Town of North Hempstead

Board of Zoning Appeals

PUBLIC HEARINGS

Wednesday, June 7, 2023

10:00 a.m.

BOARD MEMBERS PRESENT:

David L. Mammina, Chairman

(Not present from 12:50 p.m. to 2:04 p.m.)

Leslie Francis, Vice Chairman

Daniel D. Donatelli, Member

(Not present from 10:00 a.m. to 11:18 a.m.)

Patricia A. Goodsell, Member

Jay Hernandez, Member

ALSO PRESENT:

Deborah Algios, Town Attorney

Virginia Wagner, Secretary

Steven Perotta, Planner

Amy Boguszewski, Stenographer

Proceedings

CHAIRMAN MAMMINA: Good morning, ladies and gentlemen. Please rise and join Vice Chairman Francis in the Pledge of Allegiance.

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

CHAIRMAN MAMMINA: Good morning, everybody, and welcome to the Town of North Hempstead Board of Zoning Appeals. And what I will do is just take a couple of minutes to go through the way that we do things in the Town of North Hempstead in case you've never appeared before here, you may have someplace else and/or you have never appeared before a Zoning Board before. And if you have never appeared before a Zoning Board before, we will ask you just to be relaxed and pretend that we are sitting in our kitchen just talking to each other.

So what will happen is the calendar, as each case is called, we will ask for the applicant to stand up, come forward to the podium. I will then ask if there is anyone else in the room who has any interest in the case. It could be for the case thinking it's great, it could be against the case thinking it's terrible, whatever, it doesn't matter. But we just ask for a show of hands so that the Board knows that there are other people who wishes to speak. The speakers who will come up from the audience, we have a three-minute limit on that. Now, as I would like to say, we are not going to chop anybody's head off at the end of three minutes, but we ask that we try

not to repeat each other and also that we keep the testimony to the variance at-hand and not to other issues that there may be in the community because this is not the forum for that. So the applicant then has the podium and they will put their case onto the record. The Board will ask whatever questions we may have. And at that point, we will ask the applicant just to have a seat, you know, where ever. And anyone else who wishes to speak will then come up one at a time. If there are two people who are coming up together, that's okay, too. But we just ask that everyone put their name and address on the record and that we try not to speak over each other because while our stenographer is very good, she can't record two people at once. And the Board has a hard enough time not speaking over each other. So please, we would just ask that. Anybody else who wishes to come up, everyone will get their opportunity to come on up.

When that is done, the applicant and only the applicant gets to speaks two times. Because there could be things that were raised by people who spoke, the applicant may want to support or refute something that somebody said, so they then have that opportunity to come up. The Board can ask questions of them based on things that may have been raised. And at that point, the Hearing is done. In the Town of North Hempstead, you don't come back for a second Hearing. That, virtually never happens. You are done today. And today is kind of your

day, but I'm going to go through what the Board might do at that point. So the Board may approve the application. The Board may deny the application. The Board may reserve the application or continue the application. So what is the difference between reserve and continue? If we reserve the application, that means that the Board has all the information that they need and there is nothing further that the applicant submits. And the Board, we may want to go and see your property again. We may want to see a Building Department file. So it could be any number of things. And also, I will say, as we are live streaming now, we live stream all the time. So if you want to either come here and listen when we deliberate, you can, or if you want to watch it on the live stream, you may also. You know, we do everything under what is called the sunshine law so there is no secret meetings that happen regarding applications. And then the fourth thing that we might do is continue the application. Now, if we continue the application, it might be because the applicant has offered some kind of a compromise and a drawing has to be done and resubmitted to our Secretary and our office. Then it would be distributed to the Board. There may be someone else who wishes to submit some other piece of documentation. It could be something that we ask of the applicant to submit as some other piece of documentation before we feel that we can make a decision. Because this is a quasi-judicial Board where we do

have a legal responsibility under points of law that have been laid out by the State of New York under Town Law. So it is handled, you know, in that way, and you will see that kind of as we go along.

So with all of that said, we will ask everyone if you could, let's take all of these things that we so rely on all the time, and you don't need to turn them off, just put them on vibrate. However you want to do it so it doesn't make any kind of a sound. That's very disturbing to the person who is testifying. It's a little bit different for the Board and it kind of just breaks the flow of the whole thing. So if you need to a make a phone call or take a phone call, no issue, just get right on up and go outside, all fine. What we ask is that if there is someone else coming to join, that you please ask them to do the same thing. And we ask for crosstalk to be zero for the reasons that I said. You know, we are all concentrating. Our stenographer is taking a record. If you need to talk, it's okay. You can head on outside and talk. If you want to stretch your legs because you don't find this as fascinating as you thought you were going to, you can do that and head on out. Did I hit everything?

MEMBER HERNANDEZ: Yes.

CHAIRMAN MAMMINA: I said the three minute, but I will just reinforce that in terms of the three minutes. We do that really just because the Hearings take an enormous amount of

time as it is because we do them very carefully and we listen very carefully. And the other thing that I will also say just because Member Hernandez had raised the three minutes is, if you come forward and someone objected to the traffic, you don't have to go through an entire testimony regarding the traffic. You can just say I agree with the previous speaker regarding the traffic, and then it's on the legal record, you know. And it's no stronger, you know, because ten people give their points of view regarding traffic. And then it would be for whatever weight might be given to it, you know, that would be registered ten times.

So with that said, do we have any modifications to the calendar today?

SECRETARY WAGNER: Yes, Chairman. And I would like to note for the record that Member Donatelli is not present right now. He might come to the meeting later.

We have an adjournment request of Appeal #21371 – Pastor Medina; 245 Jerome Ave., Carle Place, Section 9, Block 80, Lot 65; Zoned Residence-C. Variance from § 70-50.B to construct additions and to legalize additions that are located too close to a street.

They are requesting that be adjourned to July 12th.

CHAIRMAN MAMMINA: So if anyone is here for either of those two cases.

SECRETARY WAGNER: Well, I haven't said the other one

yet.

CHAIRMAN MAMMINA: Oh, you didn't do the other one yet. I'm sorry.

SECRETARY WAGNER: We will vote on this one first. Do you want to take a vote on the adjournment request?

CHAIRMAN MAMMINA: Sure. Yes, please.

VICE CHAIRMAN FRANCIS: I will move it.

MEMBER HERNANDEZ: Second.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. So that is adjourned till 7/12.

SECRETARY WAGNER: We also have an adjournment request for APPEAL #21368 – Sami Atallah (Michelle Management Corp.); 993 Prospect Avenue, Westbury, Section 11, Block 122, Lots 20, 29, 44, 45, & 46; Zoned Business-A & Residence-C.

Variances from § 70-44, 70-50(A), and 70-203(G) to construct an addition to a building and site work including construction of a commercial parking lot on a property which is partially in a residential zone (not a permitted use), parking

too close to the street, and with a landscaped buffer between a commercial and residential property that is too small.

They are requesting to be adjourned until August 16th.

CHAIRMAN MAMMINA: Do we have a motion?

VICE CHAIRMAN FRANCIS: I will move it.

CHAIRMAN MAMMINA: We have a motion by Vice Chairman.

MEMBER GOODSELL: I will second that.

CHAIRMAN MAMMINA: And we have a second by Member Goodsell. Please poll the Board.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. So that is also granted. So again, if anyone is here for either one of those cases, of course, you certainly can stay, if you would like to, just to see the way things might go, but those will not be heard.

Appeal #21393

RESIDENTIAL CALENDAR

SECRETARY WAGNER: First Appeal is Appeal #21393 - Larry Karantzios; 44 West Drive, Manhasset; Section 3, Block 85, Lot 132; Zoned: Residence-B. Variance from §70-100.2(a)(2) to legalize fencing that is located in a front yard (not permitted).

CHAIRMAN MAMMINA: You've heard Appeal #21393 - Larry Karantzios. Is there anyone in the room who is here to speak and anyone in the room who has interest in the application? Okay. Seeing no one. Well, I'm assuming you are the applicant, so you don't want to say that. Please give your name and address.

MR. KARANTZIOS: Good morning. My name is Larry Karantzios. My address is 44 West Drive, Manhasset.

CHAIRMAN MAMMINA: Good morning.

MR. KARANTZIOS: So thank you for taking the time to hear my Appeal. I own an energetic husky dog that we have for about three years now. I have lost her twice before I had the fence. So in order to not lose her again, we placed a fence there. We asked the vet to get an electric fence. I have a letter from the vet saying that the fur is too thick. And the way the huskies charge at squirrels, she just goes right through. The fence is in front of trees that are in the back side of the property. Like you see in the pictures, I submitted pictures. I don't know if you took a look at them.

The fence is 4-feet high. The trees are about 8 feet. So the fence does not block the view of anyone. It doesn't obstruct anything. And it doesn't affect the aesthetics of the neighborhood.

The reason I would like to keep the fence where it is is because the dog, during the day, at certain times of the day, runs in circles at high speed and she needs the space to run. And I ask the Board to consider in approving this motion to keep the dog healthy and happy.

CHAIRMAN MAMMINA: I will say I am a dog lover. I adore my dog. I also have to control my dog.

MR. KARANTZIOS: Yeah.

CHAIRMAN MAMMINA: Now, we look very carefully at fences, you know, and where fences are permitted by the Town. Fences were something that the Board received a lot of cases. And a recommendation was made to the planning department because, essentially, what we were doing and we nicknamed it, you know, the four-five-six-rule. Because we would permit a 4-foot fence that was in line with whatever the forward wall of the house was, and the side yard was permitted to be 5, and any rear yard was permitted to be 6. And the Town Board adopted that. And we still look carefully at every application. And especially corner lots like you might have where sometimes a side yard or a front yard, you know, the overlap of it, you know, can be conducive to somebody's rear yard technically

acting like a side yard and that sort of thing.

But in this case, you got everything lining up with your property. I mean, the fence along the north property line, you know, is parallel with your property line. Along the east property line, it's parallel. And then when you get to the row of Arborvitaes, the fence is where the fence should be and the Arborvitaes then splay, you know, away from that. I'm sorry. The fence is on the property line compared to the other one, but it needs to be pulled back those 9 feet, you know, in there to be an as-of-right fence. And, look, I understand, especially big dogs, they like to run. I have a little dog he runs like a maniac, and I think that's what I call the "zoomies."

MR KARANTZIOS: Exactly. That's what my dog does, as well.

CHAIRMAN MAMMINA: He is 3 years old so he has still got all of that energy. So I will say and I think extremely consistently, this Board has not granted fences, you know, because of dogs, even because of children, unless that child has, you know, a disability that would warrant that fence so that that child could not lope, you know, from the property. So, you know, I guess, the issue just as I see it as one Board Member is, as you said, you have a very nice, you know, grow of evergreen, you know, in there. But we had an application one time where somebody wanted an 8-foot fence because they had a

dog that was, essentially, a wolf. And the neighbors came in and said, please, that dog is just truly a beast. And we just had no basis to grant even an 8-foot fence there. You have to control your dog. All of your Arborvitaes things are in the right-of-way. So you got a waiver on that. I had done that in my own house.

MR. KARANTZIOS: I'm sorry. I didn't hear you.

CHAIRMAN MAMMINA: I had no sidewalks and I planted that area in the front, just as long as I went to the Town.

MR. KARANTZIOS: I went to the Highway Department. I have a waiver, yes.

CHAIRMAN MAMMINA: And they explained to me that if the snowplow knocks it down, it's not their problem.

MR. KARANTZIOS: Right. And they said that the trees are fine. There is no problem with the trees. And if I do have the waiver for the fence, they said it's fine also.

MEMBER GOODSELL: Trees are not fences.

CHAIRMAN MAMMINA: They don't have the right to give a waiver on the fences. I mean, again, from my own perspective and I live in Carle Place on a 60 by a 100 lot and I had a beautiful stand of Arborvitae that were at least as tall as that. And the neighbor who bought the house next door -- I don't want to knock it because I was from Queens at one time, but he was from Queens and said I don't want these trees here. And he had a surveyor come in and any one that had its trunk of

tree even slightly over his property line, he cut it down. All of the other ones, he just trimmed them all through there. I mean, they were then hideous and they didn't do a whole lot. So the question is, how do we know the same thing won't happen there? How do we know the same thing won't end up -- you know, there have been times where there have been certain diseases that strike trees. The trees go away. And somebody else comes in, buys the house. It just sets up a precedent for what we have here. And I don't know that we have, you know, anything that's in there that would be helpful, you know, to us in terms of a condition. Because your fence is -- you know, I am looking at it. I'm the architect on the Board. Jay is a developer. We have three attorneys. In reading the survey, the fence is 3 inches, you know, over the property line, but that doesn't -- the Town Highway Department does not have the ability to waive things that are questions of zoning. So they are just saying they have no problem with the fence being 3 inches over your property line. And again, if the snowplow comes and knocks it down for those 3 inches, they are not responsible. So I'm just asking you just to be aware of the fact that everybody has certain responsibilities within the Town. The Highway Department looks at that part. We look at the zoning.

MR. KARANTZIOS: Right. The fences from the street it's about maybe 15 feet, so there is no way that the snowplow

would --

CHAIRMAN MAMMINA: But it's over the property line.

MEMBER GOODSELL: Ever so slightly over the property line.

CHAIRMAN MAMMINA: Yeah, it's 3 inches.

MEMBER GOODSELL: What the Chairman is saying that the Town can say your fence is 3 inches on our property, but we are giving you permission for the location, not for the height and not for the type of fence, just the fence is 3 inches and location. See, you are asking us for this particular dog, but this fence is going to stay there forever. You are not going to have this dog forever. So we can say for your dog, you absolutely need this. We have to consider the next dog, the next homeowner. So we are not giving you a hard time because of your dog, we are carefully considering whether or not this is something we can allow.

CHAIRMAN MAMMINA: And the ordinance says you have to align with the front setback of the house.

ATTORNEY ALGIOS: And just to be clear, the variance is not based on your dog. The variance is based on the factor relating to the plan to your unique property.

MR. KARANTZIOS: Okay.

CHAIRMAN MAMMINA: So then just adding to that, just for the record. Other than the dog aside, is there any reason why that fence couldn't be set back at that front setback line

of the house? Basically, 8 foot 11 from your property line.

MR. KARANTZIOS: The fence was put there because of the dog.

CHAIRMAN MAMMINA: We understand. But as Counsel said, a variance isn't based on having a dog. You know, we talk about physical things, whether it's the height of the building, you know, or the setback of the building or even the use of the building. Like if you said, I want to turn this into an office building. Well, you can't do that, but that's kind of obvious. So there are different types of variances, an area variance and use variance. So this is an area variance. And we need to do a balancing test. And this is what the Town Board has put in place as the zoning. We don't create the zoning, we look at it. And as I said, we are quasi-judicial. So we are doing that balancing test. And then the question would become if everyone down the block wants to put a fence out that same distance, does that change the character of the neighborhood? Yes, it does. And, that, clearly becomes that first part of it. Another thing just to point to, which Counsel has pointed out, we have granted fences on front yard -- excuse me -- on corner properties. But because their backyard is, essentially, unusable. As the architect, when developers would come in and put houses up, their models were typically the corner lots. And then those houses sold for less money not because they were the models, but because they didn't have any kind of a backyard

to talk about because of what I was saying. And I know these are a little bit more difficult concepts, but because they met the zoning in terms of the lot that they created, but they created minimal yards, like a 15-foot yard in that backyard. And so what do you do with a 15-foot backyard? You can hardly get your barbecue and that sort of thing in there. So we have granted some that will come out and we screen them. We screen them on the property of the owner. So you can find a couple of examples, but I think not, you know, with a property that is a 100-feet deep with a rear yard. You have about a 60-foot rear yard.

MR. KARANTZIOS: It's really the backyard because the house faces front, right.

CHAIRMAN MAMMINA: We get that. That's why we are saying when it's a backyard -- and there are instances where a lot is smaller than it's supposed to be, but it was either granted a variance or built prior to the zoning. And they have literally, you know, there are two incidents where one side they had 5 feet and the other side they had 8 feet for their rear yard, and everything else was front yard. And we granted that. Because even if we granted them something in the rear yard, there is just nothing that you can do with the property.

ATTORNEY ALGIOS: And I will just tack on to what the Chairman is saying. Even in those instances where there is no usable yard space, the Board still had to analyze whether or

not the fence may be maintained in the front yard. The secondary front yard would have an impact on the community, so they still had to run through the factors. It's not that in every circumstance that somebody has no usable backyard that they would be entitled to the fence in the secondary front yard. He is just citing, you know, there were a couple of instances where there was no usable yard and the fence did not impact the community.

