house is sold.

MR. BLOOM: Again, we are not in disagreement and that is why we knowingly bought the property and agreed that we were going to finalize the process and we're here today. So we are not looking at this in any askew manner. We are looking at it with the same eye.

CHAIRMAN MAMMINA: Can you address the five factors, Mr. Bloom?

MR. BLOOM: Well, I don't believe that under the five factors that we have a situation here which has any affect upon the environmental or character of the neighborhood. Certainly under the fifth wheel, it's not self imposed, but it is self imposed, because as we've pointed out, we stand in the shoes of the prior owners. But that, as you know, is not determinative. Is there some other method that we could achieve or to pursue? Well, the only other method here is to get a demo crew and start pulling everything down. So I would believe that under the standards, that we should be given the consideration in that scale, balance which that code provision -- state code provision provides. There is no condition here that has any impact or has any negative impact on any of the neighbors, no environmental issues associated with this. There is no social issues associated with it and it has been there in existence

APPEAL #21358

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

for -- I can't -- maybe Member Goodsell could tell me who she thinks did it so I can calculate how long it's been there.

MEMBER GOODSSELL: Yeah. Right.

CHAIRMAN MAMMINA: I guess just for the record, now I'm aware of everything that you've put out there, I guess, you know, if this came in fresh, you know, I would think that I personally have a little bit of a difficult time, you know, in terms of the bedroom in the back and the converted garage. You know, only because, you know, if the garage were not converted, that would probably answer three-quarters, you know, of the, you know, of the floor area. You know, I guess it just looks a little peculiar that, you know, that the new bathroom is only opened to the newly created bedroom, you know, rather than, you know, both bathrooms. But I think that that's just important for the record in that, you know, as I'm sure you well know, the garage would not count as floor area.

MR. BLOOM: Correct.

CHAIRMAN MAMMINA: And the variance would then be much less, you know, as, you know, as a result.

MR. BLOOM: But we would still require variances and the cost of demolition of that converted garage would be, I think an extreme amount of money to restore it to the prior condition, I think. I also understand that I think it's because of the height of the ceiling. There was a state variance granted with respect to, I think the height of the

APPEAL #21358

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

ceiling in that area.

MEMBER GOODSSELL: The height of the ceiling in the garage?

MR. BLOOM: The garage. Yeah.

MEMBER GOODSSELL: What is the garage area being used for? What kind of living space is it now?

MR. BLOOM: It's a bedroom.

CHAIRMAN MAMMINA: I did see that section drawn in, you know, within the drawings.

MR. BLOOM: Yeah.

MEMBER GOODSSELL: I agree with you in the sense that this house does not stand out in the neighborhood as the most gigantic house in the neighborhood. There are other neighborhoods and there are other applications that have come before us where it's perfectly obvious it's the biggest house in the neighborhood. So in that respect, I do agree with you the impact does not -- it's not there. There are a lot of other large houses. But I have to agree with the chairman. The percentage over the allowable floor space is in fact larger than what we normally grant.

MEMBER DONATELLI: I would just -- I would also just note for the record one of my concerns is in instances where we have garage conversions, whether or not there's any implications for losing a parking space or two and I would say that your client seems to have ample parking, offsite parking

APPEAL #21358

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

on the house and it certainly has not been cited for that so.
And it's certainly --

MR. BLOOM: Not only that, but if you take a look at
the area view or in any light, you can see that it's a wide and
a long driveway. So that never has been an issue.

MEMBER DONATELLI: Right. Right.

CHAIRMAN MAMMINA: I guess the point that's been raised
by the secretary is, based on the property cards, you know,
which are dated 1939, you know, on the side of the building, I
guess that's the south side -- no. I'm sorry. That would be
the east side of the building. It says maintain bedroom, yet
the property cards clearly show 37 feet by 10 foot 6 existing
there. You know, and my point before being that where the
bedroom is, it says garage converted to living space. So if
that garage had not been, you know, had been converted, that
wouldn't be floor area and that's fine. But why would that --
the question is why is that a maintain of that bedroom and not
pointing to the same argument that in the 1939 property card
it's showing that that part of the building exists.

SECRETARY WAGNER: The back bedroom.

MR. BLOOM: First of all, I'm going to now repeat the
words that we heard very early on by Member Goodsell. These
cards are horrendous. I know that they're used by the building
department all the time. It does give you some indication of
what existed, but they are less than accurate. That being

APPEAL #21358

1
2 said, what you are looking at by way of the drawing, the
3 footprint of the house, this is showing the house after. This
4 was a modification and it's not the original house itself, but
5 this is the house after the addition on the north side. The
6 left side of the card was -- was created and I believe if you
7 take a look, you will see that there is something that
8 indicates a date of when that 22 by 12 addition, 22 and a half
9 by 12 addition was added. So what you're looking at here is
10 not the original 1939 card with the footprint of the building.
11 Now, are you speaking about the other side?

12 CHAIRMAN MAMMINA: Well, that's not -- I don't think
13 that's the part we're talking to. We're speaking to the other
14 side of the house. And just a question that I have as somebody
15 who doesn't look at property cards, other than this, the fact
16 that that's dated 1939, you know, on there, I don't see any
17 date on here that would tell me that this had been updated.

18 MR. BLOOM: I can say its updated, because if you take
19 a look at the original survey, you'll see that the original
20 survey of the house showed this as a smaller area. And then
21 once the next survey came out, it showed it as this area. So
22 it's all interpretation. But these are historically and I'm
23 glad somebody else said it before I did. We rely upon them to
24 the extent they give us some historic basis.

25 CHAIRMAN MAMMINA: Understood. Okay. So I guess it's
26 a better safe than sorry if you call it a maintain.

1 APPEAL #21260

2 MR. BLOOM: Well, we'll call it a maintain.

3 CHAIRMAN MAMMINA: Yeah. I understand. Yeah. No, I
4 understand. Okay. Then if there are no more questions from
5 the Board, then I think we will reserve decision, you know, on
6 this and deliberate this, you know, either after the hearing or
7 more probably, you know, at a further date wise hearing.

8 MR. BLOOM: We appreciate your time. Your absolute
9 attention to this in the detail and the questions that were
10 asked and thank you again.

11 CHAIRMAN MAMMINA: Thank you. Good presentation.

12 SECRETARY WAGNER: Next appeal, Appeal Number 21260 -
13 Anastasios Chrisoforidis; 76 Avenue C, Port Washington, Section
14 4, Block 25, Lot 249; Zoned Residence-B. Variances from
15 Section 70-100.1.A, 70-202.1E and 70-101.B, to legalize a
16 gazebo located within in a side yard (not permitted), a
17 retaining wall exceeding the height of the adjoining grade, and
18 a portico located too close to a street.

19 CHAIRMAN MAMMINA: You heard Appeal Number 21260,
20 Anastasios Chrisoforidis. How did I do with that?

21 MS. CURTO: You did great.

22 CHAIRMAN MAMMINA: Okay. She's just being nice.

23 MS. CURTO: Good morning, Chairman Mammina, Members of
24 the Board. For the record, my name is Andrea Tsoukalas Curto.
25 I'm with the firm of Forchelli, Deegan, Terrana with offices at
26 333 Earle Ovington Boulevard, Uniondale, New York. I'm here on

APPEAL #21260

1
2 behalf of Anastasios Chrisoforidis. He's here with me today.
3 Before I begin, I would like to submit -- identify and submit
4 some exhibit packets. The first packet is an exhibit packet of
5 photographs of the property and adjoining properties, as well
6 as consents. That's Applicant Exhibit A. The second exhibit
7 is a survey of the premises dated April 20, 1955. Exhibit C is
8 a Zillow add of the premises dated back to 2014. Exhibit D is
9 a site plan highlighting the rear yard. And Exhibit E is a
10 2015 survey of the premises. I have to apologize for the 2015
11 survey. I only have one original. My copies didn't come out
12 clearly and I didn't realize until I got here. Sorry about
13 that. But I do have one.

14 This is an application for area variances to maintain
15 three structures at the premises. A 12 by 16 gazebo in the
16 side yard, a two foot retaining wall in the front yard that
17 exceeds the adjoining grade by one foot and a front portico
18 that does not meet the minimum required setback of 25 feet. My
19 client reached out to most of the impacted neighbors to explain
20 the relief needed to maintain these structures. He obtained
21 consents from five of the most impacted neighbors. All the
22 abutting neighbors and the neighbors across the street. If you
23 look at Exhibit A4, I do have copies of all of those consents
24 and I also have a tax map which highlights the properties that
25 consented. That being said, prior to coming in here today, we
26 were in the lobby, we met with James Stuart who is the

APPEAL #21260

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

adjoining property owner to the right. He approached us, we had some discussion about the placement of the gazebo. He asked that my client move the gazebo back further. We went back and forth and we explained that this was gonna be, you know, a hardship economically, but, you know, he's gonna work with his neighbor. He is willing to do that. I spoke with the architect. We obviously we are going to submit a revised plan for that. It will be mostly in the rear yard. It will be setback six feet from the retaining wall and -- so that means it will be about one foot seven inches still in the rear yard, but it will mostly be in the rear yard.

CHAIRMAN MAMMINA: And because of the unique shape of the property, as it continues to move back, would it become complaint on the other side, if I'm understanding the arrangement made with the neighbor?

MS. CURTO: So --

CHAIRMAN MAMMINA: Because it appears to skew.

MS. CURTO: Yeah. Exactly. Yes. So the only variance that we're requesting is that it's in a side yard and not a rear yard. So the variance still is needed, but we're mitigating because we're pushing back.

MEMBER DONATELLI: So a portion of it will continue to be in the side yard?

MS. CURTO: Right. About one foot seven inches. But we're gonna confirm that with a plan. He did kind of sketch it

APPEAL #21260

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

up for me quickly this morning, but I don't have that for you, you know, we're gonna probably end up having to continue this hearing now. But I did want to present and explain the package and also go through the other variance request as well.

CHAIRMAN MAMMINA: Yeah. And I think to me, and a lot of my confusion is propagated by the fact that these three pieces of property are so odd.

MS. CURTO: Very oddly shaped. Very oddly shaped. They all have tremendous steep slopes in the backyard. If you looked Exhibit D, that highlights the whole area that's very steep slopes and the photographs also show it in Exhibit 2. You can see where that fence is, the white fence back here. All of this is sloped up. Unusable backyard. The retaining wall is here so he doesn't use any of that part of his backyard.

MEMBER GOODSSELL: So in effect they're using the side yard as their backyard?

MS. CURTO: Correct. That is correct. That is correct.

So I'm going to continue with my presentation. I had to go off the script, because I had to explain what happened this morning. All right. So the premises is located on the west side of Avenue C, 131 feet south of Pepperday Avenue and the street address is 76 Avenue C. It's situated in the Residence B Zoning District. It is a irregularly shaped lot

APPEAL #21260

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

with 82 feet of frontage on Avenue C. As we just discussed, the property is encumbered with steep slopes in the rear which makes the rear yard very shallow and most of it is unusable. Also, the premises is located on a curve in the road so really the only neighbor that could see the full view of the gazebo is directly across the street. There's also a change in grade between the street level and the side yard. It's about six feet. So with respect to the relief requested, as we just said, we are going to relocate the gazebo. It's the only other feasible location, but it still does need a variance. There's concrete footings with this gazebo, so he's going to have to, you know, cut it and reinstall it. So the owner wants to maintain a shaded area to sit under while using his side yard, which as mentioned, does function as his year yard. The gazebo is aesthetically pleasing and it is an open structure with each side open, except for the columns. I do have plenty of photographs of the premises and the gazebo itself. With respect to the retaining wall, so it serves to screen part of the gazebo. It also is aesthetic. He used it as kind of, like, an edged the to the pavers that he put in. It doesn't really function as a retaining wall. It's more of an aesthetic thing that he put in. Regarding the front portico, the structure was in place when my client purchased the premises in 2014. He doesn't know when the portico was erected. We did some du diligence in research at the building department level

APPEAL #21260

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

and there are no permits or surveys post 1955. I gave you the only survey that was in the building department record. If you look at Exhibit C, that's the Zillow Add. That is what the property looked when my client purchased the property in 2014. So it had the same exact portico there. It just didn't have the stone on the facade of the house.

MEMBER DONATELLI: Sorry, what Exhibit was that?

MS. CURTO: That was C.

MEMBER DONATELLI: Yeah.

VICE CHAIRMAN FRANCIS: We have numbers.

MS. CURTO: Oh, I'm sorry.

MEMBER DONATELLI: In the packet that you have us we have one through five.

MS. CURTO: Not in the packet. It's this exhibit. I gave copies. This exhibit.

So you can see that the portico existed even then. The location was not changed, the structure was not changed in any manner. He just put stone on the facade of the house and he also put hedging.

CHAIRMAN MAMMINA: And the size of that appears to be no bigger than that top platform.

MS. CURTO: That's correct.

CHAIRMAN MAMMINA: And it's open on all of the sides.

MS. CURTO: That's correct. So the code allows the portico to be placed no more than five feet into the required

APPEAL #21260

1
2 front yard. In this case that's 30 feet so the allowable
3 encroachment is 25. The existing portico has a front yard
4 setback of 11 feet. But the existing house is nonconforming
5 and it's only 15 feet five inches from the property line. So
6 any portico would not comply with the required 25 feet. And
7 that's depicted on that 1955 survey that I gave you. You could
8 see that when the house was constructed, it had the same exact
9 setback at 15 feet. That's the yellow survey.

10 MEMBER DONATELLI: I would also note that I think all
11 of the houses in the vicinity seem to have been shoehorned in
12 and that none of them seem to meet their front yard setback
13 requirements.

14 MS. CURTO: That is correct. If you look at Exhibit D,
15 there's a diagram identified as diagram five. Average front
16 yard setback diagram. It shows that all of the homes do not
17 meet the setback. They're pretty close to the street. Next
18 door neighbor is nine feet seven inches. On the other side, 16
19 feet six inches. I have photos of the porticos for these
20 structures. None of them comply with the front yard setback
21 requirement. It's very unique to this area, because of the
22 topography. I'm sure they all have the same problem. They had
23 to push the houses forward more because of the steep slopes.

24 MEMBER DONATELLI: Also, the lots themselves, all three
25 of them seem to have been a leftover land from the larger
26 development.

APPEAL #21260

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MS. CURTO: Oh, sure. And they're so irregularly shaped. You don't typically see that at all.

CHAIRMAN MAMMINA: A lot of unique characteristics of the application.

MS. CURTO: Correct. That's all I have with respect to the portico and with respect to the retaining wall. He did -- my client did mention that if the Board wants, he could put some additional hedging in front of the retaining wall. I think it's an esthetic element that's not an eyesore in any way, shape or form. But if the Board prefers to see a hedge, he's willing to put a hedge up, if that can mitigate.

MEMBER DONATELLI: Well, let me ask you this. Part of the reason for the retaining wall being before us is the height of course of the retaining wall over the land that is actually being retained. Is there some necessarily why the wall be that high?

MS. CURTO: No. It doesn't even serve as a retaining wall. It's aesthetic.

MEMBER HERNANDEZ: So that's more like a fence than a retaining wall?

MS. CURTO: Yes.

MEMBER HERNANDEZ: Above the deck area?

MS. CURTO: Correct. So this -- I mean, they're treating it as a retaining wall, but it's not really a retaining wall.

APPEAL #21260

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CHAIRMAN MAMMINA: I think the building department is pointing to it as a retaining wall in that it is existing in making that area flat.

MS. CURTO: Flat. Correct.

CHAIRMAN MAMMINA: It's retaining about that much.

MS. CURTO: Yes. Yeah. And if you see the photographs though, there was never any wall there so it's not needed to retain the side yard.

CHAIRMAN MAMMINA: We did have one gentleman who wished to speak so.

MS. CURTO: Sure. Yes, of course.

MEMBER DONATELLI: Well, I'm sorry, before we do that --

CHAIRMAN MAMMINA: No. No. Go ahead, please.

MEMBER DONATELLI: I just want to go over, because I just want to make sure that I understand. As your client contemplates moving the gazebo further back, I just want to understand exactly what the nature and I know that you're client will submit revised plans, but what is being contemplated. What was discussed outside, can you repeat that, please?

MS. CURTO: So do you see where the shed is?

MEMBER DONATELLI: Yes.

MEMBER GOODSSELL: Yes.

MS. CURTO: Okay. So it would be to the left of the

APPEAL #21260

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

shed and it would be six feet off that retaining wall in the rear.

MEMBER HERNANDEZ: The rear you mean?

MS. CURTO: In the rear.

MEMBER DONATELLI: So closest to the area where it says now existing stone patio?

MS. CURTO: Correct.

MEMBER DONATELLI: And will the shed remain in that position?

MS. CURTO: He may have to move it slightly. It is a movable shed. To make it work. But he's not concerned about that.

MEMBER GOODSSELL: But you mentioned you still need a variance even if the gazebo is moved, because it's still going to --

MS. CURTO: Right. Encroach a little bit into the rear yard.

MEMBER GOODSSELL: Less than two feet.

MS. CURTO: About. Then let's say two feet.

MEMBER DONATELLI: Into the side yard.

MS. CURTO: Yes. Into the side yard.

SECRETARY WAGNER: It's supposed to be in the rear yard.

MS. CURTO: It's supposed to be in the rear yard, but because it's so limited, the rear yard --

APPEAL #21260

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MEMBER GOODSSELL: If we continue this, how much time would you need to give us new plans for where it's going?

MS. CURTO: We can get them to you next week. It's just putting another square on the plan.

MEMBER HERNANDEZ: That's the easy part.

MS. CURTO: It's the easy part. Yeah.

MEMBER GOODSSELL: Not a new square, an existing square, I guess. Where it will exist.