MR. KARANTZIOS: Okay.

MEMBER GOODSELL: Mr. Karantzios, you are aware that your back fence is 4 feet away from your property line, the back fence. Your survey is showing your back fence, not your side fence that you are asking us to look at, but the back fence is 4 feet away from the property line. I'm guessing that when you put your side fence in, the side that faces Centre Drive, that the fence company did not come to the Town for a permit, otherwise the Building Department would have said this is where you can put it. Can I ask how old the fence is?

MR. KARANTZIOS: It was a friend of mine that did the fence.

MEMBER GOODSELL: I'm guessing he didn't come for a permit or you didn't come for a permit?

MR. KARANTZIOS: I didn't know.

MEMBER GOODSELL: Okay. And how old is the fence?

MR. KARANTZIOS: It's about three years. It's as old

as the dog.

MEMBER GOODSELL: And this is the first that you are hearing that the fence can't be where it is? Well, that would be the reason you are here, you are unaware of that.

MR. KARANTZIOS: I wasn't aware. And I mean, I'm reading the five factors for, you know, area variance.

MEMBER GOODSELL: Yes. You can address that with us, if you want to. That's what we would ask other applicants to do. If you ask us to approve something that we would not normally approve, you go through the five factors and you tell us why they do or do not apply.

MR. KARANTZIOS: Do you want me to go through the list?

MEMBER GOODSELL: Sure.

MR. KARANTZIOS: Undesirable change will be produced in the character of the neighborhood. So if you look, I have pictures to show you.

MEMBER GOODSELL: We have all seen the property.

MEMBER HERNANDEZ: We have all seen them.

MR. KARANTZIOS: You can hardly see it. It doesn't change the looks. Right, that's one. Other method. Like I said, an electric fence was not an option.

MEMBER GOODSELL: Well, part of the other option is, is there a place that you could put your fence that would comply with Town Code? And, that, I can ask you. I'm not telling you where to put it. Is there, as the Chairman said, is there a

place? Is there a setback? Is there a reason why it can't go -- that has nothing to do with your dog -- that it can't go where it should?

MR. KARANTZIOS: The reason I put it there is to maximize where the dog could run. It doesn't affect anything. I'm just asking for an exception, that's all I'm asking.

MEMBER HERNANDEZ: The problem that we would face is that if we make an exception for this, because we would like to be accommodating, without any other special circumstances that makes it a requirement and we accept it, how do we tell another neighbor of yours down the line that they want to put a fence in a similar location and they can't do it. And then we need to make that exception. And then all of a sudden, you are saying it doesn't impact the neighborhood, well, maybe this one time maybe, I don't know, it doesn't impact the neighborhood, but then all of a sudden, it becomes a chain reaction. And we can't just say no to the guy across the street or down the block because he also has a dog or she has a dog and she is going to put plants in front of it. So all of the same issues that you are saying now, they can do it. All of a sudden the neighborhood is completely changed. That's what we have to grapple with every time we sit here. So there has to be a very specific reason why your property is completely different than everybody else's. Like the Chairman said, maybe your house happens to be 10 feet away from the backyard and there is no

other room. Maybe you have a big cliff in the back of your house, so you have to go to the side of the house. But your house is a very nice looking house in a very --

MEMBER GOODSELL: Square.

MEMBER HERNANDEZ: A very rectangular property. There is nothing unique about your property per se that requires that you go 8 and a half or 8 and three-quarters feet to the secondary front yard to create level ground. There is nothing that you have shown us yet that can give us that to identify your property as being unique or different.

CHAIRMAN MAMMINA: Okay. So I think what we will do on this, as we said, we want to be more than fair.

SECRETARY WAGNER: We have somebody that wants to speak.

MEMBER HERNANDEZ: Please put your name on the record.

CHAIRMAN MAMMINA: Put your name and address on the record. Just what I will ask is if there is going to be any repetition from what is already on the record, please attempt to reframe from that because all it does is just make a much longer record.

MR. SNEE: Good morning, Chairman. Good morning, Board. John Snee. I have been --

SECRETARY WAGNER: What is your address, sir?

CHAIRMAN MAMMINA: Address.

MR. SNEE: 54 West Drive.

CHAIRMAN MAMMINA: Thank you.

MR. SNEE: Which is right across the street from Larry. Larry is a great friend, he is a great neighbor. So as far as the character of the neighborhood, I want to address that. He keeps his property meticulously maintained. The aspect as far as the fence is concerned, I don't even see it and I live 25 feet away. So to me, it's a nonissue as a neighbor. You are referring to the quality of the neighborhood. If every neighbor was like Larry in the neighborhood --

CHAIRMAN MAMMINA: Not the quality, just for the record, the character.

MR. SNEE: I'm sorry. The character of the neighborhood.

CHAIRMAN MAMMINA: Two different words that make a whole lot of different.

MR. SNEE: Exactly. If everybody in the neighborhood had the character of Larry, it's a the great neighborhood as it. But I am just saying he accelerates the character of the neighborhood. He does not detract from the character. So I'm here to support Larry in his efforts. And from a visual standpoint, it doesn't obstruct anything. So I'm here to support him. So you mentioned from a quasi standpoint, please I'm here to support him from a quasi standpoint as a good neighbor.

CHAIRMAN MAMMINA: And we always appreciate that.

MR. SNEE: And the supporting evidence in terms of have you seen the picture?

CHAIRMAN MAMMINA: Of course.

MEMBER HERNANDEZ: Yeah, we drive by the house.

MR. SNEE: So I'm just here to support.

CHAIRMAN MAMMINA: And we appreciate that.

MR. KARANTZIOS: And if I didn't have the dog anymore, I will take out the fence. That's the only reason it's there.

MEMBER GOODSELL: No one ever volunteers that.

MR. KARANTZIOS: Well, can you put me on the record?

CHAIRMAN MAMMINA: Everything you say is on the record.

MR. KARANTZIOS: So then I will take the fence out if I don't have a dog or if I sell the house, I will take the fence out.

CHAIRMAN MAMMINA: I think what the Board would like to do is reserve decision on this, which means, you know, there is no decision. In all likelihood, there will be no decision today. I would like to go see it again. I would like to take a look at it again and I would like to drive through the rest of the neighborhood. So we will reserve decision on the application. And in all likelihood, a decision will not be made today. Thank you and thank you for coming out. I think it's good when we see neighbors on either side, people against it or people for it.

MR. SNEE: Thank you for affording the opportunity.

Appeal #21394

SECRETARY WAGNER: Next Appeal is Appeal #21394 – Michael Rogers & Diana Morales-Rogers; 39-41 Neulist Ave., Port Washington, Section 5, Block J, Lot 112; Zoned Residence-C. Appeal for Determination or in the alternative a variance from § 70-231 to legalize an attic with habitable spaces.

CHAIRMAN MAMMINA: You have heard Appeal #21394 - Michael Rogers and Diana Morales-Rogers. Is there anyone in the room interested in the application other than the applicant? Seeing one hand up in the back and you will have the opportunity to speak after the presentation. Thank you.

MR. SBARRO: Good morning. My name is Gianni Sbarro. I'm an associate with Forchelli, Deegan, Terrana, LLP with an office at 333 Earle Ovington Boulevard, Suite 1010, Uniondale, New York. Thank you all for having me here.

Unfortunately, the applicants and owners of 39-41 Neulist Avenue, Michael and Diana Rogers, could not be here this morning because they are out of the country on their honeymoon. However, they provided two affidavits for your review, which are in those exhibit packets and include information that was conveyed to them regarding the finished attic space in the dwelling, as well as their own sworn statements that all improvements to the attic space existed before they purchased the subject property. We also tried to secure affidavits from the previous owners of the property stating that the attic was finished prior to 2006 when the

definition of attic was added to the code, but, unfortunately, one of the owners has recently passed and the other is very old and lives out of state. So we were unable to get those affidavits. We did, however, find substantial evidence that supports the information conveyed to the Rogers family, which is included in your exhibit packet, as well, and included in our presentation today.

With that said, the applicants seek to appeal the determination of the Building Department stating that a variance was required to maintain the existing finished attic as habitable space. And in the alternative, we seek a variance from Section 70-231 of the Town of North Hempstead code to maintain the finished attic. By way of background, the property is located on the north side of Neulist Avenue in Port Washington, 905 feet west of Port Washington Boulevard. It has a lot area of 0.26 acres, roughly, 11,360 square feet, and is presently improved with a two and a half story, two-family dwelling with a finished attic, finished cellar, two asphalt driveways, a shed, an enclosed brick porch, and two concrete patios.

As previously mentioned, the attic and the stairs leading up to it pre-exist the adoption of the definition of attic in Section 70-231 for the Town of North Hempstead code, which prohibits the use of the space between the ceiling joist of the top story and the roof raptors as living and sleeping

quarters, as well as any fixed stairs to the space. Accordingly, it's a pre-existing non-conforming use. This application seeks to maintain the existing finished attic space in conjunction with interior alterations, i.e. additions of an egress path and installation of a sprinkler system, as well as maintain the finished cellar, bathroom renovations, and more.

According to the Nassau County Land records and a property card dated April 28, 1938, which is also included in your exhibit packet, the dwelling is, approximately, 115 years old built in 1908 and the attic has existed since its construction. Again, the definition of attic was added to Section 70-231 of the code in 2006. Notably, the attic is not being extended, altered, enlarged, replaced or moved to an extent that would not comply with Section 70-208 of the code. And New York State code permits -- excuse me -- New York State Building code permits the use of an attic space as habitable floor area. As previously stated, as customary for this type of application, in the alternative, we are seeking a variance of Section 70-231 of the code.

With that said, I would like to run through to the five factors. First, the requested variance will not produce an undesirable change in the character of the neighborhood, nor a detriment to nearby properties. The attic has existed in the dwelling since it was built over a century ago and the

applicants are not proposing any significant changes to the space. The attic is, approximately, 609 square feet and the total gross floor area of the dwelling is 2315 square feet. Roughly, 20.3 percent of the gross floor area requirement. Even with the attic space included in the total gross floor area calculation, the dwelling is well-below the maximum square footage permitted by the code, and you could see that on the survey. It's a large piece of property with a fairly small home on the property.

Second: The benefit sought by the applicants cannot be achieved by any method feasible for the applicants to pursue other than a variance. The finished attic is currently located directly above the second floor of the dwelling. It's accessible by two separate sets of stairs leading from the second floor, both of which existed since at least 1938. Again, that's on your property card in the exhibit packet. As shown in the property listings and photos from Trulia also included in the exhibit packet, the finished attic and staircase existed when the applicants purchased the property on June 26, 2020. There is two photos there, one is a green space and one is a white space, that's two the two separate sides of the home. Both attic spaces are finished with staircases leading up to those.

Mr. and Mrs. Rogers purchased the property with the understanding that the finished attic was a pre-existing

non-conforming portion of the dwelling, and therefore they fully intended to continue utilizing the space as living and sleeping quarters, as it was always used in the past. With that said, this is not something that home buyers would typically be expected to seek a separate certificate of occupancy for, especially when the information was confirmed by both real estate agents that facilitated the transaction. And they swore to that in their affidavits, which are at the end of the exhibit packet, as well.

Additionally, there are no other areas in the dwelling to put the additional bedroom and office. And pursuant to Section 70-46.A of the code, no two-family dwelling in the Residence-C District shall exceed two and a half stories with a maximum height of 30 feet. As such, the dwelling is currently two and a half stories so the applicants could not build any higher and a 609-square foot extension to the first and second floor would likely be a greater impact on the character of the neighborhood rather than continue the use of the third floor.

Third: The variance that's being requested is not substantial when considering there will be no negative impact to the neighborhood. The dwelling and the attic space has existed harmoniously within the neighborhood for over a century and the applicants merely seek to maintain the status quo. If granted, the use of the attic space as living or sleeping quarters will not have any adverse impact, nor environmental

impacts on the surrounding neighborhood. The finished attic space is completely indoors and the applicants are not proposing any significant changes to the space. Moreover, no additional tenants will be renting the space, so there will not be any increase in traffic or parking demand.

Lastly, the alleged difficulty was not self-created as the finished attic space existed before the applicants took title to the property and they only seek to improve the safety conditions of the dwelling and continue using it as is. Based on the foregoing, we respectfully request that the aforementioned relief be granted today.

MEMBER GOODSELL: I have two questions for you. First, in the original building file, were there any plans for the house as it was built?

MR. SBARRO: There were plans submitted in the original building file. However, nothing is pointed to the specific attic space being finished. It always pointed to the staircase leading up to the attic space and an attic space existing.

MEMBER GOODSELL: Okay. So the house seems to have been built with this attic space at least framed in, is that correct?

MR. SBARRO: Correct. And there are multiple homes on Neulist as well as Marino Avenue, which have similar third-floor attic space with a small window. Unfortunately, we were not, obviously, able to find out whether those were

finished, as well.

MEMBER GOODSELL: I noticed that. In that particular area, this house does look very old, and I do see that. And there were other older houses in the area. All right. The Building Department has, obviously, looked at this from a safety standpoint. Sleeping on the third floor, are there any safety features in place right now?

MR. SBARRO: So there is, as I said, there is a staircase going down accessible to both sides of the attic spaces. My understanding, from the architect, is that they will be adding an egress path specifically.

MEMBER GOODSELL: I was just going to ask you about an egress path because older homes have very tiny windows. They are charming, but they are very tiny.

MR. SBARRO: Correct. As well as a sprinkler system they are going to be adding.

CHAIRMAN MAMMINA: The drawing shows for an egress window and, yes, a sprinkler system is required. It's only more recently under the code that the state recognizes that there are houses that have third floors. And there is a series of other requirements, but I look at that and say money. I have people that say to me, well, can I do this, and I say, well, how much money do you have. So I'm not opining, you know, regarding the potential legality from the perspective of building code.

MEMBER HERNANDEZ: For the sake of clarity, you mentioned that there were two stairs going to the attic. Let's make it very clear that it's one stair per apartment, per attic space. Not two stairs to one attic space and that's why we are discussing the secondary, just to make it clear.

MR. SBARRO: Correct. It's a split down the middle, the home, with an entrance here and an entrance here. And there is, you know, it's a side by side.

MEMBER HERNANDEZ: It mirrors.

MR. SBARRO: Exactly.

CHAIRMAN MAMMINA: So in terms of bringing you here today, I don't see anything regarding rental registration. So I'm assuming that it was the fact that they were applying for the, let's say, building code legalization of the attic, is that correct?

MR. SBARRO: Yes, exactly. They want to legalize the space on the third floor.

CHAIRMAN MAMMINA: Okay. Any other questions?

MEMBER GOODSELL: This picture in your packet, this shows, as I am holding it up to the applicant's attorney, this shows the attic as a sleeping space, is that correct?

MR. SBARRO: Correct.

CHAIRMAN MAMMINA: One of them.

MR. SBARRO: That's how it was marketed to our clients.

CHAIRMAN MAMMINA: Okay.

MEMBER GOODSELL: That's one. And the plan seems to indicate there is an office on one side, but your photo shows two bedrooms on the third floor.

MR. SBARRO: Correct. Those photos are from Trulia from a previous listing and they were, obviously, meant to show you what the attic space currently looked like, but also how they were marketed to the clients.

CHAIRMAN MAMMINA: Okay. Well, I think what we will do on this is we will reserve decision on --

ATTORNEY ALGIOS: You want to the continue.

CHAIRMAN MAMMINA: Yeah. Why don't we continue in case. I want to look carefully at that definition under the zoning. And, you know, we haven't had many of these, we have had a couple.

SECRETARY WAGNER: And there is another person that wanted to speak.

CHAIRMAN MAMMINA: I'm sorry. We had a gentleman that wanted to speak. I'm sorry, sir. Come on up. My apologies. And I'm sure it was not intentional on the applicant's part, but with the Board, I frequently forget.

MEMBER GOODSELL: Tell us your name and address.

MR. YOUNG: My name is Donald Young. I live at 45 Neulist Avenue, Port Washington. I'm two houses down from where it is. My two questions I had is if they were going to change anything or if they were going to add habitable. I

heard that they weren't. So as a neighbor, I'm fine with the house as it is and that's what I have to say.

MEMBER GOODSELL: Sir, is your house similar? Do you have a third floor also? There are some older homes there.