MEMBER HERNANDEZ: The gazebo just -- the measurements -- over my glasses I really can't read it well --

MS. CURTO: Oh, it's 12 by 16.

MEMBER HERNANDEZ: 12 by 16. Right. Okay. So it does not fit all the way in the back. So it will have to encroach a little bit?

MS. CURTO: Right. Because you also need some space behind it to be able to --

MEMBER HERNANDEZ: I see. To be able to get around it.

MS. CURTO: Yeah. Yeah.

MEMBER DONATELLI: So the comment is made and I think it's a legitimate comment, as your client contemplates moving this gazebo to make sure that we also comply with any rear yard setbacks that may apply.

MS. CURTO: So the rear yard actually goes all the way back. This whole unused area. So there's no issue.

MEMBER DONATELLI: Okay.

1 APPEAL #21260

2 MEMBER HERNANDEZ: There's plenty of room back there.

3 MS. CURTO: Yeah. Yeah.

4 CHAIRMAN MAMMINA: We did have another gentleman with
5 his hand up.

6 MS. CURTO: Yes, of course. Of course.

7 CHAIRMAN MAMMINA: So why didn't we hear from him and
8 then the applicant.

9 MR. STUART: Good morning. I'm James Stuart, 78 Avenue
10 C, Port Washington. I'm the next door neighbor. I have no
11 problem with anything. The wall is esthetically pleasing and
12 since he agreed to moved the gazebo, I have no problems. I
13 even offered to help him move it.

14 VICE CHAIRMAN FRANCIS: That's neighborly.

15 MEMBER DONATELLI: You're a good neighbor.

16 MR. STUART: I hope he thinks so.

17 CHAIRMAN MAMMINA: We always love when neighbors can
18 speak to each other and come to some sort of an agreement. So
19 it's always wonderful.

20 MR. STUART: And this is one of the worst things I've
21 ever had to do.

22 CHAIRMAN MAMMINA: That's no so bad. You're a lucky
23 man.

24 MS. CURTO: Thank you so much.

25 MR. STUART: Thank you.

26 VICE CHAIRMAN FRANCIS: Thank you for coming.

APPEAL #21260

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MS. CURTO: I'm very happy that they spoke and came to an agreement. So that's nice. It doesn't always work out that way.

CHAIRMAN MAMMINA: And that is very, very generous of the applicant to agree to move that structure.

MS. CURTO: Yeah. Well, he wants to be a good neighbor. You know, they have a good relationship. Sometimes it works out. Not always.

CHAIRMAN MAMMINA: Sure.

MEMBER DONATELLI: So can we continue this for new plans?

MS. CURTO: You're going to need to see the plans before you can vote.

CHAIRMAN MAMMINA: We need to see the plans and, you know, and you may want to bring it to the building department ahead of time, but I don't think there would be an issue.

MS. CURTO: Do you think its needed? There is no setback.

CHAIRMAN MAMMINA: That's why I said may.

DEPUTY TOWN ATTORNEY ALGIOS: I think in this instance it's fine and there is no rear yard issue on this one.

CHAIRMAN MAMMINA: Yeah. No. I agree with that.

MEMBER DONATELLI: But we're still gonna need the variance for the side yard and the encroachment, even if it's less.

APPEAL #21260

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DEPUTY TOWN ATTORNEY ALGIOS: But that's a variance that's existing and she's just mitigating it.

MS. CURTO: Correct. I'm not asking for any rear variances. It's the same variance, I'm just mitigating the extent of the variance.

MEMBER DONATELLI: Right. But I think we need to see new plans.

MS. CURTO: Oh, yes. Yes.

MEMBER DONATELLI: So if you can get us new plans as quickly as possible, we can vote on it the next time we have a stitch.

MS. CURTO: That would be great. Thank you very much.

DEPUTY TOWN ATTORNEY ALGIOS: We will continue this.

MEMBER DONATELLI: We know it's been pending for a while and --

SECRETARY WAGNER: The portico and retaining wall?

MEMBER DONATELLI: So the applicant will be submitting --

MEMBER HERNANDEZ: I don't know if he will need a side yard variance depending on how far -- the property opens up. So as he moves it to the left, we need to see what the new plan is and we may or may not need a side yard variance.

MS. CURTO: Okay.

MEMBER DONATELLI: The applicant will be, you know, likelihood submitting new plans for -- if there is a side yard

APPEAL #21359

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

variance that's being requested. The question has comes up, does anyone have any thoughts as to the portico, front yard -- front yard encroachment?

CHAIRMAN MAMMINA: I didn't.

MEMBER DONATELLI: I didn't.

MEMBER HERNANDEZ: It's preexisting any way.

SECRETARY WAGNER: And the retaining wall?

MEMBER DONATELLI: Three of the parcels were all nonconforming and how about the retaining wall, any thought?

MEMBER GOODSSELL: I don't have a problem with a retaining wall either. It does function as a fence.

MEMBER HERNANDEZ: It's consistent with the neighborhood. If you drive through the neighborhood, you see a lot of them having that kind of low retaining wall holding back small amounts of fern. It is consistent with the neighborhood.

MEMBER DONATELLI: Yeah. I personally don't have any issues with it. I'd like to see the plans address the gazebo.

MS. CURTO: Will do. Yes. Thank you very much for your time.

MEMBER DONATELLI: Thank you.

MS. CURTO: You're welcome. Thank you.

SECRETARY WAGNER: Appeal Number 21359, Scott Trimarchi; 10 New St., Port Washington, Section 5, Block 46, Lot 54; Zoned Residence-A, Variances from 70-100.2(A)(4), to construct a fence that is too tall.

1 APPEAL #21359

2 CHAIRMAN MAMMINA: You heard Appeal Number 21359, Scott
3 Trimarchi. Is there anyone interested in the application,
4 other than the applicant?

5 Seeing no one.

6 SECRETARY WAGNER: Exhibit one and Exhibit two.

7 CHAIRMAN MAMMINA: Please give your name and address.

8 MR. TRIMARCHI: My name is Scott Trimarchi and I reside
9 at 10 New Street in Port Washington, New York. Good morning,
10 Chairman and Members of the Board. I'd like to submit Exhibit
11 1, Exhibit 2. The first exhibit is of a prior variance that
12 was approved from a different address that was seeking
13 something similar that I am and the other one is some letters
14 of approval from my neighbors. I am here before you today for
15 a variance for a fence exceeding a permitted height. I am
16 planning on installing a fence --

17 CHAIRMAN MAMMINA: Slow down one little bit for the
18 stenographer. Okay. She's gotta be able to write down. She's
19 amazing, but --

20 MR. TRIMARCHI: Oh, I'm sorry.

21 All right. I'm here before you today for a variance
22 for a fence exceeding the permitted height. I'm planning on
23 installing a fence around my property and the areas in question
24 that require a variance is my side property on the north and
25 the fence from that same north side property line to a spur of,
26 like, three feet to close off the side yard. My property is

APPEAL #21359

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

peculiar because my side property line is the rear property line of my neighbors to the north. It is my understanding that those neighbors can install a six foot fence along that property line if they so wish to without a variance. Last year during the October 12, 2022 zoning appeals, there was an applicant Appeal Number 21296 at 88 Greenway, New Hyde Park that was seeking, among other things, the same thing I am. His variance was for a side property -- his variance for the side property was granted for a six foot fence. The findings in that decision stated in making the determination, the board noted that a portion of a fence is located along the side property line of the subject property that abuts the rear property line of the property to the north and the rear property owner will be able to put up a six foot fence along that portion as of right.

CHAIRMAN MAMMINA: Slow it down just one little bit more. Thank you. It's easy because you're reading. She's typing.

MR. TRIMARCHI: I guess that is the issue for the fence along the property line. There's, I guess, a second issue of that spur piece, three foot. For the fence that closes off the garage, I'm actually not sure what's allowed by right. Is that a four fence or a five foot fence?

CHAIRMAN MAMMINA: That's a four foot fence.

MR. TRIMARCHI: Even though it's setback very far?

1 APPEAL #21359

2 CHAIRMAN MAMMINA: Yes.

3 MR. TRIMARCHI: Okay. So when granting the appeal, I
4 understand there are five questions an applicant must answer.

5 MEMBER GOODSSELL: Well, before you get to that, you can
6 answer some questions from us, because we all looked at your
7 house. We all looked at your house. You are, for the record,
8 a sloping property, correct?

9 MR. TRIMARCHI: Correct. Yes.

10 MEMBER GOODSSELL: And your neighbor to -- if you're
11 standing in the street at the dead end looking at your house,
12 your neighbor to the right is lower than you are, correct?

13 MR. TRIMARCHI: Correct. A lot lower. Yup.

14 MEMBER GOODSSELL: And that is their backyard that abuts
15 up against your property. Is that correct?

16 MR. TRIMARCHI: Correct. Yes.

17 MEMBER GOODSSELL: You have correctly stated that if
18 that neighbor came to us and said I'd like to put a six foot
19 fence up in my backyard, it wouldn't have to come to us.

20 MR. TRIMARCHI: Exactly.

21 MEMBER GOODSSELL: So if he could do it as of right,
22 that's why in your other example we granted a six foot fence,
23 even though that's not the homeowner's rear yard.

24 MR. TRIMARCHI: Correct. Yeah.

25 MEMBER GOODSSELL: So we do understand that. With
26 respect to that piece of fencing by your garage however, that

APPEAL #21359

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

is your front yard.

MR. TRIMARCHI: Okay.

MEMBER GOODSSELL: Whether or not anybody in the world can see it, is your front yard.

MR. TRIMARCHI: I understand.

MEMBER GOODSSELL: And so you get to put up four feet as of right. You are asking us for how high a fence?

MR. TRIMARCHI: For that three foot spur to close off? It was a six foot.

MEMBER GOODSSELL: Six foot.

MR. TRIMARCHI: But I -- my main issue is, like, you know, the three homeowners in those houses have been there 40 years. So who knows how many more years they're gonna be occupying the house. So maybe someone later down the road might want to put a fence. If I put a five foot fence and then they put a six foot, I just don't want to be looking at their top one foot of their fence.

MEMBER GOODSSELL: It happens all the time. You may not want to, but it happens all the time.

MR. TRIMARCHI: And certainly there's different color fences. There's wood fences, there's beige fences --

MEMBER GOODSSELL: And that happens all the time too. Everybody puts up a slightly different fence. White vinyl fences are now very popular, but in my day the cyclone fences, chain link fences and stockade fences were the fence of the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

day. So things do change.

MR. TRIMARCHI: So I would be open to -- I guess the spur I wouldn't be opposed to putting a four foot fence. I would be fine for putting a four foot fence for the area that closes. I'm fine.

MEMBER GOODSSELL: What fence is there now?

MR. TRIMARCHI: There is no fence around my property at all.

MEMBER DONATELLI: So just before you address the five factors and are you familiar with the five factors?

MR. TRIMARCHI: Yes.

MEMBER DONATELLI: Terrific. So I'm going to ask you to go through those, if you don't mind. But just before you do that, getting to Ms. Goodsell's point. Your neighbor is actually lower than you so if you were to install a six foot fence, would the back of your six foot fence be visible to your neighbor?

MR. TRIMARCHI: Yup.

MEMBER DONATELLI: Okay. And I guess my question is, do you have a need for the six foot high fence?

MR. TRIMARCHI: No need. Just the fact that later down the road I think it would be esthetically unpleasing to look at the top one foot of a different kind of fence.

MEMBER DONATELLI: Right. But the issue I'm now trying to figure out is if your neighbor will now be looking at the

APPEAL #21359

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

very thing that you would like to avoid, which is the back of his fence.

MR. TRIMARCHI: They do not have a fence both neighbors.

MEMBER DONATELLI: Okay. So my point is as follows, in the other case -- and I congratulate you for doing your homework, because I do recall that case and sometimes we get strange cases like that and I do recall our decision on that where we did approve, I think it was a six foot fence in a side yard that otherwise wouldn't have been denied by law, because in point of fact it would have been the other neighbor's rear fence. But in that case, I believe that the -- both parcels were more or less on the same level. Whereas here, because there is a steep slope grade, if we were to approve this six foot fence, then even if your neighbor were to install a six foot fence, he would still be looking at the back of your fence. So it's not really technically the same, because we try to avoid somebody looking at the back of somebody else fences.

MR. TRIMARCHI: If it was a four fence, they would also be looking at the back. You would see that same four foot fence.

MEMBER DONATELLI: Well, because they don't have a fence. But if they had a six foot fence and you had a six foot fence, and there's a two or three foot differential in grade, then they are looking at a two or three foot difference in the

APPEAL #21359

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

fence, right?

MR. TRIMARCHI: So each homeowner doesn't have the same right to that property line that each person has?

MEMBER GOODSSELL: Well, do that have a retaining wall, because from my visual, they are much lower then you are. Do they have a retaining wall?

MR. TRIMARCHI: They have no retaining wall.

MEMBER GOODSSELL: So they just have a slope in their backyard.

MR. TRIMARCHI: Yeah. Very steep.

CHAIRMAN MAMMINA: Also, I'll address the question you asked though does each neighbor have the same right and the answer is no, that's why the zoning is written in a certain way and that's why there's a zoning board. I'm not saying that your application is good or bad, you know, but no, you don't have the same rights as that person behind you based upon what the law says. Otherwise we wouldn't be here.

MR. TRIMARCHI: Well, I also understand that zoning can't address every issue that's before them when they write the zone laws, correct, because the only exemptions --

CHAIRMAN MAMMINA: I'll take a second, even though we're not supposed to give advise, we're not supposed to give explanations. This was something that was looked at when the planning department brought this to the town saying, you know, we are going to get some of these cases that are in there and

APPEAL #21359

1
2 the response at that point, which I certainly think is still
3 appropriate was, go to the Zoning Board and they will be taken
4 on a case by case basis, which is what the Zoning Board does.
5 There is nothing else that necessarily guarantees somebody else
6 getting the same thing. In this case, there's a slope, you
7 know, in there so that's different then the other application.
8 So there are differentials.

9 MEMBER DONATELLI: But having said that, we will take
10 all of that into account as we, you know, try and make a
11 decision. But I think that's just a distinction that I want to
12 put on the record. But why don't you go through your five
13 factors.

14 MR. TRIMARCHI: I guess the first factor is whether an
15 undesirable change will produce new character of the
16 neighborhood or detriment to nearby properties. I would say
17 no, because, you know, those neighbors could put a five foot
18 fence up if they want to and there's some neighbors further
19 down that have put up a five foot fence along that same run of
20 fence. So my fence would just be one of those same fences
21 along that property line.

22 MEMBER DONATELLI: I'm gonna interrupt you for just a
23 moment and I don't mean to be argumentative, but the very point
24 of that paragraph, that very first factor, I think gets to the
25 issue that we were just talking about, which is if you put up
26 your fence along that side yard and your neighbor does the same

APPEAL #21359

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

but still the back of your fence would probably negatively impact your neighbor. In other words, your neighbor would have to come back to us and ask for permission for an eight foot high fence or a nine foot high fence to be able to just come to the same level as your existing fence.

MR. TRIMARCHI: I don't think why they would have -- they could also put a six foot fence up on that same line and it would be even with my fence.

MEMBER HERNANDEZ: If you have a sloping hill, okay, then logically speaking -- I can't see the back of your house so I couldn't tell how much of a slope it is so we need to rely on you to tell us one, why you need a six foot and why five is not good enough and number two, how much is the slope. If you have a slope for arguments sake one is at five foot elevation and one is at a four foot elevation and they are both six foot fences at that elevations, as Mr. Donatelli said, your neighbor will be looking at one foot of your fence. So you are trying to anticipate a future problem that you don't want to see potentially your neighbors fence being higher than yours. You're proposing to create a situation where you will create that problem for your future neighbor by putting one that he cannot meet unless he gets a variance.

CHAIRMAN MAMMINA: The other point that I would like to make, again, just speaking to what you had said previously, you know, well, why does he get the right to do it and why don't I.

APPEAL #21359

1

2

We get a lot of fence applications and that was why, however

3

many years it was, the Zoning Board approached the planning

4

department about saying why can't we standardize something and

5

because before that, with some regularity, we were calling what

6

we had done the six, five, four, you know, rule. Okay. So you

7

get six in the back, you get five on the sides and you get four

8

in the front. Now -- and we hold, you know, pretty rigidly to

9

that. So I can take your same argument and say well, let's go

10

down five houses and have that person say, well, you know, he

11

got six foot over there, you know, why can't I? Well, you

12

can't, because you back up -- you don't back up to that

13

neighbor. But that doesn't mean where that separates you from

14

them with the argument well, maybe the guy that's in that house

15

is gonna put up a fence anyway. Maybe he is, maybe he isn't,

16

you know, and that's why each case is different.

17

MR. TRIMARCHI: But if I put a pool in, I'm allowed a

18

six foot fence, correct?

19

CHAIRMAN MAMMINA: Yes. Put a pool in. I'm gonna have

20

to cut you off, you know, we've been very, very nice to you.

21

You're getting argumentative. That's not okay. And yes, if

22

you put a pool in, you're required to have a six foot fence.

23

You have all other state code things that then change. When

24

you put the pool in, then you can come ask for a six foot

25

fence.

26

MR. TRIMARCHI: Can I ask a question? Is that a six

1 APPEAL #21359

2 foot fence for the pool, is that a Nassau County rule or is
3 that a Town of North Hempstead rule?

4 CHAIRMAN MAMMINA: That is the Town of North Hempstead.

5 MR. TRIMARCHI: Does a pond classify -- I'm just
6 curious -- as a pool?

7 CHAIRMAN MAMMINA: I can't answer all those questions.

8 MEMBER DONATELLI: No.

9 MS. TRIMARCHI: May I add something?

10 CHAIRMAN MAMMINA: Yes. Put your name and address on
11 the record.

12 MS. TRIMARCHI: Megan Trimarchi, I also reside at 10
13 New Street, Port Washington. I think the slope is being
14 overestimated in this conversation. So the slope is very
15 severe and then right at our property line levels off. So if
16 they were to put a six foot fence at their property line as
17 well, it would be more or less even with ours. I just think
18 that's a clarification that needed to be made.

19 CHAIRMAN MAMMINA: Let me just then pose to you, you
20 know, as well, a question that wasn't answered that Member
21 Donatelli asked. If you have a five foot fence on the other
22 side of the property, on the side property line, what is the
23 difference that this has to be six feet?

24 MS. TRIMARCHI: Just that not we're looking at the back
25 of someone else's six foot fence. It would be a foot over.

26 CHAIRMAN MAMMINA: But you're projecting something that

APPEAL #21359

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

may happen, you know, in the future.

MS. TRIMARCHI: Right.

VICE CHAIRMAN FRANCIS: And the way that you can address it which is perfectly legal is to plant evergreen plantings along that line. Then you don't have to worry about -- and evergreens can grow 20 feet high. You wouldn't even see the house probably.

MS. TRIMARCHI: I think we're just trying to avoid a potential esthetic issue down the road just seeing if this would be approved. It's not, we understand. We're not trying to be argumentative. Please ignore his tone.

MEMBER DONATELLI: Mr. Chairman, I did interrupt the applicant when he was going through the five factors so. And I apologize for that, I just needed to see some clarification. So if you would, please continue of your analysis of that.

MR. TRIMARCHI: Okay.

CHAIRMAN MAMMINA: And I also will say, these issues can become very emotional and please don't in any way feel that, you know, that I'm downplaying, you know, that. You know, I understand.

MR. TRIMARCHI: And I would be happy with a five foot fence, you know. Like, you know, I would gladly look at a five foot fence. But the thing is, like my wife said, the only thing is, you know, later down the road if this homeowner sold the house and someone puts up a six foot fence.

APPEAL #21359

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CHAIRMAN MAMMINA: I don't want to get into, to me, what would be the logic of them putting up a six foot fence if they've already got somebody's fence.

MR. TRIMARCHI: An alternative, I guess, you know, whether this applicant can be achieved by some other method is the next one. So maybe I'm gonna go to my neighbor now and say, you know, can I just file an applicant under your property to put up a six foot fence in your property. So then there's no need for me to even be here.

CHAIRMAN MAMMINA: But also there's some other method. As was just said by the Vice Chairman, you can plant shrubbery there. I did that at my own house on a 50 by 100 lot and yes, they were 12 feet tall, you know, in five years, you know, and I had to cap them off at 12 feet, because the landscaper couldn't read them anymore.

MR. TRIMARCHI: I guess the next one is whether the requested variance is substantial. I don't think so, but from what I'm hearing what the Board says, I guess it is. Whether the proposed variance will have an adverse impact the physical and environmental conditions of the neighborhood or district. I don't think so, because it's the same line. My neighbor could put up a six foot fence so I think it's a very easy alternative to just go and talk to them. We can figure that out. And whether the difficulty was self created. Yes, because there is no fence there and I'm proposing a fence so of

APPEAL #21359

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

course it's self created. And I guess that's it.

MEMBER DONATELLI: Just a few other questions for you briefly. Can you estimate the change in grade between where your proposing to put this fence and your neighbors rear yard? You said, I'm sorry, Mrs. Trimarchi, you said that it's not that severe there.

MS. TRIMARCHI: It's more or less.

MEMBER DONATELLI: What is the change in grade, approximately.

MS. TRIMARCHI: I would guess six inches maybe. If there fence was a foot away from ours. If it's right next to it, next to nothing.

MEMBER DONATELLI: And do you have pets, do you have children, do you have any reason --

MS. TRIMARCHI: We have one four year and another on the way so children are a concern. Hopefully a dog at some point also.

MEMBER HERNANDEZ: Small dog.

MS. TRIMARCHI: Yeah.

MEMBER DONATELLI: I have no further questions.

CHAIRMAN MAMMINA: Then I think what we will do is reserve decision on this so that we can look at it, you know, again and we really do that.

MS. TRIMARCHI: We can also provide information on the grade change or photos.

1 APPEAL #21359

2 CHAIRMAN MAMMINA: If you would like to do that, then
3 what we will do is instead of reserving decision, we will
4 continue it and that way you have the opportunity to, you know,
5 to do that. If we said the next hearing, is that okay, you
6 know would, or would you like more time, you know, then that?

7 MR. TRIMARCHI: If I get a letter from that neighbor
8 who -- it's just really going to only affect one neighbor, as
9 you can see the plan. There was -- I'm not sure of the exact
10 address. I know her name is Doris Anderson. If I get a letter
11 from her --

12 CHAIRMAN MAMMINA: You may submit anything else that
13 you would like.

14 VICE CHAIRMAN FRANCIS: Photographs would be very
15 helpful.

16 MEMBER GOODSSELL: And we do recognize that you do have
17 a very unique property and that's why we exist. This is --
18 you're at the very end of a dead end. It's very difficult
19 turning around without pulling into your driveway, my
20 apologies. But your -- an aerial view doesn't give us the
21 change in grade. We recognize that there's a change in grade
22 and that we have a unique circumstance, because we've looked at
23 your property. So we will accept whatever other information
24 you would like to submit to us and if we continue this, then
25 you have the right to submit. If we reserve it, you would not.

26 CHAIRMAN MAMMINA: So we will continue for additional

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

information.

MEMBER DONATELLI: And get us that additional information and then we will be able to vote on it.

SECRETARY WAGNER: And you would submit that to the BZA Department.

MR. TRIMARCHI: E-mail or upload to the portal?

SECRETARY WAGNER: You could e-mail it.

MR. TRIMARCHI: Okay. Thank you. Thank you very much.

CHAIRMAN MAMMINA: Off the record.

(A discussion was held off the record.)

SECRETARY WAGNER: Next appeal, Appeal Number 21360, Angel Villalona; 110 Yale St., Roslyn Heights, Section 7, Block 311, Lot 40; Zoned Residence-B. Variances from 70-100.2.C(1) and 70-41.A(1) to construct a roofed-over patio that is too close to the side property line.

CHAIRMAN MAMMINA: You've heard Appeal Number 21360, Angel Villalona. Is there anyone in the room interested in the application, other than the applicant?

We have one hand up. And we will give you the opportunity to speak after the presentation. Thank you.

MR. MUNISTERI: Good morning, Members of the Board, Mr. Chairman. My name is Mark Anthony Munisteri architect. My office is located at 1563 Bellmore Avenue in Bellmore and I'm representing my clients who are the Villalona's, the owners and occupants of the subject property. I would like to submit,

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

because it's a rear yard, I'd like to submit three pictures incase you guys weren't able to get into the backyard.

SECRETARY WAGNER: That will be Exhibit 1. Thank you.

MR. MUNISTERI: So this morning we are requesting a variance to construct an attached roofed-over patio which is located too close to the property line. My clients home is located on an existing nonconforming location, as the house itself is located two and a half feet to the west side property line. My clients love their yard. They love eating out there, cooking out there and relaxing out there, but the sunny days have become a little bit much so they're looking for a little bit of shade, hence the roofed-over area. Our only request is to reduce the side yard to three feet for the proposed roofed-over, which is basically six inches away from the existing house location. If you'd like, I could go through the five factors if you'd like.

CHAIRMAN MAMMINA: Please.

MR. MUNISTERI: Okay. An undesirable change. I don't believe so, because the existing house being nonconforming is already at 2.5. We're requesting three. The character, again, meets the character of the house. This is basically inline with the house and is not adding any additional encroachment. Yes, it is self imposed. But is the area where the slider is and the patio is. They have, if you notice from the pictures I submitted, it's kind of set up. You'll see where the table is,

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

as well as the little sitting area they have. That's where they came up with dimension wise. And environmentally without no impact, this would be roofed-over it would not be enclosed and I don't believe this to be a substantial variance although the numbers wide may argue that, only because the house itself is at 2.5 now.

MEMBER GOODSSELL: Can I ask what the roof is going to be made of?

MR. MUNISTERI: Roofing material or the structure itself? Structure itself is wood and the roof would match the existing house itself.

MEMBER GOODSSELL: So it will be shingled.

MR. MUNISTERI: Yes, ma'am.

MEMBER GOODSSELL: You're talking about an aluminum, or a sun board, or anything like that.

MR. MUNISTERI: No, ma'am.

MEMBER GOODSSELL: You're talking about a permanent roof-over?

MR. MUNISTERI: That is correct. The trim work will be an Atech material.

MEMBER GOODSSELL: No plans to do anything above the roof, no second-story addition or anything like that. Is that correct?

MR. MUNISTERI: No. And this was not designed to handled that. Actually, the space on the underside is

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

cathedral so it would take a complete reconstruction. Complete
preconstruction to do anything like that.

VICE CHAIRMAN FRANCIS: And open on all three sides?

MR. MUNISTERI: Yes, sir. And will remain that way.

MEMBER GOODSSELL: Is it going to be screened?

MR. MUNISTERI: No. They have an outdoor kitchen out
there also. It's in a different area now so they want an easy
transition space. They love their backyard.

CHAIRMAN MAMMINA: Is there a reason why that couldn't
be moved over, you know, to I guess to the edge of where that
sliding door, you know, is, because I understand that they want
to keep that sliding door where it is and the nice trim around
it and all of that, but I would project, you know, that that
would, my guess is that that would get you to about six feet,
you know, or so moved over. The required side yard setback in
a Residence B is seven feet, you know, and certainly your
aggregate is not a problem, you know, at that point and it's
open, you know. So you would -- you'd have --

MR. MUNISTERI: Totally understand.

CHAIRMAN MAMMINA: You have a bunch in your favor, you
know, but we do have someone that wants to speak.

MR. MUNISTERI: Of course. So I think the six foot
might put it in the mist of the door. I think we could go to
five, which would put me just before the door itself. You have
a floor plan, Mr. Chairman?

1 APPEAL #21360

2 CHAIRMAN MAMMINA: Yeah. We have the floor plan. You
3 know, but I'm saying if you're already three feet or two and a
4 half feet, you know, and then that looks like it's
5 approximately, you know, another three and a half feet, you
6 know.

7 MR. MUNISTERI: I'm three feet. The house itself is
8 two and a half. We're looking for three. I am willing to push
9 it back another two. If I go three, I would say I would
10 definitely be over the door.

11 CHAIRMAN MAMMINA: Let's hear from the other gentleman,
12 you know, just to hear what he has to say.

13 MR. MUNISTERI: Yes, sir. I'm going to leave these
14 here just so that he can see them at the same time, if that's
15 okay.

16 CHAIRMAN MAMMINA: Just come on up. Give your name and
17 address.

18 MR. NABATIAN: Okie doke. My name is Farhad Nabatian,
19 N-A-B-A-T-I-A-N, 104 Yale Street, Roslyn Heights.

20 VICE CHAIRMAN FRANCIS: Just lift that microphone up
21 just a little bit.

22 MEMBER GOODSSELL: So we can hear you.

23 CHAIRMAN MAMMINA: And then for the record, where are
24 you if you were standing in front of the subject house.

25 MR. NABATIAN: Okay. I believe I am on the west side
26 of this guys property.

1 APPEAL #21360

2 MEMBER HERNANDEZ: Are you on the side where this is
3 going to be?

4 MR. NABATIAN: Yes. Okay. Its's here. I am that
5 side.

6 MEMBER HERNANDEZ: Okay. Fine.

7 MEMBER GOODSSELL: So if you look, you're on the side of
8 his garage?

9 MR. NABATIAN: No. I'm on the other side.

10 MEMBER GOODSSELL: Other side. Okay. So his house is
11 two and a half feet from your property line. Is that correct?
12 Is house is close to your property line?

13 MR. NABATIAN: I'm not sure.

14 CHAIRMAN MAMMINA: If we stand in front of your house,
15 is he to the left?

16 MR. NABATIAN: Yeah. Yeah. Yeah. He's to the left.

17 VICE CHAIRMAN FRANCIS: Okay. Fine.

18 MEMBER HERNANDEZ: You're next to the cover proposal.
19 You're right next to that?

20 MR. NABATIAN: Yes.

21 CHAIRMAN MAMMINA: Whoever's cell phone is playing us
22 music, please, you know, just silence that.

23 VICE CHAIRMAN FRANCIS: The firing squad will be out in
24 a minute.

25 CHAIRMAN MAMMINA: And again, if you have a call that
26 you have to make --

1 APPEAL #21360

2 UNKNOWN SPEAKER: Sorry about that. No. No. No. I
3 apologize. It wasn't a call.

4 CHAIRMAN MAMMINA: If my kids were here, it would be
5 Facebook dinging left and right.

6 VICE CHAIRMAN FRANCIS: Tiktok.

7 CHAIRMAN MAMMINA: Tiktok. Right.

8 MR. NABATIAN: Okay. Just as I -- the roof, as I just
9 said, they are going to put (inaudible). His side yard not
10 shingle. His building is vinyl siding.

11 CHAIRMAN MAMMINA: If I'm understanding the question,
12 there is no siding.

13 MR. NABATIAN: No. No. He's going to put a roof,
14 right?

15 CHAIRMAN MAMMINA: Yes.

16 MR. NABATIAN: What is the material?

17 MEMBER GOODSSELL: I did ask him that. He said the same
18 material as the roof on the house.

19 CHAIRMAN MAMMINA: It's going to be shingles.

20 VICE CHAIRMAN FRANCIS: Yeah. Not siding.

21 MR. NABATIAN: Okie doke. My I continue?

22 CHAIRMAN MAMMINA: Yes, please.

23 MR. NABATIAN: He already has a patio made of brown,
24 light brown tiles, which will push up to the, I believe up to
25 the fence. I have a picture. If you want to, I can give it to
26 you.

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CHAIRMAN MAMMINA: Please.

MR. NABATIAN: It is too close to the fence and he has a fence which is fence is practically -- half the fence is practically right on the borderline. You following me? So he has a fence which is all the way --

MEMBER GOODSSELL: Yes.

MR. NABATIAN: But his patio is all the way to the fence the fence you can see it from my house. It's all the way to the fence line. And the previous owner had a fence which was six inches away from his building. They are new owner. So They extend it to 18 inches. How that happen? Beyond my imagination. I used to have this property since early '81. 1981. So they changed couple owners. So this is my concern. I really don't want to see a roof next to my building. You follow me? I'm sitting out there, I don't want to see a roof and how high and I think he already has a patio. You he said he's going to construct a patio. You following me?

CHAIRMAN MAMMINA: Yes. One thing that I can say and maybe I shouldn't be saying, but if he has combustible construction that close to your property line, chances are the building code doesn't permit that but that's another issue to be decided not here, but in the building department.

MR. NABATIAN: Yeah. You're right. You're right. You're right. I'm sorry. Yeah. You go.

MEMBER DONATELLI: I would like you to continue, but

APPEAL #21360

1

2

let me just point out that the plans that we have before us, show an existing six foot wood stockade fence to be removed and replaced with a four foot PVC fence. So he's talking about four foot gate in the front. He's talking about a five foot fence along the side, but that would be on his land. Not on your land.

7

8

MR. NABATIAN: I hope so. I really hope so. May I be very honest with you?

9

10

MEMBER DONATELLI: Please, speak into the microphone.

11

MR. NABATIAN: In the past -- I'm sorry.

12

MEMBER DONATELLI: That's fine.

13

14

MR. NABATIAN: In the past, many, many years ago my neighbor moved into my property. It took me a long time to get her out of there. Now I don't want the same thing happens. I don't want the same thing happens. I told you, the old people, they had six inches away from his building. I put the measuring tape, it changed to 18 inches. And his new fence, half of it is exactly right on the borderline. The rest, I honestly don't know how that happened. Because there is a 19. some degrees angle in there, which I have no idea what those things are. You following? So my main, main, main concern, I don't want to see a roof hanging when I go to the backyard. I don't want to see a roof there.

20

21

22

23

24

25

MEMBER DONATELLI: Just so I'm clear, is your objection to the fence, is your objection to this roofed-over patio?

26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

APPEAL #21360

MR. NABATIAN: The roof and the fence itself.

MEMBER DONATELLI: So it seems to me that the fence will be made complaint. It seems to me, right now, that the fence is noncompliant, but will be made complaint according to what these plans are that I'm looking at.

MR. NABATIAN: Okie doke.

MEMBER DONATELLI: But I'd be interested in hearing your thoughts on this roofed-over patio, because that is really the subject of the hearing before us.

MR. NABATIAN: Okay. His patio, as you see there, is from the sliding door all the way somewhere in there. But the fence is broken. So through the cracks, I could see the tiles right on the borderline. You follow? He pushed it all the way to the line.

MEMBER DONATELLI: I'm sorry, what's on the borderline?

MR. NABATIAN: The tiles. The patio.

CHAIRMAN MAMMINA: The pavers.

MR. NABATIAN: The pavers. You call it pavers, I call it patio. Yes. It is all the way pushed in to the borderline.

MEMBER DONATELLI: But it is not on your land, is it?

MR. NABATIAN: To be honest, I have no budget to get the surveyor to do that to be honest. I believe -- I am not going to swear on it, but I think it is on mine. I think. I'm not sure. Because after my survey shows that the fence before was probably maybe three inches away from the borderline. The

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

old fence on my old survey, but now --

MEMBER DONATELLI: As the Chairman said --

MR. NABATIAN: Now he has 18 inches in there.

MEMBER DONATELLI: As the Chairman said, we cannot give legal advice. But we are not surveyors here. And we cannot survey the property and figure out whether or not there is an encroachment. That would really be something for you to explore, if you think that that is the case. What we are seeing right now are plans that show that everything will be on his property. Not on your property.

MR. NABATIAN: Okie doke.