MR. YOUNG: No. My house was built in 1960.

MEMBER GOODSELL: Thank you very much.

MR. SBARRO: Thank you, Donald. And just to address your question. They are just making it safer, no changes.

CHAIRMAN MAMMINA: I think we will continue on this in case the Board may have some other questions that we may want to put forward to the applicant.

MR. SBARRO: Okay. Thank you very much. Thank you for your time.

CHAIRMAN MAMMINA: Good presentation.

Appeal #21395

SECRETARY WAGNER: Next Appeal is Appeal #21395 – Patrick & Claudine Ward; 1 Sandy Hollow Rd., Port Washington, Section 5, Block 3, Lot 1; Zoned Residence-C.

Variances from §§ 70-49.C and 70-50.B to construct additions that make the house too big and to construct a front porch too close to the street.

CHAIRMAN MAMMINA: Okay. You heard Appeal #21395 - Patrick & Claudine Ward. Is there anyone in the room interested in the application other than the applicant? Seeing one hand. More hands. I'm sorry. You will have the opportunity to speak after the applicant presents.

MR. MIGATZ: Bruce W. Migatz, Albanese & Albanese; 1050 Franklin Avenue, Garden City, for the applicant.

Mr. Chairman, I would ask that you pass this case for now. Mr. Donatelli might be here later. This is a unique property in Port Washington. So I am hopeful he can get here to hear the application. So if you can pass us for the time being.

CHAIRMAN MAMMINA: Understandable, and we do expect him. We will see where he is. Very reasonable.

ATTORNEY ALGIOS: We will e-mail Dan and see where he is. So we are going to do a second call of Appeal #21395 after the next Appeal.

Appeal #21396

SECRETARY WAGNER: The next Appeal is Appeal #21396 – Kate Nellans; 95 Reid Ave., Port Washington, Section 5, Block 59, Lot 185; Zoned Residence-A.

Variances from §§ 70-29.C, 70-32.7, 70-100.1.A, 70-208.F, 70-100.1.D to construct additions to a home that would make the house too big, with an eave that is too high, to construct a detached garage in a side yard (not permitted) that is too close to a house on an adjoining property and to expand the habitable space of a pre-existing non-conforming third floor attic.

CHAIRMAN MAMMINA: You heard Appeal #21396 - Kate Nellans. Is there anyone in the room interested in the application other than the applicant? Do we have any hands up behind the Board?

MEMBER HERNANDEZ: No.

SECRETARY WAGNER: Just let the Board know and the applicant that I did receive some additional correspondents, so we will forward that to you so you can response. And also, it will be forwarded to the Board.

CHAIRMAN MAMMINA: Please give your name and address.

MR. SMIROS: Good morning. My name is Jim Smiros. I am an architect and partner at Smiros & Smiros Architects with studios at 51 Glen Street in Glen Cove, New York. I'm here on behalf of my client, Kate Nellans and Naomi and their four

children residing at 95 Reid Avenue in Port Washington.

The proposed plans are for additions and alterations, and they include adding a first floor mud room, adding a fifth bedroom on the second floor, which you can see in blue, which my lovely assistant is now pointing to, upgrading egress at an existing third floor, which is shown in green, and legalizing a prior extension, which is the attic, which I will show you in a few moments. To accomplish the above, we proposed to remove and rebuild the existing garage, which is shown in orange.

So we are going to demolish the existing 408 square foot garage, which is currently just 3 feet away from the house in the rear yard, and build a new garage under 300 square feet in the side yard where it was previously located. The original location can be seen on the site plan on page 1 of the previous drawings dated June 1997 by Sergio, Zory, and Habitat, and the survey by Bergmann and Allen dated November 16, 1963, which should be included in your packet.

We require a variance here because the garage is within 20 feet of a neighboring property. Previously, when the garage existed previously that was not an issue, but that house was subsequently expanded, and therefore we have that issues. We are actually able to slide our garage back an additional 2 feet. So we are reducing that variance request from 16.6 feet where 20 feet is required to 18 feet where 20 feet is required.

We are looking to add a mud room addition on the first

floor. It's a space 8 foot 9 deep by 27 foot 1 and a half inches wide to include a mud room entry, a powder room, and first floor laundry room. Kate and Naomi have four children. It's a very busy house. And Kate is a hand surgeon that comes in contact with patients daily and directly, and we would like to have this space for her to change before entering the house.

The expansion of the second floor. Again, there are four young children ages 4 to 10. The existing house only has four bedrooms on the second floor and we are looking to create five bedrooms in total. So we are expanding the second floor over the existing first floor. We are not creating any new footprint in order to do that. Part of this addition is expanding adjacent to existing rooms, a new eave line of 24 feet, which we would like to maintain. We would rather not have the eave step down. I think architecturally it would not look attractive on the house, so therefore the variance to increase an eave over the existing 22-foot code requirement.

CHAIRMAN MAMMINA: Do you have an elevation of that?

MR. SMIROS: We do. So the blue is the area of the addition, and you can see that we are just looking to maintain our existing eave line there. Third is the alteration to the existing third floor. Now, I would like to point out, the house as originally constructed, contained a habitable third floor as shown on the last page of the previous drawings package by Sergio, Zory & Habitat. The third floor was at some

point expanded, but it was expanded prior to the 2006 definition of attic, and you can see that on the property card from 2005. So that attic, I am told, existed back in the 60s, but we are in a position now where we are being asked to legalize that. Part of what we are looking to do here is improve an existing staircase to that attic, which is very steep and it has winders at the top. The bedroom, which, again, was built with the house or has been there for a very long time, has no windows and no egress. So what we are looking to do is add a dormer onto the bedroom so we can have light and egress and improve that stair. In order to improve the stair, we need to make the room longer and add a small dormer on the roof in order to do that. We have pulled in the knee walls in order to minimize the extent of that variance request. Part of our solution, obviously, would be to provide a limited area sprinkler system. So all of these things are complicated by the fact that this is a pre-existing non-conforming house.

MEMBER GOODSELL: I was just going to say. Can I interrupt you? May I ask when the original house was built?

MR. SMIROS: 1910.

MEMBER GOODSELL: And are there building plans on file from the Building Department from 1910?

MR. SMIROS: There are not.

MEMBER GOODSELL: There aren't?

MR. SMIROS: No.

MEMBER GOODSELL: Does the tax card show the existence of a third floor?

MR. SMIROS: It does. Correct, it does. So this is all complicated by the changes to the code over time. And further, there was an odd development here with an oxford comma, which relates to the definition of the full area of the attic to be calculated in areas with a ceiling height of 7 feet or greater. The way the online code reads, it says that you are supposed to calculate heights above 7 feet. There is no comma there, but, apparently, the law that was adopted has a comma in it, which is not on the public access site, and that makes you count all the area out to the outside walls, which puts us in this further variance condition. If not, we would not be asking for a variance for that area.

CHAIRMAN MAMMINA: Is that the entire floor area variance? Because you have about 1200 feet over the 4000.

MR. SMIROS: Well, that space is pre-existing.

CHAIRMAN MAMMINA: I understand. I will apologize for throwing off your presentation. But only because you had mentioned, you know, that. Because that's a very substantial floor area variance that you are asking for, you know. If you will be speaking about that later, then we can wait to hear that.

MR. SMIROS: Well, the house is existing at that

number.

CHAIRMAN MAMMINA: That's what I'm asking. Are there any other additions that you are pointing to that are increasing the amount of floor area beyond the existing?

MR. SMIROS: The only thing that we are increasing beyond the existing is the net 204 square feet.

CHAIRMAN MAMMINA: Okay. So maybe with more specificity, can you point to that for the Board Members, if you are up to that. If you cannot, that's okay.

MR. SMIROS: Absolutely. I can. It's complicated by the fact that we are gaining square footage by removing the garage. So we gained back 400-something square feet, so there a is balance here. So if you look at the first floor, we are adding square footage here on the back of the house, but don't forget we are taking a credit for the garage there.

CHAIRMAN MAMMINA: Why don't you talk about how big that is.

MEMBER GOODSELL: Yes. Start with that page right there. You are taking away the garage. You are taking away 400 square feet?

MEMBER HERNANDEZ: 408 square feet.

MR. SMIROS: Yes.

MEMBER GOODSELL: What are you adding back in by adding the portions shown?

MR. SMIROS: Do you have these calculations? One

moment.

CHAIRMAN MAMMINA: I think you said earlier that the garage was under the 300 or is at the 300.

MR. SMIROS: The proposed garage is under it.

CHAIRMAN MAMMINA: So is that 408 minus the 300? I think you said it was 408.

MR. SMIROS: You don't have to count the 300 when it's under 300. That, does not count. You are allowed to have a attached garage that does not count. Just bear with me a minute. I have these numbers here. So we are adding 243 feet on the first floor. We are adding 455 on the second floor. Then on the attic, we are adding 64 feet, and that's, as you can see the area is shaded in green, that's for access to the staircase because we need to get height to walk down with the code-compliant staircase and dormers to get outside.

CHAIRMAN MAMMINA: What does that total as opposed to what exists now and what will it be after? I think I have a number. I just want to make sure.

MR. SMIROS: It's on our drawings. It should be a net of 205 square feet.

MEMBER HERNANDEZ: The numbers that I see here are you're backing out 408 for the garage, correct?

MR. SMIROS: Correct.

MEMBER HERNANDEZ: That's your negative, but you are adding on the ground floor 238.5 square feet on the first

floor.

MR. SMIROS: Right.

MEMBER HERNANDEZ: 679.8 on the second floor and 108.7 on the third floor for the egress. If I add those three up, I get a 1,025. If I back out 408, I get 617.

CHAIRMAN MAMMINA: You will certainly have an opportunity to speak, if you would like to.

MR. SMIROS: I'm sorry. How did you get that second-floor calculation that you got?

MEMBER HERNANDEZ: I did the first floor at the rear of the home, 679.8 feet on the second floor on the rear.

MR. SMIROS: I'm getting 456 square feet on the second floor.

CHAIRMAN MAMMINA: Normally -- and there is no right or wrong or absolute way, but, generally, we get a floor area diagram that says this is what we are adding, this is what we are taking away, and these are all of them, and it would not be part of the very, very good construction documents; they are excellent.

MR. SMIROS: So there are floor area documents on the first page. And part of what we are doing here is we are also reducing.

CHAIRMAN MAMMINA: Let's just wait. Let's just wait a moment for Mr. Hernandez and then you can compare notes. What we might want to do, because this is extremely important and

Ms. Migatz had kind of said, hey --

MR. MIGATZ: Take your time.

CHAIRMAN MAMMINA: Yes, if you want to. I'm just saying because the floor area and everything is extremely important, but floor area is particularly important because we get a lot of floor area applications.

MEMBER HERNANDEZ: His math comes out different than ours and we need to figure out why.

VICE CHAIRMAN FRANCIS: What did you say the existing GFA was?

MR. SMIROS: 5,038.

SECRETARY WAGNER: So the existing GFA is 5,038.

MR. SMIROS: Correct. So part of what -- and I do want to be clear. We do have the area diagrams. Part of the complication here is that on the attic, we backed out space. So we added space in the attic and then we moved the knee walls in, and that's the delta here that we are missing. Because what I did in order to get that number down -- and, honestly, the knee walls are 3 feet and nobody can use that, so we moved the knee walls in to, I think, 4 foot 6 and we took that space back and that's what is making that delta sort of net addition. On top of that is the existing 204 square feet.

MEMBER HERNANDEZ: But the Building Department should have seen that and your calculation should have excluded that, as well.

MR. SMIROS: Excluded which? I'm sorry.

MEMBER HERNANDEZ: The Building Department, when they looked at it, would have seen that you did that, that you moved the knee walls in and they would not have counted that space. The problem that I am having is that with the numbers they give us are different than yours.

MR. SMIROS: They did not make us aware of that. How different are they?

MEMBER HERNANDEZ: I realize that.

CHAIRMAN MAMMINA: It's difficult for us to do that on the fly. That, would be dangerous.

MR. SMIROS: I see. The area that we are gaining or reducing the GFA on the third floor by moving the knee walls in is 168.5 feet.

CHAIRMAN MAMMINA: I think what we might suggest and, of course, it's up to you is, as I said, these are beautiful plans and they are so well-done and they are so comprehensive, you know. And what I really think we need is something that is more simplistic without all of the detail that you have on here to construct the building. And then for us to try to extract from that, the GFA and to what extent, if anything else, that shows, you know, we are backing out the garage space. My suggestion -- again, your choice completely -- is that we continue the case and we move you over to, let's say, the next calendar. And, yes, you will get another Hearing because it

would be very important and then that way it's best foot forward for your client.

MR. SMIROS: Well, I have full-scale drawings here.

MEMBER DONATELLI: In looking at the plans that you submitted, I do see your analysis: First floor GFA, second floor, third floor, and then gross total. It is very different for us to read it in the context of these plans because you are adding and subtracting. And, of course, I'm not the architect on the Board, apparently, the Chairman is, but it would be very helpful -- and I agree that we would like you to complete your application, but it would be very helpful if the Board would make a determination if we had just a very brief synopsis of the breakdown of GFA by floor showing the additions and the subtractions to each floor. Because I don't think that your analysis here actually spells that out as clearly as we might like.

MR. SMIROS: And I'm fine doing that. So shall we continue and we will be here.

CHAIRMAN MAMMINA: We will hear the neighbors and then we may not need a second Hearing, just that other piece of information. We will still continue, but make your other points because I think they are a little more cut and dry.

MR. SMIROS: So we are here because we have an old house. The code has changed multiple times. And parts of that attic were not previously legalized and the definition of attic

changed after that. We have an attic that predates the 2006 definition and what we are trying to do is modify this house so that a modern family can live in it. It's an old home and it's a beautiful property. You know, we want to improve it. Some of the additions that were previously done were not of a high architectural caliber, so we are going to be cleaning that up. And everything that we are doing is largely at the back of the house. If you would allow me, I would like to show some additional imaging. These are photos of the existing house as you can see it from the street. There is the house, porch from the east, from the west. It's a beautiful Greek revival, a very pretty home. We did this 3D model to help demonstrate the additions using the same colors here. So from the street, you can see this is the existing house on the left. You can see that dormer just peaking out. This is that dormer that we are adding on the side. This is the existing view from the side. There is that garage that currently sits 3 feet from the house in the rear yard. There is the proposed. There is the garage off to the side here now. And as you can see, the expansion at the back of the second floor and you can see that dormer. None of this is really visible from the street.

Here, we are looking at the house in an aerial view. That's that same garage, and you can see here we are proposing to put it to the side. This is that first floor addition in pink and the second floor addition in blue. You can see the

dormer for the staircase at the back here in green and on the side for egress from the existing bedroom that has no windows in green on the same thing from this view and this view.

With respect to the garage in the rear, this is the map of the block showing where garages exist in rears. There are many, many garages in backyards on this street. Nothing unusual that we are proposing there. We did get a letter of support from the neighbors immediately to the west, which I would like to submit. That's Anthony and Nancy Cueta living at 89 Reid, and I have that letter, if I may.

SECRETARY WAGNER: This will be Exhibit 1. We.

MR. SMIROS: So we have done our best to update this home to make it workable for a modern family and maintain the architectural integrity of the home while minimizing impact on the neighbors. In balancing all interests, the proposed variance request will not produce undesirable changes in character of the neighborhood, nor be a detriment to nearby properties. The benefit sought by the applicant cannot be achieved by feasible alternatives to the variance. The requested variance is not substantial. The variance will not have an adverse impact on the physical or environmental conditions in the neighborhood. The alleged difficulty may be, in part, self-created, however that shall not necessarily preclude the granting of an area variance. And we respectfully request that the Board grant the sought relief.

CHAIRMAN MAMMINA: May I ask you for one other thing? I suspect I know the answer to, but do you want to speak about the eave height?

MR. SMIROS: Yes.

CHAIRMAN MAMMINA: As it relates maybe showing it on your elevation.

MR. SMIROS: So the existing house is what you are seeing here, and it has a 24-foot high eave. Current code only allows a 22-foot high eave. So if we were to do that, we would be dropping the eave at the back of the house, and I felt architecturally that was really not the right solution here. Your code also limits the height of the roof. So we did have to truncate the roof. And, you know, as an architect, it becomes challenging when zoning dictates the character of the architecture so significantly. We did not ask for a variance to bring the roof up, but had this been done, you know, in the past, this ridge would have been the full height of the house. So we are complying with that aspect of that, but we are asking for that variance to make that exception. Again, this is at the back of the house. This is not on the street side, so this will not change anything, and this is, you know, quite far at the back.