MEMBER DONATELLI: So is there something that -- you know what, I'm going to --

MR. NABATIAN: Yeah. I'd like to hear you.

MEMBER DONATELLI: One of the reasons why these -- the main reason why these side yard setback requirements exist, is to make sure that everyone has the right to use their backyard as much as possible, without interfering with the rights of the next door neighbor to use their backyard. So is there any shrubbery that might help to shield this or anything that -- that you would like to see that would help you in your backyard?

CHAIRMAN MAMMINA: If you were gonna consider it. The answer can be no.

MR. NABATIAN: I have no money. Honest to God. The

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

wife is asking me to put a fence, shrubbery.

MEMBER DONATELLI: Well, this is not money that you would have to spend. This is just -- I'm just asking in the abstract, is there something that might make this a little bit easier for you to accept.

MR. NABATIAN: I think whatever he does to his own property. I might put some shrubbery later on or something like that. But since he already has the fence and the previous owner, they had the fence, I didn't even bother putting a fence. You follow me? I trust them. I trust the fence. So why am I gonna put another fence?

MEMBER GOODSSELL: Yeah. But they're going to fix the fence. They're gonna fix the fence to the right height.

MR. NABATIAN: This guy, he moved in and I said half of the fence is exactly on the borderline according to my survey and according to his survey. Yeah. Well, when it moves, in the past, it used to be six inches away from his building. Now it is 18 inches away from the building.

MEMBER DONATELLI: Yeah. Well, again, that gets into the surveyor and trying to figure out exactly what it is.

MR. NABATIAN: None of your headaches. Isn't it supposed be six feet away from my property?

MEMBER DONATELLI: I'm sorry?

MR. NABATIAN: When he put a building, any construction should be six feet from the borderline, right?

1 APPEAL #21360

2 CHAIRMAN MAMMINA: Should be seven feet.

3 MR. NABATIAN: Seven feet. Okay.

4 MEMBER DONATELLI: And that's part of the reason why
5 the applicant is here.

6 MR. NABATIAN: That's how I know from the other
7 neighbor. You follow me? So six feet to seven. Is he going
8 to be seven feet away?

9 MEMBER DONATELLI: Well, if you're done with your
10 comments, we can certainly hear back from the applicant.

11 MR. NABATIAN: Yeah. Appreciate it.

12 CHAIRMAN MAMMINA: And he is replacing the fence that
13 you're talking about with a new PVC fence on his drawings on
14 his property line. Thank you.

15 MEMBER HERNANDEZ: Thank you. Yes, please. Thank you.

16 MEMBER DONATELLI: Thank you.

17 MR. NABATIAN: He has a patio with outdoor furniture
18 already exists, yes?

19 MEMBER DONATELLI: I'm sorry?

20 MR. NABATIAN: He has a patio with all the furniture
21 exists all ready, right.

22 MEMBER DONATELLI: Yes. Yes.

23 MR. NABATIAN: Okay. Thank you so much.

24 CHAIRMAN MAMMINA: Thank you. Thank you for coming.
25 Mr. Munisteri, a couple of questions.

26 MR. MUNISTERI: Yes, sir. Sure. I may be to answer a

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

bunch. I'd like to submit the actual survey from the end of '22, which shows the existing location of the fence, which is 1.2 feet. So there's a lot more space. His house is 2.5.

CHAIRMAN MAMMINA: I think, as Mr. Donatelli said, the location of the fence, that's a civil matter between two neighbors. So I've got a couple of questions.

MR. MUNISTERI: Sure. Fire away.

CHAIRMAN MAMMINA: I mean, why can't we have a flat roof on this?

MR. MUNISTERI: Esthetically.

CHAIRMAN MAMMINA: Well, esthetics don't play into zone.

MR. MUNISTERI: They also cause -- okay. Go ahead. I'll let you finish.

CHAIRMAN MAMMINA: Okay. Also, I'm looking at your drawings, you know, and on the elevation facing the neighbor, you have a louver -- a louvered piece of construction on there that essentially makes that full page. You know, you're not going to see through the louver, you know. And then the other thing that I have and looking at the drawings, again, and looking at your roof cover cross section, it shows that your proposed roof is 11 feet one and a half inches above what appears to be grade, based upon what your foundations are showing. But then to the right you show two steps coming down and there's nothing on here that tells us, you know, if the

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

patio is staying or the wooden patio is staying or not staying, you know, but again, just as I look at the section, the section can't correct.

MR. MUNISTERI: So there is no wood patio. There is no wood patio so you're talking the masonry patio.

CHAIRMAN MAMMINA: Yes. The paver -- the paver patio.

MR. MUNISTERI: So the paver patio and I submitted several photos to you guys. I'd like you to see them and you'll see the patio itself comes exactly to the end of the house. So there is a gap right there.

CHAIRMAN MAMMINA: Right.

MR. MUNISTERI: I did not call out grade here so I'm not sure where you're getting that there seems to be grade.

CHAIRMAN MAMMINA: No. I'm just saying why would your footings go down from that heavy black line that's shown, you know, if there are then -- I'm questioning the two steps that are to the right, which don't show any grade. I'm just trying to get perspective on the 11 foot one and a half inches is above what. Is it above an elevated paver area?

MR. MUNISTERI: Yes. Yes.

CHAIRMAN MAMMINA: So the 11 foot one and a half inches, you know, is, you know, is not the height that would be projected to the neighbor next door. You know, the 11 foot one and a half, if you were to carry that line to right and then go down to wherever grade is, that's how high the pitch of that

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

roof is going to be.

MR. MUNISTERI: So a little tricky there, but you're correct. At the edge of where it meets the house, the northwest -- excuse me -- southwest corner. It's two steps high at that end. But as you go to the backyard, it's zero. So you understand the paver goes off zero to the yard. So there's some pitch -- as a matter of fact, there's a lot of pitch around the entire yard. That hopefully answers that question.

CHAIRMAN MAMMINA: No, that answers that question.

MR. MUNISTERI: I do want to just --

CHAIRMAN MAMMINA: Let's talk about the flat roof though too.

MR. MUNISTERI: Okay. Go ahead.

CHAIRMAN MAMMINA: So, you know, let's talk about why --

MR. MUNISTERI: I have it a three pitch, which is an extremely, as you know, it's a very, very low pitch.

CHAIRMAN MAMMINA: That's very flat.

MR. MUNISTERI: Hopefully you understand in architecture, when you put a flat roof up, they tend to leak, rot and --

CHAIRMAN MAMMINA: Everybody says that all the time.

MR. MUNISTERI: Well, I was in the restoration business.

1 APPEAL #21360

2 CHAIRMAN MAMMINA: I do commercial buildings.

3 MR. MUNISTERI: I do also.

4 CHAIRMAN MAMMINA: All of my buildings are commercial.
5 And I create roofs that are 20,000 feet and they're flat, you
6 know, and they have a little bit of pitch to them. You know,
7 that's all you need is a quarter inch of a foot, you know, for
8 the pitch and I don't understand and I'm not criticizing you,
9 it's like every person who stands up here and has a roofed over
10 anything that's residential says it's going to leak. It
11 doesn't leak, you know. It doesn't leak if it's a properly
12 installed roof.

13 MR. MUNISTERI: Well, I made a pretty good career of
14 replacing them actually so.

15 It's a minimum pitch of three. You know, they also
16 wanted a little bit of air so they can have a ceiling fan
17 underneath there as well. I think that's the least obtrusive
18 as far as putting a flat roof in. And they also put the
19 louvers in to give the neighbor some privacy. So in doing
20 that, the louvers, so that there is still air that transfers,
21 the louver is just at that area to actually give them some
22 privacy.

23 CHAIRMAN MAMMINA: Well, I can say just say, as one
24 Board member, you know, I just see that as a further extension
25 of this very minimal setback and we understand the houses --

26 MR. MUNISTERI: We'll take that away then. We'll take

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

that louver away. We have no problem about removing that. Additionally, again, I submitted, hopefully you saw those photos, the are that the stairs to is his garage and some kind of garage addition or something that's back there. So it's not that he's staring out of his house at --

CHAIRMAN MAMMINA: I'm actually looking at the photograph you submitted.

MR. MUNISTERI: Yes, that's the one.

MEMBER HERNANDEZ: And I just want to go back to the ground level that the Chairman brought up earlier.

MR. MUNISTERI: Sure. Yes, sir.

MEMBER HERNANDEZ: We have, in the further most point away from the fence. Okay. The further most point away.

MR. MUNISTERI: Where the two steps are.

MEMBER HERNANDEZ: We have the two steps.

MR. MUNISTERI: Yes, sir.

MEMBER HERNANDEZ: Was your testimony then that this ground basically rose towards the fence and at the fence it was ground level. Is that what you said earlier or did I misunderstand that?

MR. MUNISTERI: The grade has pitch -- has pitch to it. So if you look at my, let's say A1, just to get a floor plan view of it. I think that may be the best one. Hang on one second. Okay. Actually either one, A0 or A1 both have where the patio itself exists.

1 APPEAL #21360

2 MEMBER HERNANDEZ: Okay. Yeah. Got it.

3 MR. MUNISTERI: Where it's up one step or up two steps
4 and then comes out to the grade. You'll see the existing gable
5 patio to maintain and then where it actually goes to grade. So
6 my testimony is that's correct. That that comes out to grade.

7 MEMBER HERNANDEZ: So you're saying that the left side
8 of the house in the rear is at grade. The patio is at grade?

9 MR. MUNISTERI: No. So you're saying when I'm standing
10 in the back of the house staring at the house, the left side?

11 MEMBER HERNANDEZ: Yes.

12 MR. MUNISTERI: No, I said that that's two steps below
13 grade.

14 MEMBER HERNANDEZ: This is to the right so then it's on
15 both sides?

16 MR. MUNISTERI: Right. But look at the other photo.
17 You'll see that I'm taking down both sides of the -- unless
18 you're talking about a different side that I am.

19 MEMBER HERNANDEZ: There is no other photo.

20 MR. MUNISTERI: There should be one staring down the
21 side of the house.

22 MEMBER HERNANDEZ: Yeah. But you don't show the deck.
23 What I see here is that, as I look at the back of the house and
24 I'm standing in the back.

25 MR. MUNISTERI: Understood.

26 MEMBER HERNANDEZ: The right side of the deck is two

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

steps up. So either the left side of the deck is also two steps up or the ground pitches up substantially. And if I look at the side fence, the fence looks like it's missing a chunk at the bottom. So that tells me that the fence is below there. So this appears to me that it's two steps around the whole deck. That's what it appears.

MR. MUNISTERI: No. So on the far left hand side, what I'm looking at, what I stated before, what I'm going to call the southwest corner of the house where it meets the paver patio, that's two steps down right there. So you step off of there, step down in between the fence and the patio. As you walk --

MEMBER HERNANDEZ: The fence and the patio. Okay.

MR. MUNISTERI: Between the fence and the patio. That's correct. If I turn around and start walking south into the backyard, it pitches up, yes. It pitches up.

MEMBER HERNANDEZ: Now we understand each other. So the house itself, the deck at the house, on both sides, is two steps up. As it goes away from the house towards the backyard, it becomes level with the ground?

MR. MUNISTERI: Yes.

MEMBER HERNANDEZ: So what your neighbor sees, if there was no fence there, is they would see two steps on one side going down to zero at the end.

MR. MUNISTERI: Yes, you are correct.

1 APPEAL #21360

2 MEMBER HERNANDEZ: Okay. Fine. So if we talk about 11
3 foot high coved patio, your neighbor will see affectively from
4 the two steps up 11 feet high, because that means that the back
5 is also going up. So the whole thing --

6 MR. MUNISTERI: Yes, sir.

7 MEMBER HERNANDEZ: -- at the house spot --

8 MR. MUNISTERI: You are correct.

9 MEMBER HERNANDEZ: -- is 11 feet plus the two steps.
10 So, Chairman, you are correct that that is not at ground level.
11 It's two steps higher then ground level.

12 Now that, I'm assuming is because the backyard just
13 naturally slopes up and not because it was raised, right?

14 MR. MUNISTERI: Right. And it has several different
15 spots there actually. Right.

16 MEMBER HERNANDEZ: Now, is there any reason why you
17 can't move that raised -- that -- obviously not the raised
18 deck. The raised deck is fine where it is at ground level more
19 or less. But the roofed over patio, is there any reason why
20 you can't move it away so that -- because right now what the
21 neighbor sees is -- doesn't really see the house, because like
22 you said, it's next to the garage.

23 MR. MUNISTERI: Yes.

24 MEMBER HERNANDEZ: But as you go back 18 feet, he's
25 going to see an overhang of 18 feet into his back yard. Let's
26 say six of it is obstructed by that little structure that he's

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

got back there. That's 12 feet of roof. 18 inches, I think you said it was away from the property line. Is there any reason --

MR. MUNISTERI: No, three feet from the property line.

MEMBER HERNANDEZ: I'm sorry?

MR. MUNISTERI: Three feet from the property line.

MEMBER HERNANDEZ: I don't see that in your plans.

MR. MUNISTERI: Sure.

MEMBER DONATELLI: It is three feet.

MEMBER HERNANDEZ: Do you see a three foot somewhere in the plans?

MR. MUNISTERI: If you go to A0.

MEMBER HERNANDEZ: I'm looking at A0.

MR. MUNISTERI: Yeah. Far left hand side where it says 120, just below that.

MEMBER HERNANDEZ: I don't see that. Okay. Okay. Okay. I see what he's showing. All right. So then if that's three feet, is there any reason why you can't move the roof two feet over and make it five feet?

MR. MUNISTERI: I was willing to negotiate that.

CHAIRMAN MAMMINA: Well, I think what I would like to do is reserve decision and find out how on absolute squeeze in as tight as you can, how far that can be moved over from that side property line. In other words, without disturbing the location of the existing door.

1 APPEAL #21360

2 MR. MUNISTERI: Okay. So are you looking for me to
3 supply you with that?

4 CHAIRMAN MAMMINA: Please. I'm not going to do it.
5 Yes, I would continue.

6 MR. MUNISTERI: So I'm going to give you several
7 measurements. The measurements I'm going to give you from the
8 exterior of the building are going to be from the corner of the
9 building, the southwest corner.

10 CHAIRMAN MAMMINA: You can submit them from wherever
11 you would like.

12 MR. MUNISTERI: I just want to make sure that I'm
13 giving you what you want though.

14 CHAIRMAN MAMMINA: Give me a whole bunch of dimensions.
15 I want you to take that and move it as far over, you know, as,
16 you know, as you could. I mean, you might want to give us a
17 dimension if you take all of that nice trim, you know, off the,
18 you know, off of that side or that that exactly lines up with
19 wherever the end of your roof is. I want to maximize how far
20 away, you know, that moves.

21 MR. MUNISTERI: Okay.

22 MEMBER DONATELLI: One of the things that we are tasked
23 with is trying to minimize any variance request that might come
24 before us. So in that vein, I would also like to see whether
25 or not that applicant would consider some noise mitigation as
26 your clients would be using this for outdoor dining, or just

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

entertaining, or just on their own. If, perhaps in that area where you have the raised patio, if you could put in some sort of even planted arborvitae or some other noise mitigating foliage that might help the neighbor.

MR. MUNISTERI: So we are willing to put along that little two and a half foot space there, it's a tight space. We could do that. Actually, I like the idea. Do you have a spacing that you prefer, because these do get larger arborvitaes. They're not going to put big giant arborvitaes to fill --

CHAIRMAN MAMMINA: Usually we say five feet on the sides.

MR. MUNISTERI: That's what I was hoping. I do understand that because it is up against the fence, it's not going to get full sunlight.

CHAIRMAN MAMMINA: Nothings going to grow there fully.

MR. MUNISTERI: Right. Okay. As long as you understand that. And yes, they are absolutely willing. And I'll revise the drawings in multiple ways to show those plantings along that way. I'll give you the dimensions and then where we are willing to put the --

CHAIRMAN MAMMINA: Perfect.

MEMBER DONATELLI: And just on the record, if you could just indicate, once again, that apparently and I'm not going to render an opinion, because we don't have anything in front of

APPEAL #21360

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

us, but you will be removing the existing wood stockade fence and the proposal is to replace that with a PVC fence that will be code compliant and that will be on your clients property?

MR. MUNISTERI: That is part of the application. Yes, sir.

CHAIRMAN MAMMINA: Okay.

MR. MUNISTERI: There is a fence there now that's on my clients property right now, which is quite delapidated. It needs replacing.

CHAIRMAN MAMMINA: Okay. Thank you.

SECRETARY WAGNER: Chairman, the neighbor wanted to submit a photo. So this will be Opposition Exhibit 1 from the roof of their garage looking onto the subject property.

CHAIRMAN MAMMINA: Mr. Munisteri is saying that is his photo.

MR. MUNISTERI: No. No. I'd like to see it.

CHAIRMAN MAMMINA: Oh, you'd like to see it. I thought it was your photo.

Then we will continue this so you can submit more information.

MR. MUNISTERI: Thank you.

CHAIRMAN MAMMINA: Off the record.

(A discussion was held off the record.)

SECRETARY WAGNER: That appeal will be continued.

(A recess was taken.)

APPEAL #21361

SECRETARY WAGNER: Next appeal, Appeal Number 21361, Michael & Angela Mastrototaro; 1 Wilton Street, New Hyde Park; Section 8, Block 335, Lot 25; Zoned: Residence-C. Variances from 70-50.B, 70-52, and 70-100.2(A)(2)(b)[2], construct an addition and to legalize a raised porch that are too close to the street (primary front yard), construct an addition that is too close to the rear property line, and legalize fencing in a front yard.

CHAIRMAN MAMMINA: You've heard Appeal Number 21361, Michael and Angela Mastrototaro, yes?

MS. LASPISA: Yes.