MEMBER DONATELLI: And the 24-foot height to the eave, was that part of the pre-existing non-conforming?

MR. SMIROS: Correct. The house was built with a

24-foot-high eave.

MEMBER HERNANDEZ: And the front that faces the street is not being changed? It's staying at the same height, you are just adding to the back?

MR. SMIROS: There is the front facade, no physical change at all. All we are doing is adding and you will see the peek of the dormer there. This is the back of the house. So you can see the 24-foot-foot eave here and we are just, basically, filling that in. This is that new one-story mud room, which is being treated like it was an enclosed porch. On the side of the house, there is an existing second floor here and we are, basically, expanding that. So the impact on the second floor on the east side is really de minimis. It's about 8 feet of an expansion of that. There is that first floor. The biggest impact of that expansion is on the west, which is the side shared by the neighbors who I just gave you the letter of consent. And then on the back of the house -- well, you saw the back.

MEMBER HERNANDEZ: Yes.

MR. SMIROS: This is the back.

MEMBER HERNANDEZ: Yes.

MEMBER GOODSELL: So the size of the property, can you give me, roughly, the size of the property?

MR. SMIROS: Yes. I have somebody gave me these drawings. They are so small I can't read them.

MEMBER GOODSELL: They are lovely. And for the sake of record, give me the property size. And the next question I'm going to have for you is because we cannot see the backyard from the street, are there any changes in grade as the property goes to the back of the property?

MR. SMIROS: So the existing lot area is 15,000 square feet and it is a largely level lot. There are no unique grade characteristics.

MEMBER GOODSELL: And is it, roughly, a square lot?

MR. SMIROS: 125 wide and 120 deep.

MEMBER GOODSELL: Does the floor area right now exceed what is allowed.

MR. SMIROS: It does.

MEMBER GOODSELL: That's what I thought. And I'm trying to glean this from all of this. So it's already over what the Building Department today would approve?

MR. SMIROS: It's 5,038 square feet where 4,000 is allowed.

MEMBER GOODSELL: So any improvement to this property you need a variance for.

MR. SMIROS: Correct.

MEMBER GOODSELL: Well, part of what I'm trying to get at is when you are adding new construction, why can't the new construction be made to fit into the building code, and the answer is clearly because it's already over?

MR. SMIROS: Correct. And that's also further complicated by the evolving definition of attics and the fact that the attic -- well, whether it was included or not previously, I suppose it would have still been over in that number.

CHAIRMAN MAMMINA: So is your testimony then that you are adding no square footage in any way to the outside of this building? Only because I would be just of the opinion, if I were the building official across the street, which I'm not and I don't want to be, that if you have a volume of a house that is already bigger, but you are not adding anything on to it, there is no reason for you to have floor area variance. That's what I'm saying. That's what I would like Member Goodsell to understand is that there is still an increase in volume, albeit small, that forces them to put that objection in there. And as you are presenting, where is that bulk? It's one area where the eave is.

MR. SMIROS: We have a credit for removing the garage and we have a credit for decreasing the floor area of the existing attic. And then we are taking extra charges to add the mud room at the back and to expand the second floor and then to add the dormers at the third floor. So we have two credits and two deducts and three additions.

CHAIRMAN MAMMINA: Okay. Why don't we hear from the neighbors.

MEMBER HERNANDEZ: That's on Bruce's case.

CHAIRMAN MAMMINA: Oh, that's on Bruce's case?

MEMBER HERNANDEZ: Yes.

SECRETARY WAGNER: Is there any neighbors or anybody here to speak about this Appeal?

MR. SMIROS: The owners are here.

CHAIRMAN MAMMINA: I guess, they are here to speak against the application.

MEMBER DONATELLI: Just to be clear then, if we could have a floor by floor breakdown of the GFA and of the calculations that you just went over. And also, I don't believe it's part of our packet, the photographs that or the computer renderings of the bulk.

MR. SMIROS: They were submitted.

MEMBER DONATELLI: They were not submitted. If you could, perhaps, with your breakdown of the GFA, also submit copies of those so that we can review them, that will be very helpful.

MR. SMIROS: That was all uploaded to the town site last week. I don't know what happened to those.

SECRETARY WAGNER: Was this submitted to the Board of Zoning Appeals or just --

MR. SMIROS: To the Board of Zoning Appeals. Well, I'm happy to resubmit.

SECRETARY WAGNER: If it's on the portal, we can get a

copy.

MEMBER DONATELLI: But if you can, just for the sake of completeness.

MR. SMIROS: Absolutely. Happy to do that.

CHAIRMAN MAMMINA: Okay.

MEMBER DONATELLI: So, well, one of the things that I think that is on the Notice of Disapproval before we just conclude is the distance of the garage to the neighbor.

MR. SMIROS: Correct.

MEMBER DONATELLI: And I know that that's one of the issues on the Notice of Denial, would you like to address that?

MR. SMIROS: Yes. So the garage, as drawn on the drawings that have been submitted to you, is 16.6 feet off this corner. However, we are holding the garage off the back here because of a prior conversation with the Building Department talking about the garage having to be half in the rear yard and half in the side yard, which later proved to not be an issue. So technically, we can take this garage and slide it back. And when we slide that back, this 16.6 becomes 18 feet. So we still need a variance, but we've decreased the variance from 16.6 on 20 to 18 on 20, so it's a de minimis variance. And the truth is, if I had to, technically, I could notch the corner of the garage and meet, you know, the requirements there. I would rather not because I have to squeeze the garage door in, but technically I could do that it seems like, you know.

MEMBER GOODSELL: Compliance for the sake of the compliance.

MR. SMIROS: Right. And honestly, you know, these are tight lots. This is a long driveway. It's like threading a needle as it is and everybody has to park in tandem. So by keeping the garage where it is, we can get a second car here and we have a shot of not having to back out every car.

VICE CHAIRMAN FRANCIS: Unless you have a smart car, then you are okay, but I'm assuming they don't have a smart car.

MEMBER DONATELLI: Then they can park side by side.

MR. SMIROS: They have smart children and smart cars, I'm sure.

MEMBER DONATELLI: So the variance then is only for 2 feet where the garage is currently being contemplated?

MR. SMIROS: Correct. But that's new as of this morning.

SECRETARY WAGNER: He is saying he wants to change it to that.

MEMBER DONATELLI: And forgive me for coming late.

SECRETARY WAGNER: No. He is saying he changed it as of this morning. We didn't have a discussion about it.

MR. SMIROS: As of this morning, I'm sliding it back.

MEMBER DONATELLI: So we are going to get new plans reflecting that?

MR. SMIROS: I can submit a new plan that will show the 18 feet and a few inches there. I will do that with that new floor area.

MEMBER HERNANDEZ: Anything you can minimize is always good.

MR. SMIROS: Yes.

CHAIRMAN MAMMINA: So why don't we do that and we will continue. I will say the sooner the better, but I don't really literally mean that because there is work involved with that. But you don't need to come back with that, you can submit that to the Zoning office and they will then be distributed. Are we good with that?

SECRETARY WAGNER: Well, he should submit it to the Building Department and let them look at the revisions.

MR. SMIROS: With respect to the garage, the other piece is just area counts, but I will submit it all for you.

SECRETARY WAGNER: Are you saying that moving it eliminates the variance for having the garage in the side yard or no?

MR. SMIROS: Well, there is no variance with the garage on the side. The variance with the garage in the side yard is because of the 20 feet. I'm sorry. So by moving it back, we are reducing the relief sought from 16.6 feet to 18 feet.

SECRETARY WAGNER: No. There was a variance for the garage.

MR. SMIROS: That's only because of it being under the 20 feet, that's my understanding. It's only because if you are in the side yard within 20 feet.

MEMBER HERNANDEZ: Your house now ends at the pink?

MR. SMIROS: Correct.

MEMBER HERNANDEZ: So technically, the front of that garage is now on the side yard because your backyard begins where your house ends. So because now see the front of your garage, those 3 or 4 feet, that part of the garage is technically in the side yard because your backyard begins at the end of the pink.

MR. SMIROS: That was the original conversation we had with the Building Department and that's why it was moved in a few feet like this. But my understanding was that subsequently we were told by the Building Department that the garage could actually slide back. I would like to just explore that. And on our resubmission, we will address that.

MEMBER HERNANDEZ: As long as you can move it all the way behind the gate, then it's in the backyard. But if it goes into the front, then we need to give you a variance for the side yard.

MEMBER DONATELLI: So if the applicant were to submit them to the Building Department, then the Building Department should look that up.

SECRETARY WAGNER: There is a possibility you might

eliminate that, that's what we are saying. That maybe that would be eliminated.

MR. SMIROS: I just want to read what I think is the issue here. So a private detached garage accessory to a dwelling on the same lot or plot may be erected in the side yard and may be extending into the rear yard a distance of one half of a length of the garage provided that the width of the lot is sufficient to commit compliance with the side yard requirements in a particular district.

MEMBER HERNANDEZ: So it can encroach a little bit into the side yard. The question is how much can it encroach. The Building Department will determine that.

MR. SMIROS: So even still it looks like based on that, we would still need a variance for the garage in the side yard, but we reduced that in the 20 feet. I can, as I said, also we can put a notch at the corner of the garage and not have that, but I'm not sure that that really solves the issue. And again, there was a garage here previously so we are not doing anything, you know, unnatural. Thank you for clarifying.

CHAIRMAN MAMMINA: Okay.

MR. SMIROS: I understand there was a letter from a neighbor. Was there just one letter? How does that get addressed? We have one letter that we received, is that the only correspondence?

SECRETARY WAGNER: No. We just received it today. So

you would also have an opportunity to respond to that in writing.

ATTORNEY ALGIOS: You could address it now or you could address it in writing.

MR. SMIROS: I haven't seen the second one. I mean, I could take a moment and read it.

SECRETARY WAGNER: Do you have access to your e-mail?

MR. SMIROS: Sure.

MEMBER HERNANDEZ: If you need time to read it and prepare a response, you can do it in writing when you submit the plans, if you don't want to put yourself under that pressure.

MR. SMIROS: So with respect to the reply from the neighbors at 99 Reid Avenue, do you want me to answer these point by point or how do we address them?

VICE CHAIRMAN FRANCIS: Unless you want to --

MR. SMIROS: I feel like we addressed a lot of it.

CHAIRMAN MAMMINA: You can submit it in writing, this way it gives you an opportunity just to think about it.

MR. SMIROS: I think I will just do that. I mean, I will tell you that we have done our best to mitigate these things. One of their concerns was the width of the driveway, which is not part of this variance, and we will certainly consider minimizing that. I will note that their driveway is maxed out and they even built a retaining wall on the side of

the trees. But we will use a different standard for our side of the driveway and make an accommodation there. If I can, in fact, ultimately, after analyzing that, I will address it in writing.

VICE CHAIRMAN FRANCIS: Sure.

MR. SMIROS: The other one, just give me one moment. With respect to the comments on the site, I will also respond to that in writing. Thank you very much.

CHAIRMAN MAMMINA: Thank you all.

MR. SMIROS: If we are continued, does that mean we are coming back?

SECRETARY WAGNER: You are going to submit the plans to the Building Department. You can also send the Board of Zoning Appeals a copy of the plans. I don't believe -- when you say you submitted something on the portal, I don't believe we get notified when something is submitted on the portal, the Building Department does. So if you do submit something, it's fine, just let us know that it's there and, you know, we can look at it.

MR. SMIROS: Will do.

SECRETARY WAGNER: But if you want to send a separate e-mail, that's fine, as well.

MR. SMIROS: Thanks very much for your time.

CHAIRMAN MAMMINA: Thank you.

SECRETARY WAGNER: We are just going to take a

five-minute break and then we will resume the Hearing.

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

Appeal #21396

SECRETARY WAGNER: Second call for Appeal #21395 – Patrick & Claudine Ward; 1 Sandy Hollow Rd., Port Washington, Section 5, Block 3, Lot 1; Zoned Residence-C.

Variances from §§ 70-49.C and 70-50.B to construct additions that make the house too big and to construct a front porch too close to the street.

CHAIRMAN MAMMINA: You've heard Appeal #21395 - Patrick & Claudine Ward. Is there anyone in the room interested in the application other than the applicant? Seeing four hands. You will the opportunity to speak after the presentation. Thank you.

MR. MIGATZ: Bruce W. Migatz with the Law Firm of Albanese & Albanese, 1050 Franklin Avenue in Garden City, New York, for the applicant. Good afternoon, Chairman and Members of the Board. At the outset, I would like to submit one additional return receipt card. And I have pre-marked five exhibits in a binder, and I have one for the record, one for each Member of the Board, and one for Counsel.

SECRETARY WAGNER: They are exhibits?

MR. MIGATZ: 1 through 5. The subject premises is 1 Sandy Hollow Road in Port Washington. With me today are the owners, Patrick and Claudine Ward. Also, from the project architect's office, the Office of Sussan Lari, L-A-R-I, is a Ricardo Ostolaza, O-S-T-O-L-A-Z-A.

The nature of the application is to seek a variance for

gross floor area and a setback variance for a proposed unenclosed porch. The subject premises, for the record, is Section 5, Block 3, Lot 1. It's a corner lot on the northeast corner of Sandy Hollow Road and Harbor Road. It is zoned Residence-C, which requires 5,000 square foot lots. This lot has an area of 11,259.69 square feet.

The property is presently improved with a historic house, not a landmark house, but a historic house in Port Washington. And Exhibit 1 are two photographs of the existing house. The house was built Circa of 1732. It has a prior non-conforming front yard setback on Sandy Hollow. 22.3 feet, whereas the code requires 25. We have a prior non-conforming secondary front yard setback on Harbor Road of 4 feet, where 20 feet is required. It also has a prior non-conforming gross floor area of 2,864 square feet. We are 64 square feet over the max.

The existing house is known in Port Washington as the Samuel Dodge House. And Exhibit 2, although it is not a landmark, it is a historic house and the house does have a plaque on it, and that is the picture of the plaque in Exhibit 2 from the Town Historical Society. Exhibit 3 is a little history of the house. The first postmaster in Port Washington is actually a postmistress, and her name was Suzy Bruno. And this is where she lived and actually was the post office, the very first post office in Port Washington. And that is

described on the website at the Historical Society. The last page of Exhibit 3 is a photograph of how that house looked when it was originally constructed.

Now, I have been informed that potential buyers were looking at this house, developers looking to tear it down and build a big house on an 11,000-plus square foot lot. The Cow Neck Society did not want that to happen, nor did the owners. And Patrick and Claudine Ward became friendly with the owners and they spent some time in this house, and they fell in love with the house. And they bought it from the owner with the intention of preserving the house and actually to restore it to more the way it looked Circa 1732. If you look at Exhibit 4, on the left-hand side, what I have crossed out in red were not part of the original construction of this house, they were later additions. And the owners are proposing to remove those later additions so now only the original structure remains. And they are proposing to add an unenclosed, an open porch, and that would mimic. In the photograph of Exhibit 3, you can see the original house had an open porch. So their intention is to restore this house to the appearance that it had back in 1732.

Now, unfortunately, the family of 2023 did not really live comfortably in a house built in 1732, so they are proposing to add an addition to the house. The historic house will be utilized as their family room, great room, and the living quarters will be in the new addition, which is a typical

four-bedroom house that a builder would build today that a modern family would want to live in. And the new house -- I'm sorry -- the new addition will be connected to the existing house by a multilevel stairway. Exhibit 5 is a picture of the shrubbery screening. I'm sure the Board inspected the house and you saw that from Sandy Hollow, you cannot see the house. The second photograph of Exhibit 5 is from the Nassau County Department of Assessment website in 2000, and those shrubs were not that high and you can see the house. So the Wards are going to remove those shrubs and they will transplant them. Exhibit 6 shows you where they will be transplanted to screen the proposed new open patio that will be screened from the street, but the house now will be visible. So the house with the original structure with two additions, an open porch added, and visibility from Sandy Hollow would replicate what this property looked like in 1732. So that is their desire and that is their intention.