I'm Diana Laspisa with Morano Expediting Services, 2938 Hempstead Turnpike, Suite 212, Levittown, New York.

I do just want to hand this up. This is from the prior application.

Good morning. Good afternoon, Chairman, Members of the Board. I do have some photographs I'd like to submit. The first set is the subject parcel and then the second set is photos of some neighboring homes in the area. So I'll submit those.

SECRETARY WAGNER: Exhibits 1 and 2.

MS. LASPISA: I'll submit those up now for the board.

Good afternoon. I'm here on behalf of the property owner Michael and Angela Mastrototaro and we're here requesting permission from the Board to construct two first floor

APPEAL #21361

1
2 additions, a proposed wood deck and then to maintain an
3 existing front raised porch, an existing four foot fence in the
4 front yard. The proposal requires relief from the board for
5 the following. The front yard setback requirement of 25 feet,
6 for the small foyer addition seven and a half foot by five and
7 a half feet and we are proposing 19.4 for the front yard
8 setback off of Wilton. A front yard setback requirement of 20
9 feet and we are proposing to maintain 14 foot six inches for
10 the existing raised masonry patio. We are also in need of a
11 rear yard setback relief of -- 15 feet is the requirement and
12 we are proposing 10 feet for a proposed one-story addition and
13 wood deck. And then last but not least, we are requesting
14 permission to maintain the four foot fencing in the front yard.
15 My clients reside in the home with their 13-year-old daughter.
16 The home is currently -- bless you.

17 MEMBER DONATELLI: Thank you.

18 MS. LASPISA: Currently a two bedroom home with both
19 bedrooms upstairs and they are very small. The intent for the
20 proposed addition is to create a master bedroom suite on the
21 lower level for them. The stairs have been becoming more and
22 more difficult to manage overtime and they don't expect to get
23 any younger. As you can see, this is not only a corner lot,
24 but very irregularly shaped. The property is also heavily
25 screened from Maple Drive, as well as all the abutting parcels
26 to the south and the west and the addition abuts the neighbors

APPEAL #21361

garages and shed. So we would not negatively impact the neighbors, nor would it be visible from their properties.

In regards to the front raised patio, when my client purchased in 2013, it was existing and I'm inclined to believe that that was actually built with this style home, as many of the homes in the area have this same patio. Many have added roof-overs to a portion of the patios, some have roofed the entire patio and some have completely eliminated the patios and just made small minimal landing stoops and steps, and some have built a small foyer addition, similar to what we're before the board for. My client did not alter the footprint of the patio. However, she did replace the top with some nice Nicolock pavers, because the concrete was in disrepair. We feel that the front yard setback relief is consistent with the neighboring homes in the immediate area and I did submit many photographs that show the conformity to the neighborhood. At the time of purchasing the property, there was a delapidated fence along Maple Drive in the same location. My client just replaced it in the exact same location with a nice four foot PVC picket fence. The fencing has no impact on the line of sight for vehicles traveling on Maple or Wilton, as it is setback far enough. My client has spoken to the neighbors and they have no objections to the proposal. Unfortunately, due to the configuration of the lot and the layout of the home, this would really be the only feasible option for them to be able to

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

achieve their goal.

I don't know if the board has any questions, otherwise
I --

CHAIRMAN MAMMINA: Want to run us through the
variances, you know, in relationship to your site plan, you
know, I guess and that would just be helpful to you to complete
the record and make sure that --

MS. LASPISA: To label specifically what the
requests --

CHAIRMAN MAMMINA: Just the -- you've got a rear yard.
So talk about the rear yard and talk about the irregularity of
the site and what is it, and what you're asking for.

MS. LASPISA: Oh, okay. I thought at the beginning I
stated that.

So the front yard setback relief off of Wilton Street,
the 19.3 feet setback or 19.4 foot setback is for a front foyer
addition. It's just a small, you know, the house is small. So
right now when you walk into the house, it cuts right into the
living room. So this will just allow them to not take up a
small portion of the living room.

CHAIRMAN MAMMINA: Do you want to add to the record
what the requirement is for it.

MS. LASPISA: I'm sorry. Okay. Because I did say it
at the beginning.

CHAIRMAN MAMMINA: You'll have to excuse me. My brain

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

kind of blanks out when people read off a paper and then I ask all of these questions.

MS. LASPISA: You know what happens then I don't read off the paper, then I blank out when I stand up here. So I'll reread it then.

CHAIRMAN MAMMINA: No, that's okay. There is absolutely no criticism. So let's go one by one so that the record is clear.

MS. LASPISA: Okay. Okay. Yeah. So I'll read again. The front yard setback requirement is 25 feet. We're proposing 19.4 feet for a front foyer addition.

MEMBER GOODSSELL: Front foyer addition is an opened addition. It's a roof-over or is it an enclosed addition?

MS. LASPISA: No, it's going to be enclosed. It would be enclosed.

MEMBER GOODSSELL: Okay. It's kind of an entryway?

MS. LASPISA: Correct.

MEMBER GOODSSELL: And addition to that, is a portico requested? You've shown pictures of other houses with porticos.

MS. LASPISA: That was just to show -- we're not also requesting a portico.

MEMBER GOODSSELL: You're not. Okay.

MS. LASPISA: Yes. It was just to show the conformity to setback wise how some people have enclosed that, some people

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

have roofed it over. What we're looking to build an enclosed.
But no there is not a portico in addition.

CHAIRMAN MAMMINA: Maybe you want to talk about on the
record that that's the front of the house --

MS. LASPISA: Correct. So the house fronts on --

CHAIRMAN MAMMINA: -- and without that, you're going to
be walking directly into the living room.

MS. LASPISA: Yes. Okay. Yes. Yes. I did say that.
Did I not say that? Okay. Yeah. So when we walk in -- when
you walk in the front of the house, you walk in directly into
the living room and because the rooms are very small -- it's a
small home. It's the original home. They were just looking to
create a small front foyer since it's consistent. They sort of
got the idea from other homes in the area and it is, you know,
consistent with setback wise. But it's just going to be to get
in the house and then a small bench for shoes and it's just a
little bit more organization for them when they get home and
not have all of this sitting in the living room, you know, so
that's the purpose of that proposal.

MEMBER HERNANDEZ: Is that already existing outdoor
porch that you have now, the open porch or is that the front of
the outdoor porch?

MS. LASPISA: No. It's going to be within the open
porch. The open porch we are here before the court for a front
yard setback relief of 14 foot 6 inches.

1 APPEAL #21361

2 MEMBER HERNANDEZ: I'm looking at your -- I'm sorry,
3 you're not the architect.

4 MS. LASPISA: No, that's okay.

5 MEMBER HERNANDEZ: I'm looking at the architectural
6 drawings A2A, Mr. Chairman, the front west elevation is showing
7 an enclosed portico and it looks like the entrance is from the
8 side.

9 MS. LASPISA: No. So if you look at the photos that I
10 submitted of the subject parcel. Yeah. So the front of the
11 door --

12 MEMBER HERNANDEZ: And the entrance is this way. Okay.
13 So is this over the existing portico or in front of it?

14 MS. LASPISA: Yes. Yeah. No. No. It's over on top
15 of.

16 MEMBER HERNANDEZ: So therefore, the encroachment to
17 the front does not change. You're not getting any closer.
18 You're leaving it at the same place that it was originally?

19 MS. LASPISA: Correct. Correct.

20 MEMBER HERNANDEZ: That's what I'm trying to determine.

21 MS. LASPISA: Yes. Yes. The patio extends further
22 then the house.

23 MEMBER GOODSSELL: We're kind of asking you to walk us
24 through, because when we operate on a laptop, we have to keep
25 flipping screens. The one advantage of the paper that the
26 Chairman has in front of him is he can spread it out and see.

1 APPEAL #21361

2 MS. LASPISA: See everything.

3 MEMBER GOODSSELL: And that's why yes, some of our
4 questions seem to duplicate what you said, because we are just
5 flipping screens.

6 MS. LASPISA: No, that's fine. That's fine. I just
7 rumble like a robot so I don't know if I forgot. Sometimes I
8 change while I'm up here.

9 MEMBER GOODSSELL: That's okay.

10 MS. LASPISA: So the front foyer addition would be
11 completely inclosed. Other than that, the perimeter of it will
12 be the raised patio. Which -- so moving onto the raised patio.
13 We are here before the Board for a 14 foot six inches where the
14 requirement is 20 feet and as I stated, I do believe that this
15 is something that actually was built with the house, because
16 when you drive around the neighborhood, every house this. So
17 it just -- it was something she was unaware of. It wasn't
18 until -- this was all triggered mainly because the proposed
19 addition and deck. And when they applied for those is when
20 that came up.

21 With regard to the fence, we are here to maintain the
22 four foot fencing in the front yard. It is consistent with
23 other homes in the area. It's a picket fence. You can see
24 it's not obstructing the line of sight for anybody turning off
25 or onto --

26 MEMBER GOODSSELL: You should also put onto the record

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

that it's a secondary front yard. I believe the house faces Wilton Street.

MS. LASPISA: Correct. It does, yes.

MEMBER GOODSSELL: And this is the secondary front yard that faces Maple Drive.

MS. LASPISA: Correct. Yes. So the you house does face Wilton and along Maple is where the fence is and that is the secondary front yard. And it is imperative for them to have that. They do have animals. If they're not able to maintain a fence, you know, it's not a high fence. If they didn't have the hedges, they do have hedges along that whole northerly property line in front of the fence on their side.

MEMBER DONATELLI: So the hedges are where in relation to the fence?

MS. LASPISA: The hedges are within their property.

MEMBER DONATELLI: Within the property?

MS. LASPISA: Correct.

MEMBER DONATELLI: But the fence is clearly visible from the street?

MS. LASPISA: Correct. Yes. Yes. But if they didn't have the hedges, it's not like it's a fence that, you know, you can't see through. You can see through. It's just a picket fence that kind of slopes down. Correct.

CHAIRMAN MAMMINA: Fences are tough. You know, we -- and I'm, look, I'm just one Board member. But we hold a pretty

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

hard line, you know, on fences. You know, quite honestly, if the fence was behind the shrubbery, then it becomes a maybe. You know, there are very, very few instances where we have approved a fence in a front yard not complying then, you know, with the ordinance. You know, it's -- again, the shape of your property is very unique, you know, and the fact that it's pushed all the way into the corner, you know, is also very unique. One of the things that we look for, because we do get people that come in who have an existing chain link fence, which was within the vintage of when this house was built, you know, is something that was fairly common in certain neighborhoods. You know, and then we will ask two things, you know, can -- this is a newer fence. Can you document that there was, you know, a permit taken out for this fence that it was put in prior to the ordinance. Okay. And that's not a challenge or anything. I'm just telling you what we would normally do, you know, or, you know, can you document that that fence has been there forever, you know, as a fence in one form, you know, or another. We've had people bring in pictures of their communion, you know, or a wedding in a backyard.

MS. LASPISA: Show it.

CHAIRMAN MAMMINA: You know, or whatever, you know, or the 57 Chevy that's in the driveway, you know, because it was a new car that they got. You know, and then we look at, well, if you're changing it, if you changed it, you lose that, you know.

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

But you've got other circumstances and things within this. So I'm saying, you know, while many people come in thinking that that front yard fence is a slam dunk, you know, the town Board, you know, did deliberate over fences, you know, to a very good extent, you know, and I can -- I can remember, you know, somebody, you know, who made a comment saying well, you know, a front yard fence is fine in Colonial Williamsburg, you know, but not in the Town of North Hempstead. And of course they were being sarcastic, you know, but each municipality controls it's zoning.

MS. LASPISA: Correct. I don't have any older surveys. I didn't ask the owner for older surveys. They may have a survey from when they purchased that may be even older. I don't know when the fence ordinance, you know, because the other --

CHAIRMAN MAMMINA: I think it was '98 or '99.

MS. LASPISA: Was it? Okay. Because I will say that the other issue is that fences, yu know, as I'm sure the board knows and I know, as time goes on, it's just everything else needs a permit, needs a permit, needs a permit. And so I don't even know that in 1990 they were strictly enforcing or even in 2000s some, you know, now you have to document if your pool has a diving Board. When I first started my business in 2001, I didn't need to document that. You know, so, like, it just gets worse and worse overtime. So I don't know. Even if it was

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

prior to being enacted, you know, sometimes it wasn't strictly enforced that it be legalized.

CHAIRMAN MAMMINA: I'm saying also if you can document the fence predates the ordinance, I mean, that's something that people, you know, do people bring forward.

MS. LASPISA: Well, I can tell you --

CHAIRMAN MAMMINA: You might want to ask the owner if they have anything.

MS. LASPISA: I will definitely ask them or maybe I can foil downstairs, because if they don't have access to it. But I can tell you that this specific vinyl fence does not predate, because she did replace.

CHAIRMAN MAMMINA: No, we know that. We can see that.

MEMBER HERNANDEZ: We can see that.

MEMBER GOODSSELL: We can see that. And on my diagram and I'm looking at the same map that you are, it says fence to be relocated on property line. The current fence, where is it in relation to the property line?

MS. LASPISA: The current fence is slightly over. So if you look at this survey, which I don't know if this is something that the Board would -- well, so first to answer your question, if you look at the survey, it says fence .8 feet north in the northwest corner.

MS. LASPISA: Correct.

MEMBER GOODSSELL: And then in the northeast corner,

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

it's one foot north. So it can't be there. So it does have to be relocated and I would be curious to know if the Board would be open to them relocating it to be on the inside of the hedges.

CHAIRMAN MAMMINA: That could be a consideration.

MS. LASPISA: I mean, you know, they have to relocate it any way. It is important for them to have some fencing, because they do have a dog and I think that they would definitely be open to that. I mean, they only have so much room because the fencing really is right up against the hedges and they do plan to always maintain those hedges along the Maple Drive property line.

MEMBER GOODSSELL: The hedges create privacy that the fence is on.

MS. LASPISA: Correct. Because that's really, you know, their yard is really that whole northwest corner of their property. It's kind of what they use as their yard. It's just the way the house is situated. So it's just -- it's really, like, entirely in the front yard.

MEMBER GOODSSELL: And I did not notice that this was a -- I don't think this is a perimeter fence. I don't think it goes around the entire property. The property faces Wilton Street; the front yard?

MS. LASPISA: Yes.

MEMBER GOODSSELL: Where does the fence begin; it begins

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

on Maple Drive?

MS. LASPISA: It begins on Maple Drive and it starts right on concrete where it says concrete walkway, that's where it starts.

MEMBER GOODSSELL: Okay.

MS. LASPISA: So actually the front hedges, there's no fence. But they're so packed that they don't have an issue. So it's just along that.

CHAIRMAN MAMMINA: Why don't we do this, we'll continue the case.

MEMBER DONATELLI: Can I --

CHAIRMAN MAMMINA: Oh, no, please, go ahead. Absolutely.

MEMBER DONATELLI: I do have some other questions. As I look at the plans that were submitted with the application, I see that the one-story dwelling addition is --

MS. LASPISA: Yes.

MEMBER DONATELLI: It really runs east west along the, I guess the southerly portion of the house. And I am not the architect on the Board, of course the Chairman is, but it seems to me that having that east west orientation of the dwelling creates some variances that we might otherwise be able to minimize or even totally do away with, if we were to somehow orient the addition instead of east west on a north south kind of access. And I know that you're not the architect either,

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

but has -- with the demand for additional space, could the applicant meet their requirements if it were somehow, instead of east west, north south?

MS. LASPISA: So that was my first question when -- when I, you know, first was brought in for this and I always speak with the architect prior to the hearings, you know, to know if there's an architectural reason as to, you know, structural reason as to why it has to be done this way that I wouldn't be privy to. So I did mention this to him and really, you know, the whole reason for the configuration like that, they wouldn't have -- if they were to configure it the other way that you're saying, the north to south, it cuts off -- if, like, they want to be able to -- if you look at the floor plan of the addition. Let me just get to it.

MEMBER DONATELLI: Yeah. And if you get me a page number when you get to it.

MS. LASPISA: Yes. So Page A3.

MEMBER DONATELLI: Just give me a minute. Okay.

MS. LASPISA: So I had said, you know, why can't we put bedroom here or next to the sitting room, but -- so what I had said previously, just recently about the yard, is that ideally their yard space is really that whole south -- let me just get to that again. So northwest corner is what they really use as their yard. It's, like, their little park-like yard right there and if they relocate the bedroom to the side, it just --

APPEAL #21361

1
2 it would cut off the room from being able to view the yard and
3 in the sitting room and they wouldn't be able to have that same
4 -- it would have to be larger, wider, I guess you would say
5 than the existing house. So it would actually have to cut into
6 the front yard. Maybe not necessarily creating a front yard
7 relief, but just aesthetically, it would cut into the front
8 yard.

9 MEMBER DONATELLI: Well, I'm sure you're aware that as
10 a Zoning Board, we're not really concerned with aesthetics. On
11 the other hand, it just seems to me that having an L shaped
12 house with a huge composite decking in front will actually be
13 less attractive and less functional then it might be if it were
14 better integrated into the existing house.

15 MS. LASPISA: Yeah. I think the, you know, layout,
16 they really didn't want to cut off from the kitchen. Like, the
17 view from the kitchen windows into another room too. So I
18 think that if -- because I did have a feeling that, you know,
19 that that would be of a concern to the Board and I think, if
20 anything, they would probably just accommodate shrinking it you
21 know, because the reason we're before the Board is for, you
22 know, as far as FAR, lot coverage, all of that, we are okay.
23 It's for the five foot relief for that.

24 MEMBER DONATELLI: Right. Right.

25 MS. LASPISA: So I think that they would be more apt to
26 shrinking it to five feet as opposed to reconfiguring it just

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

because the way the house is situated on the lot and the way they utilize their yard space. It's not, you know, I will say too --

MEMBER DONATELLI: Well, the five feet for the rear addition --

MS. LASPISA: Correct. That's the only need. That's the only reason the addition is before the Board is five feet. Because they actually waited an extremely long time to get here. So I was curious as to why they couldn't, you know, maybe -- maybe if you just remove five feet, we could get your permit sooner.

MEMBER DONATELLI: And again, we're not an architectural board, but it seems to me that this house, to begin with, doesn't have much of a yard, except in that area where the applicant is proposing to build. So if you were to in fact build an addition, they will have even less of a yard and it would be fronting on the secondary front yard so that it just becomes that much problematic. It seems to me there would be a better way to somehow integrate this and I understand what you're saying about the clients not wanting to ruin any view that they may have from the existing kitchen. On the other hand, that is --

MEMBER HERNANDEZ: There's only one window there on the very corner of the house.

MS. LASPISA: Because to them though, their yard -- so

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

I know for my purpose and your purpose, and the building department's purpose, it's not, you know, it's a front yard and it's pretty much useless space because you can't do anything in a front yard.

MEMBER DONATELLI: Well, but it's all they have.

MS. LASPISA: No, I know. But what I'm saying is, you're saying they're building on their yard. But to them, they don't use that portion. The way their house is configured and they don't use that portion for, like, entertainment, sitting, you know, like, as far as, like, you know, they -- they consider more, because the bulk of their yard where they have the most privacy is actually at the northwest corner, which is along Maple and a front yard. They're not looking to build any structure.

MEMBER HERNANDEZ: With all due respect, that makes absolutely no sense. You're saying that they're not going to sit behind a house in a space that is 27 feet wide by 35 feet deep, that's -- which is truly the backyard of the house. But yet, they have more privacy by sitting in the front lawn.

MS. LASPISA: Because of the way the property is screened. It just -- I don't know. Some people don't use -- they use --

MEMBER HERNANDEZ: They choose not to use it, but that doesn't mean that they have no privacy. You are either behind the house or you're in front of the house. If you're in the

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

front of the house, you're facing the street. So you cannot possibly have more privacy. You may choose to --

MS. LASPISA: But they do, because that whole street is lined with shrubs. I had submitted pictures.

MEMBER HERNANDEZ: We've driven by. We've seen the house. But if I look at the floor plan and I look at the layout of house, in the corner where the backyard is, all they have is two neighbors.

MS. LASPISA: Yeah.

MEMBER HERNANDEZ: So, you know, to say for them to be in the front yard is more privacy, makes no sense whatsoever. As the same shrubbery that is in the front of the house will give privacy in the back of the house, unless we're talking about different sides of the house. But where they're planning to build is the size of a piece of land and they're building a long, skinny structure. It's 12 feet wide by 37 feet long.

MS. LASPISA: No, I understand.

MEMBER HERNANDEZ: It's a long, skinny structure with a deck next to it.

MS. LASPISA: No, I understand. I understand.

MEMBER GOODSSELL: Does the homeowner currently have a driveway or a garage?

MS. LASPISA: No garage, no.

MEMBER GOODSSELL: Okay.

MS. LASPISA: So a lot of other properties similar to

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

this, other corner properties, they don't have -- their house is a little bit larger, maybe dormered, some are two stories and most of them actually use that space as garage -- detached garages usually -- actually, I think pretty much every corner house that I kind of drove around with an aerial on my computer had detached garages in that location.

MEMBER GOODSSELL: Okay. I was going to say, I don't even know where they park.

MS. LASPISA: So I think it's just because of the way -- I think it's just because of the way, you know, some people don't use Their front doors ever and some people use them all the time. So I don't, you know, there's no -- I don't question why they consider that more of their yard. I know building purposes they won't be able to build anything there, but to them they view it as that's their open yard area.

MEMBER GOODSSELL: So they don't have a garage. They don't even have a driveway here?

MS. LASPISA: No, they have -- let me see something.

MEMBER GOODSSELL: I'm just looking at the -- I don't know where they park to be quite honest.

MS. LASPISA: Yeah. No, they didn't have a driveway. That didn't even dawn on me actually.

MEMBER GOODSSELL: They don't have a driveway and they don't have a garage so they must park on the street then.

MEMBER DONATELLI: Again, I'm going to state for the

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

record, we are not an aesthetic or architectural review Board,
but I will state that it almost looks like a double wide.

MS. LASPISA: The way it's proposed.

MEMBER DONATELLI: It's truly -- it is not very
attractive. It looks like it's a flat kind of addition to what
is otherwise an attractive small house. And it just seems to
me, like, there must be a better way of achieving the
applicants goals and perhaps even decreasing the request of the
variance, but being more efficient with space and trying to
preserve some of the yard.

MS. LASPISA: I think what I would like to do, you
know, because I did speak with the architect about it, I did
speak with the owner and I did sort of intend for this to
happen. Not intend, but expect, you know, the Board to have --

CHAIRMAN MAMMINA: Anticipate.

MS. LASPISA: Anticipated. Thank you. Sometimes I'm
missing the better word. Some difficulty with that. I don't
want to completely remove that without one more lookback with
the architect.

CHAIRMAN MAMMINA: No. No, we can continue and, you
know, I'm not suggesting that I'm some genius architect, but in
the past, several times I said okay, give me red pen and I'll
show you how to make this plan better, you know, eliminate the
variance. Or at least in my opinion, better.

MS. LASPISA: I think that's probably the rout that

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

would take place that they would just reduce it to eliminate the variance and then we would have the other three factors.

CHAIRMAN MAMMINA: They're going to build the same amount of square footage. So it's not even like they're adding construction costs, you know, onto it. They're just going to take the existing cape code, you know, which is essentially, you know, let's call it a square box and then put another square box behind it that's laid out, what I would project any way without having sketched over it, to be more efficient floor plan that might even give them more room than what's in here. You are not asking for floor area variance.

MS. LASPISA: No, nor lot coverage. So I think they would just eliminate the one-story addition and deck from the variance application is how I'm thinking, you know.

CHAIRMAN MAMMINA: Well, they don't have to take the whole addition out, just eliminate the variance.

MS. LASPISA: Well, they just have to eliminate five feet.

CHAIRMAN MAMMINA: That's right. Because then it's as of right and the Board has nothing to say about it so.

MS. LASPISA: So I'd like to double check with them and run it by them before I do that, if that's okay?

CHAIRMAN MAMMINA: We'll continue the application, which leaves the record open and, you know, you're entitled then to give other things, which the Board is encouraging you

APPEAL #21361

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

to do and you can also look to see if they have, you know, some other -- if they have some other survey.

MS. LASPISA: Yes.

CHAIRMAN MAMMINA: You know, or even as corny as it sounds, even some photos or something that might show that fence, you know, as the old fence. Usually we -- I don't want to go into it on the record. But also, you know, just putting into a little cover letter, that they're willing to relocate the fence to the back of the shrubbery and that it's an open fence as, you know, a, you know, we called it a picket fence. It's not a four foot solid wall, you know, of white vinyl and, you know, put that all together.

MS. LASPISA: Okay.

CHAIRMAN MAMMINA: And, you know, give that back to Virginia and, you know, she passes that along, you know, to us and we'll look at it.

MS. LASPISA: Okay.

CHAIRMAN MAMMINA: You know, and I would say, you know, time wise, you might need -- probably would need more than just one hearing and we don't necessarily put a hard deadline on something, unless there's a specific reason, but you should put your best head to it.

MS. LASPISA: If it's a matter of just removing the addition and deck entirely from the application and then just proposing relocating the fence to behind the hedges, do we

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

appear for that or we're appearing regardless?

CHAIRMAN MAMMINA: No. No. No. You don't have to come back. No. We virtually -- and I didn't say that at the beginning. We virtually never have a second hearing. Every once in a while you do and I know a lot of municipalities you have to come back again. No, you don't have to come back.

MS. LASPISA: Okay. Okay.

CHAIRMAN MAMMINA: Okay. Thank you.

MS. LASPISA: All right. Thank you.

CHAIRMAN MAMMINA: Thank you.

Off the record.

(A discussion was held off the record.)

SECRETARY WAGNER: Next appeal, Appeal Number 21281, 12 Irma Ave Realty, LLC; 12 Irma Ave., Port Washington; Section 5, Block D, Lots 509(I) and 510(J); Zoned Business-B. Conditional Use of from 70-139J(1) and Variances from 70-143(B) & 70-103(Q)(1), to build a new three-story multi-family senior independent-living facility (a conditional use) that is on a lot that is too small; that would be located too close to a street; and with parking spaces that are located too close to a side property line, a rear property line, and a front property line.

CHAIRMAN MAMMINA: You heard Appeal Number 21281, 12 Irma Avenue Realty, LLC. Is there anyone in the room who is interested in the application, other than the applicant?

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Okay. So we do have some persons who wish to speak and you will have that opportunity after the presentation.

SECRETARY WAGNER: Just for the record, Chairman, we have had some letters submitted to the Board and they were forwarded to the applicant for consideration.

CHAIRMAN MAMMINA: Thank you. And we have received those and we looked at those.

MS. DEEGAN DICKSON: Good afternoon.

CHAIRMAN MAMMINA: Good afternoon.

MS. DEEGAN DICKSON: Kathleen Deegan Dickson, partner in the law firm Forchelli, Deegan Terrana here on behalf of 12 Irma Avenue, LLC for the owners of 12 Irma Avenue in the Hamlet of Port Washington. We're here this afternoon requesting a conditional use permit pursuant to Section 70-139J(1) and variances from section 70-143(B) for lot size, minimum lot area and for 70-103(Q)(1) for parking within the side yard setback, rear yard setback and front yard setback of the property.

The property is located in the Business B District of Port Washington and it is a 14,440 square foot lot. We're proposing to construct a 10 unit senior independent living facility, which requires an additional use permit, as well as variances for minimum lot size, front yard setback and the parking setback that I mentioned. We had submitted a previous application to this Board last fall, which was a larger proposal and required several additional variances. And the

APPEAL #21281

1
2 plan was met by -- with substantial opposition from members of
3 the community and we withdrew that application and reached out
4 to the neighbors to see if there was a way to make this project
5 a better fit for the community. We had a meeting with a
6 coalition of about a dozen neighbors last October and again
7 last month to see if we could develop a plan that could be a
8 credit and a compliment to the neighborhood, while still
9 allowing the property owner to realize a return on the
10 property. At those meetings we discussed various as of right
11 commercial uses permitted in the Business B District and the
12 consensus seemed to be, without putting words in anybody's
13 mouth, because I know people are here to speak, but the
14 consensus did seem to be that a properly scaled, age
15 restricted, residential development would be less impactful and
16 more acceptable than say a medical office, a laundry mat or
17 other commercial operation that is permitted as of right under
18 the code. So after our meetings, we scaled back the building
19 from a four-story proposal to a three-story proposal. We
20 brought the number of units down from 18 units to 10 units.
21 This permitted the project to conform now to the height,
22 density and parking requirements of the code. The only
23 remaining variances, as I mentioned, are for the lot area,
24 which we can't change. The property is what it is. That's all
25 my client owns. The buildings front setbacks, which are
26 preexisting for the commercial building that's there now and

APPEAL #21281

1
2 for parking and the required setbacks of the property, because
3 we're seeking to locate the parking farthest away from the
4 residential properties, closer to the commercial properties and
5 adjacent to an existing private parking lot that's already in
6 that area. The code requires a minimum lot size of 40,000
7 square feet for senior independent housing. As I mentioned,
8 our lot is 14,440 square feet, which, as I said, is what we
9 have. It's the existing lot size. It's difficult to find
10 downtown parcels that equal lot size requirement of the code.
11 But walkability is really a key to this type of senior housing.
12 That's why it's contained in the Business B Code District.
13 Business B is most of the downtown zoning district within the
14 town. Since the lot size is less than what's required, we
15 determined, along with the neighbors input, that it was
16 important to keep the unit density and parking inline with the
17 code requirements so that that the property -- so that the
18 building would be properly scaled for the lot. The Business B
19 Code permits up to 32 units per acre for senior independent
20 housing. So for this size lot, it would permit a maximum of 11
21 housing units and a 11 apartment units. We're proposing 10 so
22 we are below the density that's permitted in the Business B
23 criteria. In addition, parking for senior independent living
24 is required at 1.33 or one and a third parking spaces per unit,
25 which would equate to 15 parking spaces for this 10 unit
26 development. We are providing 16 spaces. One more than

APPEAL #21281

1 required to make sure that all of the parking demand is
2 contained onsite so as not to impact any of the neighboring
3 properties with the off street parking or overflow of parking
4 that would impact any of the residences. The height in this
5 district is permitted to be three stories with a maximum of 45
6 feet. We're proposing a mostly two-story building with a
7 partial third-story and a maximum height of 37 feet. So that's
8 eight feet below the maximum. But most of the building will be
9 just over 25 feet tall. We have the project architect Ed Butt
10 here with us today. He worked hard on this design to minimize
11 any impact that the smaller lot would have or that this
12 building would have. Locating the partial third-story away
13 from the residential properties and closer to the commercial
14 properties to the south. I can walk you through the site plan.
15 I'm not sure if you want are you familiar with what the changes
16 were, but this is the site as it is. The building as it exists
17 right now, is on the same footprint that's proposed and the
18 partial third-story is going to contain the indoor common space
19 and outdoor common space that's required under the senior
20 independent code. And it's just going to be this area of about
21 1,100 square feet on the roof of the building so.

22
23 MEMBER HERNANDEZ: You're pointing to the middle of the
24 roof affectively?

25 MS. DEEGAN DICKSON: The middle of the roof but set
26 farther south. So it's going to be empty roof space on the

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

north side and empty roof space on both the east and west side.

MEMBER HERNANDEZ: Okay.

MS. DEEGAN DICKSON: And if you look at the rendering, you could see that this is the north -- I'm sorry -- the south sides of the building. This is the Irma Avenue elevation. This is the Virginia Avenue elevation. From Virginia Avenue, you'll see, you know, you might see the top of that third-story peaking out. But it was really designed to shift that bulk of that building away from the residences. We had comments about people looking over into backyards or looking into bedroom windows. So we wanted to keep the residential facing fronts at the same scale or in some cases even a little bit lower than the adjacent residential properties.

MEMBER HERNANDEZ: And with the third floor on that side, it faces up against the parking lot. Is that correct?

MS. DEEGAN DICKSON: Correct. Correct. And all of the property to the south of that is zoned business. Whereas the property -- we are sort of surrounded by Residence C properties.

MEMBER HERNANDEZ: On the Virginia said and Irma.

MS. DEEGAN DICKSON: On the Virginia and also Irma heading north on Irma.

CHAIRMAN MAMMINA: So the only side that is not -- I won't use the word completely setback, however significant that setback is, you know, along Irma, along Virginia and, you know,

APPEAL #21281

1
2 to the rear yard would be the parking area and really the only
3 part of that is that the stair towers, stair bulkheads would
4 come up to that but then the rest of that is cutdown to the
5 roof level of the second floor so that even that elevation has
6 very minimal, you know, has some might judge it, but has no
7 impact.

8 MS. DEEGAN DICKSON: That's what we were striving for
9 and that's a correct statement. So the tallest part of the
10 building faces the parking lot. So that's this portion here.
11 Here's the parking area and beyond that is more parking, and
12 beyond that is Main Street.

13 MEMBER DONATELLI: So to that first -- first Board that
14 you there. You have entrance view. Where is that on the
15 second Board?

16 MS. DEEGAN DICKSON: The entrance view?

17 MEMBER DONATELLI: Yes.

18 MEMBER HERNANDEZ: From the parking lot.

19 MEMBER DONATELLI: Off the parking lot.

20 MS. DEEGAN DICKSON: Yes.

21 MEMBER DONATELLI: Okay.

22 MS. DEEGAN DICKSON: So the -- the -- we also require a
23 variance for minimum front yard setback. The building is --
24 the proposal is to build the building on the existing
25 foundation in the existing location as the current commercial
26 building on the site. That has a zero foot setback, both on

APPEAL #21281

1
2 Virginia and on Irma Avenue, as is permitted in the Business B
3 District for commercial properties. The senior living
4 requirement is 25 foot setback from the two front yards. So
5 that would result in having all of the parking and all of, I
6 would say the activity on the site now on this residential
7 corner. If we set everything nestled back into the north --
8 I'm sorry -- southwest corner of the property -- sorry about
9 that. It's upsidedown for our purposes. But if we nestled the
10 building back this way, that would cause more of the activity
11 to be on the residential facing part of the properties. So we
12 felt in addition to it being cost effective and being able to
13 build a better project for the developer, it also, I think,
14 works out to be a better project for the community.

15 MEMBER HERNANDEZ: So the community will affectively
16 see the same building that's there now, excepts it's been
17 changed?

18 MS. DEEGAN DICKSON: Correct.

19 MEMBER HERNANDEZ: But it's the same building.

20 MS. DEEGAN DICKSON: Yes. It's a little taller. So
21 right now, I believe and Ed will correct me if I'm wrong, I
22 think about 19 feet or --

23 MR. BUTT: Yes. Edward Butt, Edward Paul Butt
24 Architect. Good morning or good afternoon, everyone. Edward
25 Butt, Edward Paul Butt Architect, 499 Jericho Turnpike,
26 Mineola.

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Yes. To answer to your questions about some of the placement of the building and everything else, that building right now is approximately 19 feet tall and we're going up to about 26 feet. So we're raising the building about seven feet at its worst case scenario.

MEMBER HERNANDEZ: And is that seven feet the end or the wall on the second-story or does it include the third-story as well?

MR. BUTT: It does not include the third-story. The third-story is a little taller than that, but that's because it's recessed in the back.

MEMBER HERNANDEZ: Thank you.