Now, to add on an addition, we are increasing the gross floor area. The addition is, roughly, 1800 square feet, but the net addition is, roughly, 1100 because we are demolishing part of the existing structure. So it's an 1100 square foot increase in gross floor area. So an open porch, that required the front yard setback. Due to the pre-existing non-conforming setbacks, an open porch is allowed to encroach 5 feet into a required setback. The proposed porch will only encroach 5 feet

into the existing setback. But since the existing setback is non-conforming, it triggers a variance. So an open porch would require -- sorry. The primary front yard setback to the porch is 20 feet required. The proposed will be 17 feet 4.25 inches. The required secondary front yard setback on Harbor Road to an open porch is 15, proposed is 12 feet 4.5 inches. I submit to you that is not a substantial encroachment into that front yard setback.

Now, when you weigh the factors for an area variance, the potential detriment to the community and whether or not the variance is substantial is usually intertwined, but in this particular case, it is significantly intertwined and I think we have to address them together. The benefit to the community as opposed to a detriment to the community is to restore and preserve a historic structure in Port Washington that was built in 1732. It can be torn down as-of-right, it is not a landmark, and that is what I was told that the potential other buyers wanted to do.

Now, the gross floor area proposed is 3,955.4 square feet, that's more than what is permitted in Residence-C, but due to the area of the lot, we can bump-up. And due to the 11,000-plus square foot area, we can bump-up to Residence-A. Of course, what prevents us from bumping up is the pre-existing non-conforming front yard setback. You can build a house as-of-right 4,000 square foot gross floor area when you bump-up

to Residence-A. So if you were to cut off part of the historic house so the front yard setbacks comply, you could bump-up as-of-right. If you demolish the house all together, you can bump up as-of-right and you can build a brand new house with the exact gross floor area that we are proposing here. So I would submit to you that when you intertwine, is it substantial, does it have an adverse impact on the community, I think the answer is no. It's not substantial when you view it from the perspective that a developer can knock this house down and build a new house with the same gross floor area that the Wards are seeking.

Will it have an adverse impact on the community? No, because a developer could knock down this house and build a house of the same size that the Wards are seeking. So I submit to you that there is neither an adverse impact for the community. In fact, there is a benefit to the community, and it's not substantial when you weigh in the other factors.

The benefit sought by the applicant cannot be achieved by any other method short of knocking down the house. They can do that, but that's not the benefit they are looking for. They want to preserve the house. There is a Court of Appeals case where the Town of Hempstead Zoning Board held that we are going to deny your setback for your porch facing the water because you can build a porch not facing the water. And the Court of Appeals said, well, that's not the benefit that the applicant

is seeking. The benefit the applicant is seeking is not a porch, it's a porch facing the water. So the benefit that the Wards are seeking here is not just to build a bigger house, but to build a bigger house while still preserving the existing house. And, that, cannot be done by any other feasible means. It cannot be done, period. It's a Type 2 Action under SEQR deemed by law not to have an adverse impact on the environment.

The difficulty, as a matter of law, is self-created because the Wards purchased the house subject to the zoning code from which they now seek variances, but that is only one factor for the Board to consider with an area variance. We do have one consent form I will submit as Exhibit 6 from the owner of 33 Harbor Road, which is across the street of the subject property from Harbor Road. Now, I know one of the neighbors sent in a letter in opposition, I believe they are the same people who are here this afternoon. So rather than address their letter, I will suggest that they speak first and then I will address it, unless the Board has any questions of me or the owners at this time.

ATTORNEY ALGIOS: Bruce, I just have one question. When you are talking about the bump-up, so this would require two bump-ups, right?

MR. MIGATZ: Correct, yup.

ATTORNEY ALGIOS: So do you have any authority or can you point to anywhere in the code where it says that you can

jump two zoning districts? Because I am looking at it now and it looks like it allows you to bump-up one.

MR. MIGATZ: Why do you say that?

ATTORNEY ALGIOS: So in 49.C, right, it says:

"For lots greater than 6,000 square feet, development exceeding 2,800 square feet of gross floor area (residential) shall comply with the regulations of Article V, R-B."

MR. MIGATZ: Right. And the regulations for V, R-B state in Section 70-39:

"For lots greater than 8,500 square feet, development exceeding 3,400 square feet of gross floor (residential) area shall comply with regulations of Article IV, Residence-A."

ATTORNEY ALGIOS: I don't know that I would interpret it as meaning that you can bump-up twice. I am not saying you are wrong. I would have to look into that. I don't know if that's correct.

MR. MIGATZ: As you know, the building codes are strictly construed. Now, 70-49 says greater than 6,000 square feet, you shall comply with the regulations of Residence-B.

ATTORNEY ALGIOS: Correct.

MR. MIGATZ: Part of the regulations of Residence-B is if you have a lot greater than 8500 square feet, you comply with Residence-A.

ATTORNEY ALGIOS: That's not a dimensional requirement, though.

MR. MIGATZ: Where does it say it say the dimensional requirement?

ATTORNEY ALGIOS: Requirements.

MR. MIGATZ: It says regulation.

ATTORNEY ALGIOS: I will have to look into that.

MR. MIGATZ: Okay. I'm happy to share my thoughts with your thoughts.

ATTORNEY ALGIOS: I appreciate it.

MR. MIGATZ: Again, there is nothing in the code that says you can't bump-up twice and you can't infer that into the zoning. Any other questions?

CHAIRMAN MAMMINA: I don't think so. We will hear from the hands up. So everyone will have the opportunity to speak, if they wish to, they don't have to. There could be a single representative and we can put the names of everybody on the record and everyone can say, okay, I agree.

MR. AZROLAN: It's my family.

CHAIRMAN MAMMINA: Name and address.

MEMBER DONATELLI: Sir, sorry. Before you begin, name and address. And if we can ask you -- and I know that sometimes these things become emotional, but if I can ask you to try and address the issues that are before this Board, which are the zoning variances in addition to whatever else you want to say. But please try and address the variances that are specifically before us.

MR. AZROLAN: Sure. Michael Azrolan. I live at 66 Serpentine, Roslyn, New York. My in-laws live next door at 5 Sandy Hollow Road.

SECRETARY WAGNER: Spell your name.

MR. AZROLAN: Sure. A-Z-R-O-L-A-N. My in-laws wrote this letter to the Board. I sent it last night. I just want to read it into the record. This regarding Appeal #21395; 1 Sandy Hollow Road, Port Washington, New York, which is located to the east of my property at 5 Sandy Hollow Road. With respect to the Appeal #21395, I'm next door neighbor. For the following reasons I'm against the proposed project. Firstly, the project calls for an additional house built that is connected to the original house. Secondly, the proposed new structure is more than a 100 percent of the size of the original structure. Further, although the new structure indicates a two-story structure with a basement, the basement is on-grade and has an effect of raising the height of the house with its roof to three stories removing the sky views. Additionally, the proposed variance would allow this structure to come within 15 feet of my property line. This structure would impose on my enjoyment of my property, as it would virtually impossible to screen a three-story building. Also, the garden view with very old trees would be removed. Lastly, I understand to say that one of the owners parents are sick, thus necessitating building the additional structure. The

Board should be aware that we are not physically well and are 88 years of age. And for the very same reason due to sickness, the variance should be denied. It would be detrimental to us to have to live next to a construction site for a year or more. I understand if this gets approved, the family is not going to live there during the construction, but yet we are forced to. Lastly, is there an engineer's report that addresses the grade change, drainage issues, and soil containment? For the above-reasons, I request that the Board deny the variance in its entirety.

MEMBER HERNANDEZ: Thank you very much.

MR. AZROLAN: So actually, from my standpoint, is there an engineer's report that was filed to know about the potential damage to their property?

CHAIRMAN MAMMINA: No. That, would not be done at this point. Within the Building Department, all drainage, water flow, soil, all of that is addressed at the Building Department side. Typically, there is not an engineering report regarding stability of adjacent neighbor, if that's what you are talking about.

MR. AZROLAN: I guess, there is a big change of grade. So, you know, whenever there is a change of grade -- I'm actually on the Planning Board for the Village of Roslyn Estates.

CHAIRMAN MAMMINA: Okay.

MR. AZROLAN: So we typically have an engineer from the planning board standpoint when we would like to know what the potential damage could be occurring to other neighbors. And we want to know, you know, what drywalls are being placed, you know, whatever the material is. We have our engineer confirm with their engineer what is going to occur.

CHAIRMAN MAMMINA: And I understand and agree with what you are saying. We are a Zoning Board, we are not a planning Board. That, goes to the Building Department for them to ensure that stability, you know, of the soil is going to be maintained. And they are going to rely on what the engineers are doing for that. The Building Department is not going to be out there telling the contractor, hey, you better to look at this. Their engineer will ultimately be responsible for that. And I can say -- and maybe it's off the topic, but -- and I have been an architect for 45 years -- the only collapses of walls that I have ever seen were ones that were not filed with the Building Department. But believe me, the Building Department will beat down the submission for anything that needs to be done.

MR. AZROLAN: As they should.

CHAIRMAN MAMMINA: As they should, exactly.

MR. AZROLAN: Could I submit one picture, which my father-in-law did not submit? And I think this just the other essence of what they are worried about. That's a photograph of

a home actually in the Estates II Condominium, which is adjacent to the property that used to be the St. Ignatius Retreat House, which is now the Toll Brothers Manhasset Crest Development. So the particular condominium that is pictured there was in the best location, backing on to the retreat house. Trees, grass, the mansion. Now they are finding difficulty finding buyers for that house. If you look at that structure, there is an enormously tall towering home that affects one of the models because nobody wants to live behind a towering structure. So I understand that the height of the roof from the plans would be changed from like 19 feet or 20 feet to 30 feet. So it's is a very massive structure for that size property.

MEMBER GOODSELL: Before you leave. May I ask, your in-laws, they are the adjacent property and they sit geographically higher, lower or, approximately, on the same level?

MR. AZROLAN: Lower.

MEMBER GOODSELL: They sit lower, so hence they are concerned about drainage.

MR. AZROLAN: Yes. They are to the east of that property.

SECRETARY WAGNER: And the exhibit will be Opposition Exhibit 1.

MR. AZROLAN: Okay. Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER DONATELLI: Anyone else?

MS. MEYERSON: HI. I'm Bari Meyerson. Actually, it's my mother's house. And I'm an attorney, so you are aware.

CHAIRMAN MAMMINA: Please give your name and address.

MS. MEYERSON: Sure. It's Bari Azrolan; 66 Serpentine in Roslyn 11576. I was curious if Counsel had an extra copy. Did Counsel bring an extra copy for us and was that submitted?

CHAIRMAN MAMMINA: Of what.

MS. MEYERSON: Of the paperwork that was submitted.

MEMBER HERNANDEZ: You can have one.

MS. MEYERSON: And also, he discussed a Court of Appeals case and I would like to know what case that was.

MR. MIGATZ: Give me your e-mail and I will e-mail it to you.

MS. MEYERSON: Sure. No problem. Also, the court should be aware my mother's house is also part of the plaque program. So there was --

CHAIRMAN MAMMINA: What program?

MS. MEYERSON: It's the Cow Neck. The same program that the applicant is part of. And so they are also concerned about keeping the integrity of the block and the house because they feel it's really going to be a two-family house that's going to be next to them. The structure, certainly, doesn't keep it in keeping with the 1732 year old house. If one were

to look at the drawings that were submitted, it will overpower the house and it does not look like the rest of the neighborhood. If you look at the homes across the way, they are on the pond and what not. So I think my father-in-law was also -- he was also concerned that it would devalue his home potentially, this massive structure being built next to his. So I just wanted to make the panel aware of that.

CHAIRMAN MAMMINA: And I think all of your points, certainly, are points well-taken and will certainly be considered by the Board, as well. Just one, you know, clarification as I see this, but I'm not the Building Department is it's not a two-family house and it's not designed as a two-family house. I understand that they may feel that there is another house behind a house. I mean, I'm just characterizing something, you know, based on what I believe that they are looking -- that their point might be. But it won't receive a Certificate of Occupancy as a two-family house, you know. Again, I just feel the design really is not conducive. Because it is one of the thing that the Board looks at is, you know, do we see a hidden two-family house in the design, but that's not the case here.

MS. MEYERSON: Well, the look is the house is -- it's almost like a house is being attached with a bridge, so to speak, to another house that's being within 15 feet of mine.

CHAIRMAN MAMMINA: Understood.

MS. MEYERSON: So I would think that anyone living next to that structure wit this overpowering thing and also it would affect their quality and enjoyment of their property, as well. Plus, they have to live next to this as it's going on. And as we know, even though they may say it would take eight months, it could be two years, and it could on much longer. And they are not well. So all this is reasons to ask for a denial.

CHAIRMAN MAMMINA: Thank you.

MS. MEYERSON: Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER DONATELLI: Anyone else?

CHAIRMAN MAMMINA: Mr. Migatz, any closing remarks?

Attorney ALGIOS: Bruce, before you speak, we did get confirmation. You can bump-up more than one zone.

MR. MIGATZ: My new best friend, Mr. Norjen. Any time you build a new house, the neighbors don't like it. I get it, okay. And they don't like construction, I get it. But that's a fact of life. And the fact of life is that we have now been confirmed by the Building Department that we can tear down this house and build a 4,000 square foot house, which would have more of an impact, I submit, on the Meyerson family because their house is at the same street level as the Wards house. Their backyard goes up like the Wards backyard goes up. So we are not changing the view that they have in the front of their house. If we built a brand new house, then we would

dramatically be changing their view and then the character of the neighborhood. Yes, if they sit in their backyard and look up the hill, yes, they are going to see the new addition. But they are going to see a new house or a new addition one way or the other. And what they are trying to do is preserve that historic house. And I asked my clients, you know, why. And God bless them. They fell in love with the house and they are part of the community that want to preserve historic homes in Port Washington rather than tear them down.

There are some misstatements in this letter. We are not increasing the structure by 100 percent. The increase is a net of 1100 square feet. It's not three stories, it's two stories. And it's not 15 feet from their property, it's 19 feet 8 and one-quarter inches setback from the side yard. And as the Chairman said, the engineering issues are part of the Building Department review, not this Board. So again --

MEMBER GOODSELL: Mr. Migatz, can I ask, the Cow Neck Historical Society took position on this?

MR. MIGATZ: I didn't discuss it with them. Let me ask my clients. No, they did not have a conversation with them. But we should never assume anything, Counselor, as we know, but I would assume that if they have a plaque on this building that they don't want to see that house and that plaque come down.

MEMBER GOODSELL: I think that's a valid assumption. However, I'm wondering -- and I don't believe they have the

jurisdictional right to prevent any improvement, whether the house may or may not lose its historical designation by making the addition.

MR. MIGATZ: They don't. Well, that would be up to the Cow Neck Historical Society. They don't have that jurisdiction. I think if you weigh if we tear down the entire house and your plaque or you add on to the back, I think they are going to say add on to the back.

MEMBER GOODSELL: Fair enough.

MR. MIGATZ: So again, the benefit to the community proposed to tearing down this house and building a 4,000 square foot house as-of-right, the benefit that this Board should support. And the variances that we are seeking only really -- it's really a setback variance for the prior non-conforming house. We are really seeking a setback variance to allow us to bump-up, that's what we are seeking. And the porch, the open porch is a very minor intrusion, and it will again restore the house to more what it looked like in 1732. If you look, if you ever lost a letter in the mail in Port Washington, Mr. Donatelli, it may be in this house.

MEMBER DONATELLI: It's very possible. Mr. Chairman, if I could just put a few comments on the record?

CHAIRMAN MAMMINA: Okay.

MEMBER DONATELLI: I know from personal experience at Sandy Hollow Road, that road is a very, very heavily trafficked

road and that this intersection, unfortunately, even though it's controlled by three stop signs, it's a T-intersection so that each road has a stop sign. Unfortunately, the stop signs are honored not so much in reality, but only by imagination. So no one stops at those stop signs.

MR. MIGATZ: I do.

MEMBER DONATELLI: In my 1979 Fiat, I do, too, but I almost always get rear-ended or close to rear-ended because I have to stop because I don't have sync correction like you. But aside from that, I would also note that the applicant is not asking for a sky plane exposure variance, nor a height variance. So I would just note those items for the record. I personally think that part of Port Washington's charm is the preservation of its history. It does have a very colorful and interesting history. And I've had the pleasure of dealing with the Cow Neck Historical Society on several issues over the years. So I know that many in Port Washington value historical structures. And I think these issues that have been presented are very meaty issues. And unless there is something else that you would like to add, Mr. Migatz, I would like to reserve decision on this.

MEMBER GOODSELL: Now that I got the lay of what the additions are, I would like to take another look at it. Because it was very difficult to see with that row of trees and shrubs, it was very difficult to see that side of the property

and the side that faces Sandy Hollow.