CHAIRMAN MAMMINA: Do you know approximately those setbacks just for the record, you know, those third floor setbacks, how far that's setback from the exterior?

MR. BUTT: I can give you an approximate number. It's approximately 26 feet off the Virginia side and about 10 feet off the parking lot size as far as that.

CHAIRMAN MAMMINA: And then the other, Irma?

MR. BUTT: And the bulkheads are actually on the -- from the Virginia side, probably closer to 35 feet or 30 feet and they're right on the parking lot size, because those are the stairwells exiting out to the building. So those have to sort of be on that parking lot side.

CHAIRMAN MAMMINA: All right. Just that it appears

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

that along Irma you are setback maybe even a little more than that.

MR. BUTT: It is. You're right. The setback on Irma is probably closer to about 35 feet.

CHAIRMAN MAMMINA: And I would say the same thing on the rear yard, you know, of the building as well.

MR. BUTT: Yes. Yes. Yes. The dimensions I told you are worse case scenarios.

CHAIRMAN MAMMINA: Thank you.

MS. DEEGAN DICKSON: Thank you.

So that's the building setback. That's the front yard setback that we require on these two frontages. Then we also require a variance from Section 70-103(Q)(1), which 103 is the parking regulations, but not for number of parking stalls. Whereas I mentioned before, we exceed the requirement by one. We're proposing to locate all of the parking along the south side of the bidding, which is the top of the middle plan. Excuse me. Again, away from the residences to the north and even the residences to the east, as much as possible. The adjacent -- it's hard to see. This is a small blowup. But here is 12 Irma Avenue, our property. This entire property that wraps around on the south and the west is a parking lot that's privately owned and it's currently used by some of the merchants in the area as overflow parking. So we are proposing to keep the parking for our project adjacent to that parking so

APPEAL #21281

1
2 it'll still have the same appearance that it has now with the
3 parking flowing into the other, although it's separated by a
4 fence. So it will be contained on our site. We had looked at
5 placing the parking -- flipping it so as to eliminate that
6 variance and putting it up against the building. We felt that,
7 first of all, that would have required a reconfiguration of the
8 apartments on the first floor, because the code requires a
9 setback of a minimum of 10 feet from any windows and it also
10 would have worked a little bit of an awkward site circulation.
11 In this respect, we are able to use the existing curb cut and
12 come in and park -- keep the parking where it's currently
13 located. And it shifts the activity on the site northward. I
14 do want to mention one thing that we're going to amend the plan
15 after a conversation with one of the neighbors on Virginia
16 Avenue. We're proposing -- originally proposing to have a
17 dumpster located here in the northwest corner of the property.
18 We discussed with a nearby neighbor that we're going to
19 actually submit a plan that shows that it will be located up in
20 the parking lot area. So there won't be any negative impact
21 for having the garage enclosure that close to residential
22 properties.

23 MEMBER DONATELLI: Do you anticipate losing a parking
24 spot if you relocate the dumpster?

25 MR. BUTT: No.

26 MS. DEEGAN DICKSON: No. We think we have plenty of

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

room here for a roll out dumpster and for a truck to come in.

CHAIRMAN MAMMINA: And I think also if you had flipped the parking, I think any way, you would have probably lost a couple of parking spaces --

MS. DEEGAN DICKSON: Most likely.

CHAIRMAN MAMMINA: -- you know, by doing that and you move that -- well, I guess the curb cut is fine.

MS. DEEGAN DICKSON: So we -- the senior independent code does allow land bank of parking if you have additional parking spaces that are not needed. So in theory, we do really require a front yard setback for these first two parking spaces, I believe for the variance. We could land bank those, but I think that we're probably better served keeping the existing condition and providing those additional parking spaces. But if it was something that the Board felt, you know, that additional green space or something would be warranted, we could do that without -- without requiring a parking variance.

So as I mentioned at the very beginning, we're requesting a conditional use permit. The use, conditional uses are presumptively permitted uses, as long as we check all the boxes and meet the requirements to make sure that we're not having any negative impact on the health, welfare, safety or morals of the community. So to that end, we, you know, again, worked closely with the community to try and get some sort of consensus. What we're looking for really is just the variance

APPEAL #21281

1
2 for lot area essentially. That to me is the primary variance.
3 The use, because it's contemplated as a conditional use in the
4 Business B District, it's presumptively compatible in the
5 zoning district. The property is located adjacent to both
6 commercial properties to the south and residential properties
7 to the north. And I think to do a senior independent living,
8 you know, a low scale residential property, which has quasi
9 commercial qualities really does provide an appropriate
10 transition between the commercial and the residential, and as
11 well as an attractive buffer. The property is also located
12 adjacent to the Village of Baxter Estate, which is almost
13 immediately to the west. And Village of Baxter Estates also
14 has other multiple residences that are located even right along
15 Main Street in Port Washington. I want to note that this
16 property is connected to the Port Washington Sewer District so
17 it makes it distinct from some other downtown areas. Some
18 other downtown areas in the Town of North Hempstead. And
19 senior citizen housing is in very high demand within the town
20 generally, but specifically within the Hamlet of Port
21 Washington. People who live in Port Washington like to stay in
22 Port Washington. It's a wonderful place to live. It's very
23 walkable to the shops, the restaurants, the train. There's a
24 lot of things about it that make it very, very well suited for
25 senior independent living. The apartments are a nice size, we
26 expect it to be primarily empty nesters and snowbirds. So

APPEAL #21281

1
2 there's probably a decent likelihood that these apartments are
3 not going to be 100 percent occupied all year round. I have
4 with me this afternoon Pat Lenihan from VHB, who has prepared a
5 report that was submitted. It was submitted in the context of
6 the larger application and that report concluded that compared
7 to other uses, that there would be no negative impact of the
8 larger project. So I didn't have him redo the report, because
9 shrinking the project made the impacts even less, but I do have
10 him here to testify specifically about what the proposal is
11 before you tonight. Last, just along the conditional use lines
12 that the senior independent housing is really a unique type of
13 housing product, because not only is there high demand for it,
14 but it really has very minimal impact on town services,
15 specifically the school district, which is something that
16 they're very sensitive to in Port Washington. It's a very good
17 and popular school district. So this is a use that will
18 contribute taxes without any draw on the school district. So
19 there's a lot of things that militate in favor of granting this
20 conditional use permit.

21 So with that, I'd like to introduce Patrick Lenihan.

22 CHAIRMAN MAMMINA: Let me ask just a couple of
23 questions.

24 MS. DEEGAN DICKSON: Yes, please.

25 CHAIRMAN MAMMINA: In terms of just looking at the plan
26 and maybe Mr. Butt can answer it, I do see one handicap parking

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

space down at the western end of the building and then I see something else in there moving to the north. Is that another parking space with another curb cut? It's very kind of gray tone.

MS. DEEGAN DICKSON: Yeah. So that is something we actually added for the last project to try to maximize the parking, because we were proposing 18 units and we wanted to have 17 parking spaces onsite so that we could at least get one per unit. And then we figured that it was good to have an additional parking space, even if it was not part of the main lot. So that is an additional parking space. Now that the dumpster is moving, it will be that much more accessible. But it will have its own curb cut off of Virginia so it's not technically a tandem space for the --

CHAIRMAN MAMMINA: Yeah. Because I was looking at the tandem space kind of. But just a thought, you know, that site engineer, traffic person could answer, is that if that went away and the existing -- the newly proposed 10 foot spaces became whatever, nine foot and whatever change was left over, you know, would -- might that be a better, you know, a better plan and it might even create an additional parking space. I don't know or take up that parking space, because I do think, you know, having more than one parking space, you know, per unit, you know, is something positive if there's a visitor, you know, or whatever. So that's really just, you know, just a

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

thought, you know, on, you know, on that.

MS. DEEGAN DICKSON: And I did mention earlier that the code does permit land banking. So if that's something that you thought made sense, I don't know if it's important to redesign, but to hold that as a land bank spot incase there was an issue down the road that we, you know, were short a space or two we can develop it then.

CHAIRMAN MAMMINA: Only because, you know, I see that, you know, as someone who is going to pull in and then back out, you know, and that becomes a little bit dicey. You know, and not that it really matters, but if Virginia Avenue were a county road or whatever, you wouldn't get something like that approved. And that doesn't matter, you know, I'm not being critical. Great floor plan, great job.

MR. BUTT: Thank you.

CHAIRMAN MAMMINA: You know, just a thought.

MR. BUTT: I just have one thought about that.

SECRETARY WAGNER: You want to come up to the podium, Ed.

MR. BUTT: Yeah. Sure. The only thought I also had about that is if there's ever going to be, like, services, or an electrician coming by, or somebody gonna work, they're going to deliver, they don't want to block the whole front of the place. They could probably find another spot to drop stuff off if a guys gonna work or plumber is gonna come. It could be

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

sort of a spot for that type of personnel or a manager, somebody that's going to come in for the day and do stuff. So it's sort of a convenient spot that wouldn't be a dedicated spot for the residence themselves along that main parking area. So that's kind of why it was sort of a general overflow parking and also obviously it was going to used to service the dumpster at that point, but that's been mitigated or resolved as well so.

CHAIRMAN MAMMINA: You know, I guess just a consideration and maybe I can ask Mr. Butt, otherwise I'll ask Mr. Deegan. In terms of any employees in the building, is it contemplated that there would be a super's apartment?

MR. BUTT: No.

CHAIRMAN MAMMINA: Or, you know, any kind of administrative anything?

MR. BUTT: There would be either a service handling the manger end of this or the owners themselves who have their own. But there would not be a separate apartment.

CHAIRMAN MAMMINA: Okay. Good. Just for the record.

MR. BUTT: Yeah.

CHAIRMAN MAMMINA: Okay.

MR. LENIHAN: Good afternoon, Chairman Mammina, Members of the Board, my name is Patrick Lenihan, I'm with VHB Engineering in Hauppauge. And VHB was retained by the applicant to evaluate the traffic and parking aspects of the

APPEAL #21281

1
2 proposed project. As Kathleen noted, we prepared a study which
3 was submitted back in August of 2022. And that particular
4 study reflected an earlier version of the application, which
5 had three stories of apartments totalling 18. In that
6 iteration, the application required a parking variance from
7 this Board. And that -- and the information in that report is
8 favorable, because, you know, due to the number of housing
9 units and the type of housing, multifamily, senior, the trips
10 that would be generated are fairly modest. In fact, I think
11 very modest I can say. So with the change to the new proposal
12 down to 10 units, the traffic drops a little bit as you would
13 expect. But the parking variance comes off the Board, because
14 with the 10 units we provide 16 parking spaces now. So we have
15 one more than the code requirement of 15. So there is some
16 flexibility to take a look at that -- at that space on
17 Virginia, particularly given the fact that the dumpster is
18 going to move. You know, if that were to be, you know,
19 reserved for maintenance or whatever the case may be, the site
20 would be just fine and there would be 15 stalls for 10
21 apartments, there's always going to be some vacant stalls on
22 the south side of the building regardless. So the
23 modifications to the application as Kathy said, two stories of
24 apartments now, 10 units, smaller, less traffic, no parking
25 variance required. In terms of the actual level of traffic,
26 just for context, the 10 units we would expect, you know,

APPEAL #21281

1
2 during the typical peak hours, that folks like me always talk
3 about, a.m., p.m. and Saturday, we're not looking at any point
4 where you would see more than five trips in an hour. You know,
5 these folks tend to be retired, the trip generation patterns of
6 senior housing are different and certainly different than
7 single family homes which generate traffic at a higher level
8 than even multifamily. This level will not have a negative
9 impact on traffic conditions in the area and it certainly won't
10 change the character of the neighborhood. If you were to stand
11 on any of these adjacent streets, unless you stood in the
12 driveway and watched these people come in and out, I don't
13 think you'd really notice it. When we look at the level of
14 traffic on Main Street, the increases we're talking about here
15 are a fraction of one percent in terms of the traffic
16 condition.

17 CHAIRMAN MAMMINA: How does that compare, just for
18 curiosity, to the commercial use and what the trip generation
19 would have been. Are you coming to that?

20 MR. LENIHAN: Yes. I'm coming to that. Thank you.

21 So it was mentioned that the, you know, location of the
22 project, you know, in my opinion is fitting for this type of
23 use. It's not very far from Main Street. There is continuous
24 sidewalk on the west side of Irma to Main Street. Irma and
25 Main is signalized so anybody driving in and out can do so
26 under the protection of that traffic signal, and it also has a

APPEAL #21281

1
2 signalized pedestrian crossing across Main Street on the south
3 side of the intersection. So folks who reside here will be
4 able to quite easily leave their car behind if they choose to
5 take advantage of things that are offered on Main Street. The
6 restaurants, the retail and other destinations they may want to
7 go visit.

8 Okay. Other potential uses. One thing that we did do,
9 you know, formally, I think that the building had a yoga and
10 dance studio, which probably generated more traffic during the
11 peak periods. But we looked at what could be put on the site
12 as of right without any variances. In other words, how big
13 would the building have to be, what could go in it with the
14 applicable zoning codes and how building could be if it was
15 parked code. So one of the things and Mr. Butt worked on this,
16 one of the things that was developed was a two-story building
17 with a 3,500 square foot footprint. And on the bottom floor
18 there could be something such as a medical office and the top
19 floor could be even a laundry mat. So if I look just at the,
20 you know, the potential for a 3,500 square foot medical office,
21 that would generate three times what the seniors would generate
22 during peak hours. And being a medical office, having
23 recurring appointments, that type of activity would really
24 occur all day long. So it really is a different animal. This
25 is -- this is -- the medical office that we looked at was
26 rather small so it wasn't a huge amount of traffic, but just

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

orders of magnitude, it's significantly more than this.

So that's really my presentation. I appreciate your time. In closing, my professional opinion, if the Board were to grant the conditional use and the variances, facilitate the opening of the development of the project, we certainly wouldn't see any problems relating to parking or traffic developed here. And I'll take any questions you might have.

MEMBER DONATELLI: Are you able to tell us, are there any existing traffic -- any existing parking restrictions along Virginia Avenue or Irma Avenue?

MR. LENIHAN: The north side of Irma is metered along this block. I think it runs to the evening. I don't have the exact regulation on the meter. The south side of Irma is prohibited. Irma is not the widest street in the world. There's parking permitted only on one side. The south side of Virginia across the frontage of the site, basically from one end to the other on that we're looking at has a 90 minute parking restriction. So I wouldn't imagine that the folks who reside in this building or visiting this building would go to Virginia. You know, they're going to pass a parking lot with empty stalls before they get there. But they wouldn't be able to park on Virginia for any length of time.

MEMBER DONATELLI: And the parking that will be provided, will that be for -- for inhabitants, as well as guest? I mean, it will not be excluded to just one or the

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

other?

MR. LENIHAN: Yes. Correct.

MEMBER DONATELLI: General use for anyone visiting the building.

MR. LENIHAN: Yes. And I believe the intention of your code is to provide that as well.

MEMBER DONATELLI: The other question that I have or actually it's more of a comment, is as to the placement of the dumpster and I'm not sure if you, or Ms. Deegan, or Mr. Butt wants to address that. But we do know from other applications that come before the Board, when we have a garbage truck coming in and then it has to backup and it makes that very annoying beeping noise as it backs up through the parking lane, I guess I'd like somebody to address that. To speak to that.

MR. LENIHAN: That's my queue.

MEMBER DONATELLI: And while we understand the garbage is a necessary part of existence --

MR. LENIHAN: Thank you.

MEMBER DONATELLI: Thank you. I guess that the truck would backup a smaller distance on Virginia as oppose to backing up a longer distance along a parking lane inside the premises. I don't know that there is an answer to that. I'm just raising it as an issue.

MR. BUTT: Well, actually two thoughts on it. The first one is by moving the dumpster to the other location that

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

we're proposing to the back right corner, the distance alone would mitigate some of the sound of the noise of the truck that would be right up against Virginia by the residence that are on Virginia.

MEMBER DONATELLI: The building would be in the way.

MR. BUTT: The building would be in the way and it would also be further away, and it would be at a spot where, if you look at the adjoining lot, you can see that it's really surrounded by parking lots on all sides. So if it were to be located here, you know, you would have -- the problem -- the farthest distance for the noise of a truck to be made an impact to local community. Secondly, because it is all the way at the end of the driveway, you really have quite a bit of backup space. So it's duration of time to get in and get out, would probably be a lot quicker than actually trying to circumnavigate what has to happen here on Virginia and also having to come down this street. Whereas now we avoid that whole drive issue. Where now it comes into here, you have the building as a buffer. So that comes in and comes out. I would think it's probably, from a noise pollution factor, it's probably the least amount of impact that would have as oppose to what we're proposing now.

MEMBER DONATELLI: Do you have an opinion, does the drive lane as currently proposed, does that have ample width for a garbage truck?

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MR. BUTT: Oh, yeah. Well, actually we have the full width which is 24 foot wide. It's actually 24 foot wide, but it's actually wider where you would be picking this up. It's almost wider by another five feet. So you're almost at a 30 foot backup. For a truck, that's more than ample to successfully make that maneuver in and out of there relatively quick. The dumpster and truck guys, time is money any way so they want to get in and out of there easily. I think it's the best solution. It was a good suggestion by one of the residents. I think it makes perfect sense. So it's a good spot.

MEMBER HERNANDEZ: So it's being moved to where, essentially parking space 15, 16 in the back corner back there?

MR. BUTT: Yes. Right in this back area. We would be putting it back here.

MEMBER HERNANDEZ: Okay.

CHAIRMAN MAMMINA: Okay.

MS. DEEGAN DICKSON: Before we conclude, I'd like to have Michael Lynch from Lynch Appraisals LTD to come up and just speak as to the character of the neighborhood, to give additional justification to the conditional use request this afternoon.

SECRETARY WAGNER: This will be Exhibit 1, it's a copy of an appraisal reporter. I'm sorry, do we have other exhibits? No. That's it.

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MR. LYNCH: May I proceed?

CHAIRMAN MAMMINA: Yes, sir.

MR. LYNCH: Good afternoon, Mr. Chairman, Members of the Board. Michael Lynch, I'm a state certified real estate appraiser with our officers at 15 Dewy Street in Huntington. I have appeared many times in the past before this Board. Before I begin, you're looking at a consulting report that I prepared with my findings on this application for a conditional use permit, as well as the three variances that are requested. So as you're aware, the property is at the southwest corner of Virginia Avenue and Irma Avenue in the downtown section of the Hamlet of Port Washington, Town of North Hempstead. The site overall is 14,400 square feet in a Business B Zoning District of the Town of North Hempstead. It's improved with, according to Nassau County records circa 1928, one-story masonry building that was supposedly originally a Chrysler auto dealership back in the day.

MEMBER DONATELLI: I remember that. Not so much.

MR. LYNCH: As Ms. Dickson indicated, this older commercial building has actually a zero setback both on Virginia Avenue and on Irma Avenue. The parking for the existing building is on the southerly lot. The property consists of two tax lots. Lots 509 and 510 in Section 5, Block D of the Nassau County Land and Tax Map. So out parking area, as was actually indicated, is largely going to appear as an

APPEAL #21281

1
2 existing condition of what presently stands there now. It's
3 just going to be somewhat modified as Mr. Butt described. So
4 the surrounding parcels in this part of downtown Port
5 Washington, you abut to the properties south and to its west
6 are a privately held metered parking area that's for the
7 downtown merchants and customers. Opposite the property to the
8 north side of Virginia Avenue is a two family parcel. Opposite
9 to the east, along the easterly side of Irma Avenue, I have a
10 number of two family residences in the immediate area, plus a
11 church. Then further south as you head down towards Main
12 Street, you've got personal service, you've got Albert's
13 Hardware Store and then you've got Bank of America. A
14 three-story office/bank facility at the northeast corner of
15 Main and Irma. And on the northwest corner of Irma and Main,
16 you have mixed use. Two and three-story structures. So as it
17 was described, the plan here for the largely scaled down
18 project, it would be for a three-story independent living
19 senior facility would contain 10 units of which six would be
20 one bedroom and four would be two bedroom. It's technically a
21 three-story, but as it was indicated, it's largely a two-story
22 structure with a small 800 square foot, almost like a bulkhead,
23 penthouse type structure that's going to be along the southerly
24 edge of the roof away from the residences, as indicated and up
25 against the parking area. So it will -- the design as well of
26 the new structure is intended to compliment the mix of

APPEAL #21281

1 architect in the area and transition from the strictly
2 commercial and mixed use to the south on Main Street and as you
3 head north of the property, which is largely one family, but in
4 the immediate area you have two family residences and many of
5 those are two and a half-story older turn of the century
6 structures. To the height of the structure is certainly within
7 keeping of the mix of structures up and down Irma Avenue and
8 this section of Port Washington. And again, it's designed to
9 be transitional. Not only in architecture, but in use with the
10 independent living units. We are looking for three variances
11 in addition to the conditional use for this project. The
12 larger such variance is, of course, for the lot area where we
13 don't meet the 40,000 square feet. But as Ms. Dickson
14 indicated, the likelihood of finding any 40,000 square foot
15 Business B parcels in any of the Town of North Hempstead in
16 many of the downtown areas is virtually impossible. Not only
17 that, the architect designed this so that from a lot coverage
18 standpoint, we're only at 42 percent where we could technically
19 be up to 82 percent. So we're actually half of the allowable
20 lot coverage. So again, while on its face it may look like a
21 substantial request for the variance but in reality, again,
22 there is just no other 40,000 square foot lots available in any
23 of the downtown Town of North Hempstead communities.
24 Especially within the downtown section of Port Washington. The
25 front yard variance for the setback, again, that's -- if this
26

APPEAL #21281

1
2 were for a commercial redevelopment, we would conform because
3 there are not setback requirements for commercial and as noted,
4 the existing building is already at a zero foot setback on
5 Irma. We will conform to the setback on Virginia Avenue. And
6 as far as the parking stalls, again, we are within the front
7 yard -- the setback rather requirements. But again, it's
8 largely existing condition. And the parking area is going to
9 be largely where it presently stands so. In terms of the
10 conditional use criteria, I did outline them all within my
11 report. Again, it's -- the project is, in my view, fully
12 conforming to the standards and the criteria under Section
13 70-225 Town of North Hempstead, as far as the welfare of the
14 community and the compatibility with the neighborhood. But
15 overall, again, I feel that this project, which is largely
16 scaled down from the original that was filed last fall, should
17 be approved, will not cause any impact to nearby property
18 values, it will be in keeping with the areas as I described and
19 it will be a benefit to the community as there is certainly a
20 growing demographic for walkable senior housing, not only in
21 Port Washington, but in all portions of the Town of North
22 Hempstead, as well as Long Island as a whole. So again, I feel
23 that if this project is approved, it will only be a benefit to
24 the community.

25 CHAIRMAN MAMMINA: Any questions?

26 Okay. Thank you, Mr. Lynch. Appreciate it.

1 APPEAL #21281

2 MR. LYNCH: Okay. Thank you.

3 MS. DEEGAN DICKSON: So unless you have more questions
4 for us now, that's our presentation. I know we've got some
5 neighbors here who have been waiting very patiently. I just
6 would like to say for the record that the neighborhood has been
7 really great to work with. Not easy, not giving us lay ups,
8 but great to work with, very -- it's been a very positive
9 experience and we'll wait to hear what they have to say before
10 I say that. But from our point of view, it has been a nice
11 opportunity to have responsive neighbors, which we don't always
12 get. Thank you.

13 CHAIRMAN MAMMINA: Thank you, Mrs. Dickson. And
14 whoever would like to speak.

15 MS. MARYANOV: Good afternoon. My remarks originally
16 said good morning. Mr. Chairman, Mr. Vice --

17 CHAIRMAN MAMMINA: You have to come and hangout more
18 here and you'd know.

19 MS. MARYANOV: Yeah. I've been hanging out here. Hey,
20 listen, it's my birthday. So this was a fun way to spend my
21 birthday.

22 I'm Linda Maryanov, I reside at 37 Hillview Avenue in
23 Port Washington. I've lived in Port Washington since 1994.
24 I've lived on Hillview Avenue just a few blocks from 12 Irma
25 since '97. I thought about this in the 26 years I've lived in
26 the neighborhood, I've probably driven past this site at least

APPEAL #21281

1
2 20,000 times. So I know the neighborhood well. I just want to
3 -- I don't want to nitpick. I have short remarks, but I just
4 want to correct what Mr. Lenihan had to say about the parking,
5 because the parking is and always has been a particular concern
6 of mine. On the -- I think he spoke of north and south. It's
7 not really relevant in terms of the problem, but on the east
8 side of Irma right across from 12 Irma, there are approximately
9 12 metered spots and approximately seven two-hour parking
10 spots. They're heavily utilized, because as everybody said,
11 this is just really right at the edge of town. I also want to
12 note, I just got a copy of this appraisal report. If you folks
13 look at Photograph 15, which shows -- so you're standing on
14 Main Street looking north on Irma and you're looking at the
15 Bank of America, there's mailbox there. Technically that's not
16 a parking spot. There is always somebody illegally parked
17 there. So it does impede your ability to turn north onto Irma
18 or turn east onto Main Street. It is a continuing problem.
19 I'll get to it in a second. I personally have concern as to
20 where trades people and visitors may park, because there is
21 limited parking. It is already a problem for a lot of the
22 shops in the neighborhood. But I guess I already own a home in
23 the neighborhood. I won't be needing to park right there so it
24 will be somebody else's problem.

25 In terms of my prepared remarks. I've been asked to
26 speak this morning on behalf of 23 neighbors who asked me to

APPEAL #21281

1
2 inform you that we don't object to the revised plans. We do,
3 however, have some comments. We did submit our written
4 position to the BZA and Ms. Wagner did recognize receipt of it.
5 It was also sent to counselor for the project simultaneously.
6 There are still neighbors and others who object to the revised
7 plans. We know we're here for a conditional use and variances
8 that they've requested to build this new three-story
9 independent living facility on a lot that's too small, too
10 close to the street and so forth. The revised plans call for
11 10 residential units on the first and second floor, and the
12 rooftop indoor and outdoor common space. We are glad that we
13 worked with counsel, the developers and the architect. We had
14 what we believed to be a very productive meeting. We have a
15 sizable informal coalition of community members and I've been
16 one of the cochairs of that informal commission -- consortium,
17 I should say. No one can predict the future. For the record,
18 I am -- I've been asked to telegraph to the developers that
19 it's our position that if permitted to build this structure,
20 that they not be permitted in the future to come back later to
21 increase the height or obtain a variance to perhaps build
22 future residences on this site or expand the building envelope
23 or the interior. So we are just putting that out there. If
24 that happens, you'll see us again and you'll probably see me --

25 CHAIRMAN MAMMINA: They'll also have to come, you know,
26 back here.

1 APPEAL #21281

2 MS. MARYANOV: Right. Of course. You know, we
3 understand that. You know, we just -- I've been asked to make
4 that clear and so I'm making it here on the record.

5 CHAIRMAN MAMMINA: I understand. Sure. That's very
6 reasonable.

7 MS. MARYANOV: Also, in terms of speaking for myself,
8 Irma from Main Street to Mullen, if you're going north on Irma,
9 this is a short, narrow street. As discussed, it permits
10 parking on only one side. As I just mentioned, cars
11 continually illegally park at that corner. People continually
12 illegal U-turn. I'm amazed. I mean, I don't understand know
13 why the cops don't just stand there and hand out tickets.
14 They'd probably make the budget for the month. I discussed the
15 metered spots and the timed spots. They're all heavily used.
16 Perpendicular on Virginia, which we know is exactly where 12
17 Irma sits, is also a narrow street with 90 minute parking. So
18 as I mentioned, you know, I don't really know where trades
19 people or visitors are going to park. I don't personally -- I
20 don't personally believe that there's going to be a lot of
21 empty spots and I guess if I was one of the renters and I came
22 home and there wasn't a place for me to park, I'd be kind of
23 angry. But I don't know. But again, that's not my problem.
24 My problem, as a community member -- or I should say my issue,
25 is that Irma Avenue is one of the few cut through streets from
26 Main Street and the Long Island Railroad to Port Washington

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

North. Anybody who knows the community knows we can certainly zip up Port Washington Boulevard, unless it's rush hour or school start or school dismissal and then all bets are off. I mean, I have seen traffic backed up on Irma when I made the mistake of trying to leave my house at eight o'clock in the morning, that it -- I just actually -- I, myself had to do a U-turn, turn around and exit through Eastern Crest, which is another way to get out of the neighborhood. So my point being, Irma is not an inconsequential street. So we need to be mindful of that. Heavily trafficked as I said at rush and school start and school dismissal. Delivery trucks are frequently parked adjacent to Albert. There's no place else for them to be and I understand. We all love Albert's. They've been around for more than 100 years. But when their delivery trucks are there and someone is illegally parked by that mailbox, it's one way. I mean, just one car can get through and it does cause backup -- traffic back ups. At no time -- it's our request, if you can put any proviso on, assuming you grant the variances, if you can put provisos in that at no time should the developers or their construction crews be granted lane closures on Irma, because that would be very consequential to the community. We believe it would create safety issues for both vehicles and pedestrians with people -- sorry -- turning around and having to get out of that part of the neighborhood. Also, we're asking, again, if you

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

have the authority to do so, that you prevent them from staging any equipment or materials on Irma, because, again, it would impede traffic. We have had lengthy discussions about this project. I've also been sent here by the informal community coalition to telegraph to the developers, that we'll be continually, constantly, carefully monitoring the construction to ensure that the conditions of any permits that might be granted are adhered to. As the saying goes, it's our intention to trust but verify. And I thank you for listening.

MEMBER HERNANDEZ: Thank you.

MEMBER DONATELLI: Thank you for your comments.

MS. MARYANOV: We have another community member.

MEMBER DONATELLI: Yes, please.

MR. DIKMANIS: Hi. Good afternoon. My name is Indulus Dickmanis, I'm from 5 Virginia Avenue. Directly across from where the dumpster originally was supposed to be located and it was my concern that I didn't want to be inundated with the good odors of rotting food and things of that nature. Keep that away as far as possible. And also pointed out that if you were going to have a commercial vehicle trying to turn around on Virginia and to back in, you'd to have a cut away and that's kind of, like, a two foot berm on there, which you have to come up and under it. Since I've been there for 50 years, I realized that when they put new gas lines in, it was put under the sidewalk, which you would have to dig up and so forth, and

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

I thought it was kind of a weird thing to have it. So they came to the conclusion that that might be a good idea to shift that -- that dumpster to the other end, which I'm pleased that they did it.

As far as the parking is concerned, we had a private driveway sign placed. It was considered by the town, way back, years ago, Nassau County, as a thoroughfare. It was the backyard of my father-in-law's house and it was the driveway to their garages essentially. It was considered to be a thoroughfare and eventually we had to privatize it because we had cars being parked there. Intentionally we put in a pebble covered driveway so that you realize, you know, it's not the street. Okay. And -- but that didn't help so we put on a private road sign. But this is the -- this is the degree of problematic parking is. So I'm very pleased that they were open to moving this dumpster so that I don't have to watch the rodents doing dumpster dives. Okay. That is all. Thank you very much.

MEMBER DONATELLI: Thank you for your comments and that was actually an interesting little bit of history there as to that place.

Anyone else, any other comments from the public?

Please.

MR. BUTT: I just wanted to speak on behalf of the construction aspect of the project and the concerns they have.

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

The fortunate part about this is that we do have a big, large parking lot that we can use as a staging area and the other good thing about this is, we're really not doing major construction, as far as steel and concrete is concerned. There really is no foundation being poured. So I don't assume or I don't expect to see a lot of very heavy construction truck work or traffic in this area. Probably most of them in vans and that kind of stuff, and any deliveries would be right onsite. So I don't think we have a concern with regard to the construction aspect of this project.

MEMBER DONATELLI: And actually, that was one of my prior questions. Will the same foundation be used or will a new foundation be put in?

MR. BUTT: No, the same foundation will be used. There will be some additional modifications to the structure, as far as the levels and so on, and where they are. But again, it's all small pieces of steel and small work. Nothing of a major aspect. Even the air-conditioning and stuff, it's not general big units. They're all small so. Everything is sort of compact.

MEMBER DONATELLI: Okay. Thank you.

MEMBER HERNANDEZ: With regards to the parking, now you have 10 units and at least as of this moment, 16 parking spaces. You lose a couple, because of the dumpster. But you will have at least 14 parking spaces, I'm assuming that will be

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

assigned to each unit and numbered space?

MR. BUTT: I would expect that each unit gets assigned one parking space and then the rest would be visitor parking or something to that nature. That makes sense.

MEMBER HERNANDEZ: Or workers or whatever.

MR. BUTT: I'd be pretty upset if I came home and there wasn't a parking space with my name on it so.

There is one gentleman, by the way, who put his name on it already. He's across the street.

MEMBER HERNANDEZ: And as there is no one there to actually take care of the building, maintenance of the building will be done by an outside service --

MR. BUTT: Correct.

MEMBER HERNANDEZ: -- that will have to come into the parking lot to access the building?

MR. BUTT: Correct. Yes.

MEMBER DONATELLI: So Mr. Acting Chairman, I know that we've -- there's quite a bit for us consider here in this application and I know that the fire department has also submitted a letter and I believe that counsel for the applicant has also received that letter, and they would like a chance to at least review and to weigh in on this. So if there's nothing further, I think that perhaps we can continue this until such time as we get those comments.

VICE CHAIRMAN FRANCIS: Yeah. And obviously if we do

APPEAL #21281

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

comments from the fire department, you will have a chance to respond to them.

MS. DEEGAN DICKSON: Okay. We did submit the plan to the fire department when we received their letter. Interestingly, the only reason why they have notice of this is because they're within the radius, the mailing radius. It's not -- this isn't typically the type of project that would get fire department input at this early stage. This is going be a sprinkler building subject of Nassau County Fire Marshall oversight. You know, my preference is always to conclude the hearing and close it, and leave it open, you know, for the fire department comments if possible and then once they're received, then you can close the comment period, if that's something you would consider doing.

VICE CHAIRMAN FRANCIS: Sure.

MEMBER DONATELLI: Okay.

MS. DEEGAN DICKSON: Thank you. Thank you for your time today.

VICE CHAIRMAN FRANCIS: Thank you. I apologize for not being here in the beginning. I had another Zoom meeting.

MS. DEEGAN DICKSON: You only missed a couple of minutes.

MEMBER DONATELLI: And if I could thank members of the public for coming down. That's the way most of us on this Board got started and thank you for taking the time to come

Proceedings

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

down and be here today.

MS. MARYANOV: Thank you.

MS. DEEGAN DICKSON: Enjoy the rest of your week.

VICE CHAIRMAN FRANCIS: Take care.

SECRETARY WAGNER: Does someone want to move to adopt
SEQRA?

MEMBER DONATELLI: I will move.

MEMBER GOODSSELL: And I'll second.

VICE CHAIRMAN FRANCIS: Aye.

MEMBER DONATELLI: Aye.

MEMBER GOODSSELL: Aye.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: SEQRA is granted.

(TIME NOTED: 2:05 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

C E R T I F I C A T E

I, NICOLE L. BASILE, do hereby certify
that the within transcript is a true, accurate and
complete transcript of the proceedings which took
place in the above matter.

A handwritten signature in black ink that reads "Nicole L. Basile". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

NICOLE L. BASILE

Court Reporter