MR. MIGATZ: They are still there.

MEMBER GOODSELL: They are still there, but what I'm going to do now is circle up the block so I can see into the backyard.

MEMBER DONATELLI: It's going to be difficult to find a place to park so you could do that. You might have to go to Mill Pond and feed some ducks.

MR. MIGATZ: Don't feed the geese, though, please.

CHAIRMAN MAMMINA: All right. Well, I think it's important to look at this again. Because also I'm a real history nut with this timeless stuff, so I would just like to go back. Just looking at some of what you presented in here, as well. Okay. Then I think we will reserve application and we will not decide this today. And, you know, we may decide this at the next Hearing, but, generally, it's one Hearing, maybe two, and we make a decision at that point. Okay. So at any point, though, you can reach out to Ms. Wagner, you know, in the zoning office, you know, and she will tell you the status after the next Hearing or you can Zoom-in or come yourself, if you would like to hear. And we deliberate, but that doesn't necessarily mean even at the next Hearing that we will make a decision on this application or any other application that's on the reserve calendar, not just this one. We try to do it expeditiously.

VICE CHAIRMAN FRANCIS: I wanted to point out how the Chairman mentioned history, I wanted to point out I was just reading something in your packet that the postmistress actually whipped a man to death.

MR. MIGATZ: Allegedly.

VICE CHAIRMAN FRANCIS: With a horse whip, and that's a woman that you got to respect.

MEMBER DONATELLI: See, now, the part that caught my eye was that the postmaster had a postmistress.

VICE CHAIRMAN FRANCIS: Fascinating history.

MR. MIGATZ: Thank you.

CHAIRMAN MAMMINA: Thank you all. And truly, truly thank you for that info. It's very, very important, especially no area is more important than another area per se, but this area is extremely unique.

MS. WARD: There is a big history to a lot of those homes.

CHAIRMAN MAMMINA: Certainly. No doubt about it. Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

SECRETARY WAGNER: Let the record reflect that the Chairman will be leaving the Hearing temporarily.

Appeal #21397

SECRETARY WAGNER: Next Appeal is Appeal #21397 – Robert Burrows; 27 Mitchell Rd., Port Washington, Section 5, Block 112, Lots 460-463; Zoned Residence-B.

Variance from § 70-40.C to construct additions that are too close to the street.

VICE CHAIRMAN FRANCIS: You've heard Appeal #21397 - Robert Burrows. Is there anyone interested in this application other than the applicant? Seeing no one. Sir, please give your name and address.

MR. LAUBACH: Nathan Laubach, Architect; 38 Village Hill Drive, Dix Hills, New York. Good afternoon, Members of the Board. Nathan Laubach, Architect representing Robert and Hayley Burrows at 27 Mitchell Road in Port Washington.

The project is to renovate and to add to the left side of the existing two-story home. The addition is for a new garage at grade and a master bedroom and bath on the second floor, along with enlarging an existing small bedroom towards the front of the house on the second floor. We are seeking a variance for less than required front yard setback to the two-story addition and to the extended second-floor bedroom. The proposed work meets all other zoning requirements. The existing front of the house currently does not meet the required average front yard setback. The existing house has a setback of 30.2 feet, which meets the front yard zoning requirement of 30 feet for Zone R-B, but it does not meet the

more restrictive average front yard setback of 34.1 feet based on the adjacent properties. The proposed two-story addition is setback from the front of the house. The house is setback at 33.1 feet. It was designed with the intent to blend in to the existing roof line making it appear as part of the original structure. With this proposed design, we have not made the existing encroachment any worse and have made an effort to reduce the amount of the encroachment by stepping back a two-story addition from the front of the house by 3 feet.

So in closing, we feel although the need for the variance was self-created, they are not substantial, as we made an effort to minimize their impact. Granting the requested variances will not in any way create an undesirable affect as the project is in keeping with the overall character of the neighborhood. Questions?

MEMBER DONATELLI: Well, sir, in reviewing the plans, one of the questions that I have -- and I know that this is not specifically cited in the Notice of Disapproval, but is there a reason why the garage will have a door leading into the garage? That, struck me as a bit high. Right next to the garage door you have an entrance door?

MR. LAUBACH: Yeah. That was so that we can, basically, come in from the outside of the house. The kids can come from the outside of the house and into the garage and into the mud room, which is already carved out of the house on the

interior. You can see that there is an existing mud room and powder room or an existing room and powder room that's part of the house.

MEMBER DONATELLI: Sorry. What page are you looking at?

MR. LAUBACH: I'm sorry. It's page 2 on the first.

MEMBER DONATELLI: T2?

MR. LAUBACH: No. Just page 2. The first floor plan in the bottom right-hand corner. You will see the door, the main door that you are speaking of leads into the garage and then into the mud room, and then goes into the house.

MEMBER DONATELLI: I'm sorry. So the door looks like it leads into the garage. And then walking through the garage leads into that door on the side, which leads into the mud room?

MR. LAUBACH: Correct, and then entered into the house that way. So it's kind of a choice, either the kids can go and open up the garage door and go into the house, which is a little cumbersome or there is room for the main door because of the existing powder room. It creates an odd space so we just utilized it as an entrance to make it easier.

MEMBER HERNANDEZ: The door, basically, opens into facing another wall, which is the powder room wall?

MR. LAUBACH: The powder room wall is about 5 feet away from the door.

MEMBER HERNANDEZ: Right. So, basically, you walk around the powder room through the garage. So, I guess, what it does is it allows you to go into the garage area without opening the garage door.

MR. LAUBACH: Right, and into the house.

MEMBER DONATELLI: And you will also have a similar door in the rear of the premises, it looks like behind the mud room.

MR. LAUBACH: Yes. That, goes out on to an existing deck. So they could bring in stuff from the deck and store it in the garage. Convenience.

MEMBER HERNANDEZ: But the garage is not as big as it looks because it has the whole powder room and mud room inside of it.

MR. LAUBACH: Correct. It's one car.

MEMBER DONATELLI: It's 12 feet 4 inches width, which is enough for a car.

MEMBER HERNANDEZ: Well, the door is 9 and then you have almost 2 feet on each side. It's a one-car garage.

MR. LAUBACH: Yeah.

MEMBER HERNANDEZ: It says constructing additions that are too close to the street, so you are constructing above the garage?

MR. LAUBACH: The garage will be at grade-level, at

first-floor level.

MEMBER HERNANDEZ: Okay.

MR. LAUBACH: And the setback that the garage is --

MEMBER HERNANDEZ: But they are building above the garage?

MR. LAUBACH: The setback of the garage lines up with the right side of the house so that the roof line can run straight through and more cohesive.

MEMBER DONATELLI: What is the pitch of the roof?

MR. LAUBACH: Let me see. The pitch is existing. So we are matching the existing. It's, roughly, 11 on 12.

MEMBER DONATELLI: And it's matching the existing?

MR. LAUBACH: Correct, yeah.

MEMBER DONATELLI: Well, of course, the Chairman is the architect. If he were here, he would be talking about hipping the roof. However, it would make sense to hip one side of the roof and not the other.

MEMBER HERNANDEZ: Yes. It's very strange.

MEMBER DONATELLI: I would also note for the record that we are talking about the average of the front yard setbacks in the area, but that the applicant does comply with the minimum front yard setbacks. So I personally have no other questions or comments. Do any of you?

MEMBER HERNANDEZ: No, I have none.

MEMBER DONATELLI: So Mr. Vice Chairman, I make a

motion that we grant the application.

VICE CHAIRMAN FRANCIS: All right. We have a motion. Do we have a second?

MEMBER HERNANDEZ: Second.

VICE CHAIRMAN FRANCIS: Second by Member Hernandez. Ginny, please poll the Board.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WANGER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Acting Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye. The application is granted.

MR. LAUBACH: Thank you very much.

Appeal #21397

SECRETARY WAGNER: Next Appeal is Appeal #21388 - Robert and Janet Fabian; 41 Aster Drive, New Hyde Park; Section 8, Block 312, Lot 13; Zoned: Residence-B.

Variance from §70-39.B to construct an addition that makes the home too big.

VICE CHAIRMAN FRANCIS: You have heard Appeal #21388 - Robert and Janet Fabian. Is there anyone interested in the application other than the applicant? Seeing no hands. Sir, please give your name and address.

MR. SCHULMAN: Ken Schulman, Architect; 209 Lynn Avenue, East Northport. Good afternoon. We are proposing a very small one-story kitchen addition of only 54 square feet that will fill in an area between two existing one-story additions. The owners are planning on redoing the existing kitchen, which is only 9-feet wide and cannot accommodate an island. The extra 4 feet of width of the addition will enable them to incorporate the island into a new kitchen design. Even though the addition is over 54 square feet, it won't bring is over the maximum gross floor area allowed of 2,811 square feet. Currently, the house has a non-conforming FAR of 2,891, which is 80 square feet over the maximum.

I believe the variances are not substantial and will have no impact on the adjacent properties since the addition will be built between an existing one-story addition and will not change the appearance of the dwelling from the street. I

believe the variance, if granted, will still be in keeping with the character of the surrounding neighbor.

MEMBER GOODSELL: So, sir, this house is a relatively new house. It was built, approximately, 20 years ago?

MR. SCHULMAN: Oh, no, no. It's much older than that. I would say probably in at least the 60s, if not earlier. It's been added on to quite a few times.

MEMBER GOODSELL: I was just going to say I believe it's been added on to.

MR. SCHULMAN: A few times.

MEMBER GOODSELL: I'm familiar with the area and it is already a very substantial house. It is already, as you say, it is already how many square feet?

MR. SCHULMAN: 80 square feet.

MEMBER GOODSELL: 80 square feet over and you are asking for?

MR. SCHULMAN: 54 square feet. If you will see, there is two one-story additions that were built at separate times and for some reason they didn't fill in the gap between them. The dimensions are only 4 feet by 13 feet. From the street, you can't even see it because it's blocked by the prior addition that faces the street. And it does make quite a big difference in the kitchen, which, like I said, it's very narrow and it widens up to a dinette area, which was another previous addition.

MEMBER GOODSELL: And the purpose of this addition is to widen the kitchen so that an island can be added to?

MR. SCHULMAN: Yes. Even like a 9-foot kitchen without an island, you know. It's kind of like a galley kitchen. For a house that large, they would like to have something a little more substantial to fit the house.

MEMBER DONATELLI: Do you know how it came to be that the house is already over gross floor area?

MEMBER GOODSELL: Was there a prior variance that was granted?

MR. SCHULMAN: No. I don't know if calculations were done differently back in those prior, because it did have prior variances, and one of them was not for FAR.

MEMBER GOODSELL: The house does have prior variances?

MR. SCHULMAN: Prior variances for other things.

MEMBER GOODSELL: Setback, I presume?

MR. SCHULMAN: Yes. I believe I was before the Board maybe a dozen years ago for a front portico. I think there was an AC unit that was granted a variance in the front yard.

MEMBER GOODSELL: That is something that this Board has been very careful on floor area ratio. And I'm surprised that there is a plan that's approved by the Building Department that allows overage. Even though it's a minimal overage, it is an overage. And if you boil down to it, what you are asking is for a house that is already over FAR to have a little bit more

over FAR. And I realize you are saying it's not substantial, but in sum total when we look at everything, I do consider that to be substantial.

MR. SCHULMAN: I mean, I think even with the new total now being 130 square feet over, I don't think I would consider it to be substantial.

MEMBER GOODSELL: While we are taking a look at all of this, would you like to address the five factors, one of which is, is this variance substantial?

MR. SCHULMAN: Yes. Well, like I said, I don't believe adding another 54 square feet is substantial. I think more importantly, it's not going to effect any of the adjacent properties from the street. The house will look exactly the same. So I understand the FAR is created for bulk. The bulk of this house is going to look exactly the same for anyone passing by this house, you know. The side yard is only 7 feet. You cannot even see this addition from the street. It's blocked by trees. I mean, if you look at the photos I submitted, you won't even see where this addition is.

MEMBER GOODSELL: We are looking at the photos. I realize that the applicant is looking to, in effect, even off an area.

MR. SCHULMAN: Correct.

MEMBER GOODSELL: I'm not entirely satisfied. Truthfully, when I did look at this house, my only notation was

this, in fact, is a beautiful house. Don't get me wrong. Your clients have either purchased or have maintained a beautiful house.

MR. SCHULMAN: They have been in the house for many years.

MEMBER GOODSELL: It is a substantial house. It has bulk. It's very clearly present in the neighborhood. Along the block, there are smaller capes, so this one, to me, is already a big house.

MR. SCHULMAN: There is also some larger almost fairly new houses on the block, as well. I don't know if their FARs are equal, but it's certainly not the only house.

MEMBER GOODSELL: And the block itself does curve as you get toward the end. So there are properties that are somewhat not square and so, yes, I know the houses --

MR. SCHULMAN: And I think because it's the corner house, it does appear larger because you see two exposures of the house.

MEMBER GOODSELL: You see two exposed sides.

MR. SCHULMAN: But like I said, this will not impact that because you will not even see this addition. I think that's important.

MEMBER GOODSELL: Well, if we made a decision based on everything that you couldn't see, we would be granting quite a few.

MR. SCHULMAN: Right, but I think it's important.

MEMBER GOODSELL: I would also like to go back and do a little calculation as to what having the two floor areas over the allowable will add up to and do a percentage. Because sometimes, it's de minimis. This is a relatively de minimis request, but it's already over floor area ratio. I presume there is no other place that you could take off 54 square feet so as to add in to the kitchen.

MR. SCHULMAN: No.

MEMBER GOODSELL: I would like to go back and look at this.

VICE CHAIRMAN FRANCIS: That's fine. Any other questions?

MEMBER GOODSELL: I think we will take another look at it. I think we will just reserve decision.

VICE CHAIRMAN FRANCIS: We will reserve decision. We will take another look, let the Chairman look at your plans, and then we will make a decision, probably not today.

MR. SCHULMAN: Okay.

VICE CHAIRMAN FRANCIS: Okay. Thank you.

MR. SCHULMAN: Thank you.

VICE CHAIRMAN FRANCIS: Thank you so much.

Appeal #21209

COMMERCIAL CALENDAR

SECRETARY WAGNER: The next Appeal is Appeal# 21209 - Port Washington Fire Department, Inc.; 423 Port Washington Boulevard, Port Washington; Section 6, Block 59, Lots 50 & 51; Zoned: Residence-B.

Variances from §§70-38, 70-41.D and 70-103.M to construct an addition to a fire house that is too close to the front property lines of a corner property and too close to the side property line, with a loading zone located in the front yard.

VICE CHAIRMAN FRANCIS: You've heard Appeal #21209 - Port Washington Fire Department, Inc. Is there anyone interested in the application other than the applicant? I see some hands in the front. You will get a chance to speak after the application is made. Thank you. Name and address, sir.

MR. DE WITT: Yes. William De Witt with the Law Firm of Bee, Ready, Fishbein, Hatter & Donovan; 170 Old Country Road, Mineola, New York 11501. Just while the members of the team here are setting up, I just wanted to briefly summarize, and then let Don and Chris and Mike, if they want to talk.

Good afternoon. So I'm here with Chris Bollerman, he is the Chairman of the Port Washington Fire Department; Mike Tedeschi, the Vice Chairman of the Port Washington Fire Department; and as you all know, our Architect, Donald Alberto, he has been here before. You may recall that we were here last

in April of 2022. At that time, I went through a long history of the fire department, which I would like to avoid now for you.

VICE CHAIRMAN FRANCIS: We will still incorporate it by reference into this record.

MR. DE WITT: Thank you, Vice Chairman Francis. I was just going to just officially ask the record from that Hearing be added to this Hearing, as well. So just generally and then Don and Chris will speak more specifically, when we were here last, there were many public comments regarding the plans that were proposed, particularly those made by Members of the New Salem Civic Association. There was much concern about a curb cut on Colonial Road. So based on those comments and the recommendation from this Board, we went back to the drawing board, so to speak, and came up with a modified plan, which Mr. Alberto is going to go over. In preparing those plans and after those plans were prepared, we invited the residents of the area, which included those of the Salem Civic Association, to attend a meeting with the department. And Chris Bollerman is going to go over the positive results of that meeting. And then we also posted the plans and some FAQs on our website. So generally -- and it looks like they set everything up -- I'm going to turn it over to Mr. Alberto, if that's okay.

VICE CHAIRMAN FRANCIS: Thank you.

MR. ALBERTO: Good afternoon. Don Alberto, Architect;

68 Highland Avenue, Port Washington. It's a pleasure to be back here with what we think is a better solution all around for everyone. I'm just going to quickly compare where we were and what we are doing, what we are proposing, and talk about some of the variance issues. Chris Bollerman will talk about the impact of these changes on the fire department and then we will come back and address the five standards.

SECRETARY WAGNER: This was the prior plan, correct?

MR. ALBERTO: Correct.

SECRETARY WAGNER: This was the prior application and this is what is proposed.

MR. ALBERTO: We were hoping the Board could see it.

MEMBER HERNANDEZ: We have it on our computer.

VICE CHAIRMAN FRANCIS: We have it.

SECRETARY WAGNER: And we can turn it back after.

MR. ALBERTO: So the first and most important change is the removal of the curb cut on Colonial Road, the removal of the curb cut and the parking lot that was formally on Colonial Road. The residents were very strong about this being a problem for them, potential issues with traffic, with safety, and so forth. So we eliminated that curb cut and that parking area. Now we have a problem that we needed parking somewhere. After some deliberation and design ideas and discussions with the president of the association, we came up with removing the present garage, which is on the north side, and replacing it on

the south side. And what this did is it opened up a really nice parking lot. In fact, all the parking stalls are now 10 by 20, they meet code. The back-up lanes, the aisles, they all meet code. It's a very comfortable parking lot. And actually, we need 12 cars to meet the code and we are providing 15. So this is a win-win for everyone in this parking lot. We also relocated the loading zone. There is a handicap parking stall placed near a rear entrance for the handicap access. So there are a lot of benefits that have been made with this new design.

There is also going to be some green space on Colonial, which is another interest of the residents. When the building had been reconfigured, we also improved the side yard setback on the east side. It was 7 feet, now it's 10. The neighbor to that side had concerns and we tried to accommodate by moving the building back in that area. So we reduced from five variances to three. I'm going to briefly explain them and then we will go on to the impact. There is a front yard on Colonial, it should be 30.3, which is the average on that side of the street. At the very back of the building proposed, it's 29.5, but because there is an angle of the street and the building, it's 21.5 at its closest point, and that's what the disapproval letter addressed. So that variance is 21.5, where 30.3 is needed. The other front yard, which is a secondary front yard off Port Washington Boulevard required to be 25 feet in this zone. The garage, the only way we could fit it, it

ended up being an 8-foot front yard, where 25 is needed. The side yard, now the code says nonresidential buildings shall 20 feet from the side yard. We are proposing 10, we are at 7. And finally, the loading zone where it's place, which fits well for their use, it can't be in the front yard setback. Front yard setback is 25 feet and we are proposing 10 feet. So those are the changes. The interior is more or less the same other than the garage. We have this complex relation of rooms inside where people have to talk to each other and in emergencies, they have to act together. So we can't do too much more with the interior layout. And the garage, you will see as we go through the five standards, is pushing a lot of these variances, but it just creates so much better issues with the parking. I'm going to ask Chris to come up and talk about the impact with these changes and some of the other issues that affect the fire department.

MEMBER HERNANDEZ: Before you talk about the fire department, I just want to ask you about the garage only because it's fairly close to the corner.

MR. ALBERTO: Correct.

MEMBER HERNANDEZ: And I'm assuming that the sight lines are not impacted? There is a stop sign on that corner. I can't remember if it's a light or a stop sign.

MR. ALBERTO: There is a stop sign, there has to be. It's a very busy road.

MEMBER HERNANDEZ: Right.

MR. ALBERTO: But we don't believe it will affect sight lines, but we can get you some info on that.

MEMBER HERNANDEZ: Just assuming that you looked at it.

MR. ALBERTO: Yes, of course.

MR. BOLLERMAN: Good afternoon, Mr. Vice Chairman and Members of the Board. As previously been mentioned, my name is Chris Bollerman and I currently serve as the Chairman of the Port Washington Fire Department's Board of Directors. Since you have graciously allowed this continuance along with all the prior testimony entered into the record, I will spare all of you my noted long-windedness, however there are some items that I would be remised if I did not present to you today.

First and foremost is that the Port Washington Fire Department remains the busiest volunteer fire department in all of Nassau County and one of the busiest in all of New York State. In 2022, the department responded to over 2,550 emergency medical calls and nearly 1,500 fire calls for a total of 4,000 emergency responses. I am also proud to say that though we remain the busiest and one of the largest fire departments in Nassau County, our annual budget remains way out of the top 10 of Nassau County. I stand before you representing a department of 260 volunteer members with the vast majority of them being residents of Port Washington. And like myself, several are residents of the Salem section of the

community. As volunteers, every member is invested in the community, and I assure you they would not permit me to stand here and present a project to you that would be a detriment to their community.

Now, I would like to review for you what the fire department has done in the past 14 months and how we arrived at this point, along with how we engaged our neighbors and our community as a whole. But before I get started, I would just like to take this opportunity to remind all of those present that the proposed usage and occupancy of the building has not changed, and the business and operations that are conducted there today are the same that will be conducted there in the future. Upon leaving the previous Hearing, we went back to the drawing board and we tried to figure out just what we could do to address the concerns that were voiced by our neighbors. Simultaneously, we started once again to investigate a potential alternative location. However, like almost everyone finds, the cost of real estate, more particularly real estate in Port Washington, plus the cost of the necessary renovations that were needed to be made, there was not a viable option. With that said, we focused on our neighbors concerns and we held a community forum where we presented several options to them. All of the options we presented included a curb cut on Colonial Road, a parking lot on the southern end of our property, and maintained a 7-foot setback on the east side.

After much back and forth on the size of the lot and the potential traffic flow, the neighbors present said straight out that they don't want a curb cut on Colonial, they don't want a parking lot on what is our south lawn, and they requested a greater setback along the east side, which abuts a residential property. I applaud them for their candor and their honesty, as they saved us many more meetings.

With that said, we really went back to the drawing board. And as you can see, we have a design here today that is totally different than the one we presented 14 months ago. Now the how we arrived at this design. We began by spending a great deal of time with our traffic engineer and representatives of the New York State Department of Transportation. And I'm happy to report that we received tentative approval to install a curb cut on to Port Washington Boulevard. Though the New York State Department of Transportation would not grant a permit for a curb cut on to Port Washington Boulevard for a parking area, we are told this curb cut would be granted due to it being exclusively used by emergency vehicles. Once this preliminary approval was obtained, we worked on changing the design of the building, all the while keeping in mind that we did not want a two-story monster and we wanted to stick to our theme of a one-story residential-type building. We also did not want to dramatically change the interior design, and I am happy to

report that we will remain with the bullpen concept as it relates to our office space.

With the southern parking area not being in the equation and the need for off-street parking being paramount, we took the bold move and we removed the existing garage from the north side and we relocated it in-kind almost inch for inch on the south side of the property. Due to the substantial increase and overall cost of the project, it was not something that came easy, especially with me being the most conservative financial person on our Board, maybe in the whole department. Please know that our existing garage is both functional and operational, and to demolish it, only to reconstruct it in-kind on the opposite side of the building can be thought of as crazy, but when we did financial comparisons, it was still more cost-effective than relocating. However, if everyone remembers, the main issue that everyone rallied behind was the additional traffic concerns that would be created on Colonial Road with the creation of a parking area and entry and egress of vehicles. More particularly, the issue was the potential for vehicular collisions or even worse, vehicular pedestrian collisions at the intersections of Colonial Road and Lowell Road and Colonial Road and Port Washington Boulevard. And the relocation of the garage takes this potential completely out of the equation. Additionally, by relocating the garage and adding a curb cut to Port Washington Boulevard, it eliminates

the potential for any vehicular parking on Port Washington Boulevard in front of our existing building.

Lastly, by relocating the garage, we have gained additional parking over our previous plan. Moving the garage portion and still maintaining the size needed came with several issues and created most of the issues that we are here for today. In fact, it creates three of the four variances is all about the garage. As to get the garage a size that is required to operate, it encroaches on a setback on three of the four sides of our property. With that said, we moved to analyze Port Washington Boulevard. We recognized it as one of the busiest streets in all of Port Washington. We noted that zoning changes to commercial, less than 200 feet north of our property. We kept in mind that the garage is one-story. Elevations of the existing property will cause the floor to be considerably lower than the existing grade and we could landscape in an attempt to obscure the building completely from Colonial Road and our neighbors. With all of this mind, we made the bold decision to relocate this garage. Knowing that the residential setback in the area is 6 feet, we were able to achieve a 10-foot setback. And we completely understand that a commercial building in a residential area is 20, but we were able to come up with 10 with a residential-looking building.

At the neighbors request, we removed windows from the rear of the proposed garage on the east side. We presented

these drawings to our neighbors, approximately, 10 months ago. And though I cannot speak for any of them, the indications were that the proposals were acceptable. Now, you are probably saying they engaged the neighbors, but what about the rest of the community? After we came to an agreement with the neighbors, we posted the drawings along with a series frequently asked questions to our website. We've met with the mayors of every village along with the supervisor and councilwoman and discussed the financial portion of the project and how we can complete it with minimal budget impacts.

As I try to wrap this up, I fully understand that the Board has very difficult decisions to make. And I call upon all of you to understand that, yes, the department plays a role in this decision because our forefathers purchased an oddly-shaped piece of land. However, I blame this construction project and on the natural growth of our community that we serve. I guess, if we were a family and we wanted to add a bedroom, you could say to us that it's not the community's fault that we have a large family, but please understand the fire department has no say in how many people move into the community or who has a fire in their home or needs an ambulance. And as the busiest fire department in Nassau County, I think that says it all. We need the space to administer the fire department and we need to do this project at a reasonable cost to the taxpayer.

Members of the Board, this is my best option for the entire Port Washington community. It is our hope that you will look favorably upon this proposal, as it truly is our only option for the busiest fire department in Nassau County to have a functioning fire headquarters in the 21st century. Mr. Vice Chairman and Members of the Board, I stand here to answer any and all questions to the best of my ability that may come from you or from members of the community. Thank you very much for the opportunity to speak to you.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER DONATELLI: I do have a question, and I'm not sure if this is for Mr. Bollerman or Mr. Alberto. Can you speak as to the size of the garage, the vehicles that will be maintained in the garage, and why the garage needs to be the size that is proposed.

MR. ALBERTO: I will speak to the size and Chris will respond to the vehicles. It's 25.66 wide and it is 40-feet deep at the closest point to the garage door. 40 feet is the magic number, but he will explain more.

MR. BOLLERMAN: Mr. Donatelli and Members of the Board, that garage is that specific size for a very good reason. The garage will house an ambulance 24 hours a day 7 days a week that will respond from this location. As was on the record previously, this is a functioning firehouse in Port Washington; it's one of our seven firehouses. And the garage needs to be

this size to accommodate our smallest pumper that we own should there be a calamity at the southern end of our district. So we cannot build a garage -- no one would build a two-bedroom house when you need a five. We can't take a garage down that fits a pumper now and build at the other end that can't fit a pumper. And again, it's for a calamity that would occur.

MEMBER DONATELLI: My question is as follows. I know, approximately, six months or so ago, perhaps -- sometimes it become as blur -- we had a case in New Hyde Park where state mandates had, over the years, required that pumper trucks, fire trucks have more and more facilities. So I believe in this one instance that I am thinking of, the size of the fire truck was actually mandated by all of these additional state requirements. And so what had been functional as a pumper garage for years and years and years now no longer was adequate. So, I guess, my question is -- and I understand, you know, the dimensions that are being proposed -- but can you address the pumper truck that you have? Will it be filling the majority of the space? Will there be, you know -- just address the size of the truck, please.

MR. BOLLERMAN: So in my 38 years of active membership in the Port Washington Fire Department, I became a court expert in testimony. And, yes, fire trucks are considerably larger now than they were then and, yes, there are mandates by the federal government on what needs to be. That being said, we

own and operate five pumpers, two rescue trucks, and two ladder trucks in Port Washington, and only two of our existing pumpers and one of our rescue trucks would fit into this garage. If we wanted to fit all five of our pumpers, which I would love to, we would have to abut the property, and that's just not reasonable to our neighbors. But, yes, we had to take the dimensions of our smallest two pumpers, they are twins, and we took their dimension, and that's what they will be able to fit.

MEMBER DONATELLI: So they will be sitting side by side in the garage?

MR. BOLLERMAN: Actually, they would not be side by side, they would be singular, but it's not going to be a 24/7 fire truck firehouse. The fire truck atmosphere or aspect of it is for a calamity or a hurricane where they distribute the equipment throughout all seven firehouses. The potential, it's not there for every-day use for a fire truck. However, there will be an ambulance. Now, an ambulance is 8 to 10 feet wide or 8 feet wide, excuse me. And then when you open the doors, you are at 12. Plus, there needed to be a work area for the ambulance to be in the garage and staff to be able to operate the maintenance of the fire district around it. So that does incorporate it. When the fire truck is in, it's going to be tight. We'd definitely want to be wider if we were going to park a fire truck in there 24/7. But for an ambulance, we will be able to do a work area, a sufficient work area of about 8 or

9 feet around the ambulance itself. Because we wash all of our equipment, we have big drying racks to dry our turnout gear and all of that. So there is going to be a significant amount of equipment, work benches and stuff.

MEMBER GOODSELL: From what I am hearing is is that the garage that is proposed isn't the biggest garage that you would like, but it's something that would minimize the impact on the community as to what you have now.

MR. BOLLERMAN: Ma'am, you have characterized that a hundred percent better than I could. I would like to 50 by 75 just for garage so that I could park a ladder truck and a pumper in there. That's what I would like, but, unfortunately, the property doesn't call for it.

MEMBER GOODSELL: And your forefathers did not buy the biggest piece of property.

MR. BOLLERMAN: They did not. They were really headstrong.

VICE CHAIRMAN FRANCIS: So will the pumper actually be on the premises or it will not be?

MR. BOLLERMAN: It will only be on the premises in the event of an emergency. The garage is just setup so that it can fit it. So you know, if we go to -- if tomorrow, Superstorm Sandy is coming, we actually would activate this building as a response location. And in the basement, we would have five firefighters, an officer in the firehouse, and the pumper would

be secured. What we have been doing typically is parking on the street on the existing -- we call it the ramp. And it sounds crazy the rig gets wet, but all the equipment on it gets soaking wet. And the members have to actually leave safety of the building to falling -- potentially falling trees to go outside and get in the rig. Now they will be able to be in the garage, come up, get on the rig, and just leave.

And it should be noted that on the line of sight, the corner of Colonial Road and Port Washington Boulevard is doubly protected. One, there is a stop sign as you travel in a westerly direction and you approach on Colonial and you approach the Boulevard. Also, we have a preemptive traffic-signal light that we control inside of our fire headquarters for our vehicles that we turn the entire intersection red. And we also have mechanical devices inside all of our ambulances and our chiefs' cars that when our emergency lights are engaged and whatever direction we are traveling on Port Washington Boulevard, we turn the traffic signals green with us. So no matter what, we completely control the traffic light on Port Washington Boulevard.

MEMBER DONATELLI: Can I get one of those?

MR. BOLLERMAN: The police don't even have it, sir.

MEMBER HERNANDEZ: So then I'm assuming in an emergency, if they need to bring a pumper in, the garage cannot be used by the ambulance. The ambulance would, I guess, have

to be in the other parking lot out in the open?

MR. BOLLERMAN: The ambulance would be out in the open. We typically like to put the ambulances in one central location and send them out from there. In an emergency, it might sound crazy, but in an emergency, when we declare an emergency in the Port Washington Fire Department, typically, the call volume is fire-oriented, not ambulance-oriented. So we look to only send the ambulance out on a true aided case. We wouldn't send them out to investigate.

MEMBER HERNANDEZ: Thank you.

MR. ALBERTO: I want Chris to answer questions. So you mentioned if there is a catastrophe on the southern tier, is this the southernmost facility? Are there any other places to put it?

MR. BOLLERMAN: This is the fire department's southernmost piece of real estate. We do have a total of seven owned by the five corporations. The five sisters own seven pieces of real estate. It is the farthest south. If we are not able to do this project, then we would abandon ship. We would be moving in a northerly direction. The next closest firehouse is at the train station on Haven Avenue. I will say that the fact that this building can accommodate a fire truck -- can accommodate a fire truck, the residents of Port Washington enjoy a reduction in their fire -- not fire tax, but their fire insurance because we are less than 1.75 miles to the

district border on all ends.

MR. ALBERTO: Thank you. I'm going to quickly go through the five standards, if that's okay. So the first question is, is there an undesirable change to the character of the neighborhood? And understanding the neighborhood to the immediate north, actually a 100 feet north is the start of the commercial district, the Business-A District. That district runs about a mile and a half up Port Washington Boulevard on both sides. So it really abuts a commercial district. The house next door is used as a dentist, I believe. So there is an office in a residential just north. So this becomes the transition point between commercial and residential. And we worked very hard to keep a residential-look both in one-story, in the roof slopes, in the windows. So we think we do fit the character of the neighborhood in that regard.

Can the improvement be achieved by some other method? Well, we do have an unusual-shaped lot. We have very restrictive codes. We did explore other options, as Chris mentioned, and our preference originally was the first, but that was rejected. So there really aren't too many other options. Now, we talked about looking for other properties. Do you want some numbers in terms of what the costs were? Because they are astronomical. To sell this and move, it would be a lot.

MEMBER GOODSELL: We will accept that it's just not

feasible.

MR. ALBERTO: So we believe that there are no other reasonable or practical options. The third issue is are the variances substantial? And I want to submit a sketch I made, and I have seven copies. I do have one for the residents, if you would like me to pass it to them.

SECRETARY WAGNER: This will be Exhibit 1.

MR. ALBERTO: What this does is it shows the wall, the new wall, and this was taken from the survey. And it showed all of the average. This is how we calculated the average front yard setback. So the surveyor located all the adjoining properties within 200 feet and he shows the front yard setback. But I show you this because if you look at the red, which is the new wall, you see as it approaches the residents, it's 29.5. It's very close to 30.3. So we feel it's not a substantial request in that regard. If you look down a ways, the fourth house, Lot 23, which is 7 Colonial, the front yard setback is 25.9. So we feel we are in character with the neighborhood and it's not a substantial issue.

The second front yard where 25 feet is required and 8 feet is the closest point. Again, the garage is driving this setback problem. We thought about pushing it back farther to increase the front yard setback, but then we are intruding on to the neighbors, and we want to respect that, as well. Keep in mind, Port Washington Boulevard is a four-lane very busy,

fast-moving roadway. And a setback has a lot of different, I guess, visual impacts versus if it was on a residential block where people drive slowly and look around. So we think it's somewhat mitigated by the speed and the cars and the busyness. There is also a slope from the street up to the building, about 2 feet to the building and then 3 feet higher towards the back of the property. And so the building, the garage will seem sunken. It will be sunken into the ground. It has to stay level with the road so the trucks can come in. And the grade around it is going to be raised. So it is sunk and it has less impact visually that way.

And also, keep in mind, to the north is the Business District. Business requires a 10-foot front yard setback. And there are buildings and parking that are 10 feet from the front property line a 100 feet away. And we are asking for this. So again, we feel there is enough mitigating factors to consider that issue as not that critical. The side yard where 10 feet is proposed and it's 20 feet required and, as you know, we went from 7 to 10. But keep in mind, the building is one-story. There is no activity on the rear wall that would impact the neighbor. In fact, the back of the garage is a solid wall. The rest of the addition in that area is a hallway. So there is no activity or noise that will come out of the uses on that wall.

Now, Colonial Road slopes up west to east. So the

neighboring property, the immediate neighbor who is most impacted is about 3 feet higher than our Port Washington Fire Department property. So that also helps mitigate any sense of the closeness. It's 3 feet lower. The building is 3 feet lower. Also, I'm going to submit a photo to show you the screening between the properties. I have seven copies.

MR. PEROTTA: Exhibit 2.

MR. ALBERTO: I also have a copy for the residents. So this is a photo I took last week on Colonial Road looking west towards Port Washington Boulevard. And you can see -- well, there is a truck on the street, that's the Port Washington Fire Department property. And you can see the first residence, there is quite a bit of foliage. A lot of evergreen. So it will be green all year. So there is an existing drop in slope. There is an existing dense wall of foliage. And to go one step further, the fire department --

MEMBER HERNANDEZ: I have a question on the foliage.

MR. ALBERTO: Yes.

MEMBER HERNANDEZ: Is that fire department foliage or the neighbor's foliage?

MR. ALBERTO: I think, according to the survey --

MEMBER HERNANDEZ: Whose property is that?

MR. ALBERTO: It's on the line. But I do want to mention the fire department is going to be doing plantings, additional plantings along the entire addition, the east and

south side. 5-foot high evergreens, a continuous row. So should anything, you know, effect the existing, there will be that secondary.

MEMBER DONATELLI: And that foliage is actually shown on your site plan, right?

MR. ALBERTO: Yes, it is.

MEMBER DONATELLI: You can see it there.

MEMBER HERNANDEZ: Yes, the proposed plan has it.

MR. ALBERTO: So in light of these mitigating efforts and the existing site conditions, we do not believe the front and side yard are substantial. The loading zone, again, 25 feet is required for the front yard and we are at 10. The commercial district right up the block has parking within 10 feet, so we are consistent with that. Chris, how often -- can I ask Chris to come up? Just tell us how often they get deliveries and what kind of activity.

MR. BOLLERMAN: Port Washington Fire Department typically receives mail each day from the United States Postal Service. And on alternating days, United Parcel Service or FedEx will make a delivery. So it's about two, no more than three days per week, and it lasts about two to three minutes, if that, each one of them. And when we receive substantial amounts of equipment, it's typically delivered to one of the other six locations. If we are going to get a whole new hose for a pumper, it's delivered to other firehouses with pumpers.

We wouldn't have it delivered here and then transported off.

MEMBER DONATELLI: And you don't anticipate any change in the delivery schedule or anything like that should this variance be granted?

MR. BOLLERMAN: Sir, I don't know the proper verbiage to use and I don't want to go back to my detective days, but nothing is going to change. We are operating in a shoe box right now, we are looking to go to a Timberland box; it's a little bit larger. Nothing is going to change about the operation of the fire department as you see it at that building right now.

MR. ALBERTO: The next concern, the question of whether the variance will have an adverse environmental impact. We believe there is no negative environmental impact. All stormwater will be contained on the site. We are doing some substantial planting, which is a positive environmental change. In terms of traffic, as Chris just said, the operation will stay the same. With the parking, there is no traffic impact at all. In fact, I occasionally would park on Colonial because there was no other place to park. I won't need to do that anymore. So we will be taking cars off the street, which is a plus. So there is no environmental concern.

And the last issue is if the difficulty was self-created? This is always a tough one. We did not create the lot. The lot is forcing all of these issues, but, as you

know, although it's a relevant issue, it should not necessarily preclude the granting of the area variance. We feel it's a good application. It's a complex program. There is a lot of things going on inside the building. It's an unusual lot with new alternatives. We tried to design this as a team to balance the needs of the fire department with the concerns of the neighbors.

I did want to mention there was an e-mail that we understand the Board received from a neighbor that there is a potential traffic impact, a negative. We feel that, if anything, it's positive what we are doing. We are taking all the cars away from Colonial and we are putting them in a proper parking lot. So that's our presentation.

MEMBER DONATELLI: Mr. Alberto, before you sit down, can I ask you about the lighting in the parking lot and what steps would be taken to mitigate any effects that might have on neighbors?

MR. ALBERTO: So as the rule, the Town does not allow you to shed your light on to another property. So we would have low-lighting light, 8 foot high down lighting directional on to the parking lot.

MEMBER DONATELLI: Okay. Thank you.

MR. ALBERTO: We will be available for questions.

VICE CHAIRMAN FRANCIS: Yes. You can come up after the neighbors speak. All right. Neighbors, who wants to be first?

Step right up and give your name and address.

MS. ROGNER: Hi. Nancy Rogner.

VICE CHAIRMAN FRANCIS: And just remember the three-minute maximum.

MS. ROGNER: Nancy Rogner, R-O-G-N-E-R; 1 Colby Road in Port Washington, which is on the corner of Salem and Colby. So I very often go down Salem or down Colby. So I frequent Colonial Road quite often and it's not that safe. And if you are on Lowell and someone is speeding down Colonial and the way the property butts out across from Dr. Siasoco's office, you have to pass one property to carefully look who is speeding down Colonial. And I can be as careful as anybody, but that doesn't account for the one coming down. And they want to get to the corner to quickly turn to get into town. So it's really not that, that safe between the police station across the street, four lanes on the boulevard, and, of course, what we are discussing today with the fire department.

I like transparency, and I am suspect about a couple of things that I would like to bring to your attention. It's been mentioned quite often how the community and the neighborhood has been -- how this change has been brought to their attention. That, is absolutely not true. There is a sign on the property of what they want to do with respect to the Town. But as brought up over a year ago, very few people pay attention to that sign. There was a core committee of us and

these people today mentioned the neighbors and the community, mayors or whatever, but not the residents that live in New Salem. And I can attest that a letter that says a Dear Neighbor, okay. That letter went out a year ago in the Spring of 2022 and in May 22nd of this year. One neighbor got this letter, and it's Sandy Meyer. Now, if all the neighbors were to get the letter, I could see Dear Neighbor. One lady got the letter. It should have said Dear Ms. Sandy Meyer. So to me, it's very deceiving that nobody else in the neighborhood got a letter this year or last year. There has been nothing that has been put in the court news. I have a friend on Revere, who when I mentioned this to him quite some time ago, he said I don't know what you are talking about.

Now, there was a mention of a meeting with the neighbors, most likely our core group and the other people that we wanted to expose this to. That, was, apparently, going to be a Zoom meeting. Nobody that we spoke to outside of our core group wanted a Zoom meeting. They wanted a meeting at the firehouse or actually at the administration building, which is another issue. That, was not granted. We were told that it would be across the street at the police station. No neighbors were very comfortable doing a meeting like this at the police station or a Zoom meeting. They wanted to go to the fire department house and see this for themselves. That, never happened.

One question I have was, it's been mentioned that doing this project is not really to par what they would like or to size that they would feel comfortable with. So my question is, why do it? If it's not a hundred percent of what you want, I can't see going through all of this and not really accomplishing your final goal. This property was setup in, basically, a residential neighborhood where the pillars even say New Salem. If this property were setup years ago as it is and it's really not to par for size and you had to do all this to try to make it work, then I just don't understand doing it and compromising the safety of that entire area. We don't even have sidewalks in our neighborhood. So however it was originally zoned or set by the Building Department, I'm not sure how it can go from that to really what they want to do to it today. I don't understand how that can be. We spent this morning talking about extending a kitchen and raising a story or whatever. To me, you are trying to take an ant hill and make a mountain out of it in trying to make it work.

ATTORNEY ALGIOS: Ms. Rogner, I'm sorry to interrupt you. So I did give you some additional time.

MS. ROGNER: Okay. Thank you. I'm at the bottom.

ATTORNEY ALGIOS: Okay. Thank you.

MS. ROGNER: Nothing has been mentioned that there is a bus stop. So a curb cut was approved by whoever, but I don't know and I haven't seen anything in writing that a bus stop was

mentioned. So where is the bus stop going to go? Dr. Commons was here this morning, he is the dentist. That, affects him where ever you are going to move it. And if you are going to move it on the side, that affects Dr. Siasoco, and I believe he sent a letter to the Board.

In closing, I'm going to read you, which I believe you got a copy of, but I think everybody should hear, and then I'm done. Okay. This was a letter you will get. My final, yet most important point with this letter is that 423 Port Washington Boulevard is labelled by the Town as the Port Washington Fire Department Headquarters. This is not a fire department, nor should it be treated as one. With a surplus of firehouses right across the Town, whether it be Protection Engine Company, Atlantic Hook & Ladder, Flower Hill Hose Company or others, I feel that we have ample space to house ambulances at actual fire departments, not at a headquarters office. I, as well as many others, believe this should remain a headquarters only as it was originally setup or an administration building 50 years ago and should not gain an expansion to house and operate standby fleet vehicles. I'm done. Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER DONATELLI: Anyone else from the public?

MS. MEYER: Hello. Nice to see you all again. My name is Sandra Meyer. I live at 1 Colonial Road, Port Washington,

New York. I'm right on -- my backyard faces the parking lot of the fire department. It used to be a very quiet parking lot. And the side of my house faces the Boulevard, so that would be the empty lot that they are currently thinking about building up. I, my late husband, and four kids have resided next to the fire department's business office. I am currently a TA at Weber Middle School where I assist students with special needs in a variety of subjects. I also work at the public library helping patrons with their writings and I proctor all of the standardized tests at Schreiber High School.

I would like to once again reiterate my concern about the proposed expansion located adjacent to my property and immediate residents effected by the business office proposal. The new construction will be too close to my property line. My son is an NYIT student, second year. His bedroom will be right behind the garage, the proposed garage. Their signal, the ambulance's signals, backing-up signals goes beep, beep, beep every single morning, a couple times a day, and my son is in that bedroom. So right now it's loud. It's going to be even louder if there is an ambulance there or a fire truck. My son, Henry, and my younger daughter who just had a baby, she stays at the house. She is a producer at A&E and she works in the city and she stays a couple times a week.

As a resident since 1995, I strongly believe that this expansion will cause unnecessary harm to the residents.

Traffic, noise levels in the vicinity, especially our school children, Schreiber and Weber school kids, many kids with autism on Colonial going towards Weber and Schreiber, coming home from Weber and Schreiber will be greatly affected. We have kids riding bikes, small kids right along Port Boulevard. This is especially concerning since the area is primarily residential.

The civic association handpicked a group of myself and a few other people, it wasn't residents. Maybe two residents on Colonial Road, but residents farther up, okay, specifically handpicked and only they allowed these residents to attend the two meetings within the fire department. I then asked them if I could have a meeting with the immediate residents. And they said, oh, yeah, a Zoom meeting would be good. And I said, well, I will check with them. And they came back and said they don't want a Zoom meeting. So then a little later on, they said we could have a meeting at the police department. And I said, well, what about the plans? You know, are we going to see the plans? We need to see these plans. There is one map posted on their website. Not that. Well, I guess, the new plan is.

Very important, in 2021, they claimed that they sent out a notice to us in the immediate area about a meeting in June of 2021. I never received that notice. I was home with two of my younger kids out of school on summer vacation. I

would have noticed this letter. Believe me, I would have noticed it. Never received it. And not one of my neighbors received this letter about that June 2021 meeting.

There is a bus stop right where they want to have the cut. There are two "no standing signs." There is a stop sign. I'm trying to talk as fast as I can. Again, we were classified as the core group. I need to redo this or we need to redo this and have another meeting, invite 3 Colonial, 5 Colonial, people along Lowell Boulevard, residents along Plymouth. And these individuals were never invited to any one of these meetings. And these are the residents that are totally going to be affected by this construction.

ATTORNEY ALGIOS: Ms. Meyer.

MS. MEYER: Yes.

ATTORNEY ALGIOS: Your time is up and I did give you some additional time, so if you could just wrap up. Thank you.

MS. MEYER: Okay. Just one second. No sidewalk. There are two double yellow lines on Colonial Road. Just one moment. Again, Schreiber and Weber kids greatly affected. Nobody wants this happening. We are worried about the children, especially the kids in need of special help. The noise that's going to take place, the activity going on in the back parking lot, I'm never going to be able to hang clothes on my line anymore because of all of the humongous vehicles that are currently in that parking lot. Okay. Pickup trucks, you

name it. And right now, everything is being squeezed into that parking lot and on Port Boulevard. And the cars now and the trucks now are a lot bigger than they were in '95 when I first moved into that neighborhood. So there is definitely going to be a lot of issues. Just one more. They would like -- they never talked about the fire truck being housed in the garage. The garage since 1995 was never ever used to house an ambulance, not once. So they use that current garage now for supplies or whatever else they need to do and the ambulance sits outside, and it's been that way since 1995. Okay. So are they going to use that garage for an ambulance? Possibly not. Maybe it's a fire truck, like they were saying. So this is definitely a very hazardous corner and will be for our neighborhood. Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

MS. MEYER: This is my house planted in 1996.

VICE CHAIRMAN FRANCIS: Thank you. Anyone else? Mr. Alberto.

MR. ALBERTO: I'm going to defer to Chris, please.

VICE CHAIRMAN FRANCIS: Sure. I would just like to speak to a few of the issues. Most importantly, I would like to speak to the transparency. We sent a letter utilizing the radius map, which is the law of the Town. We sent a letter when we first started this project. Whether people received it or not, that's not for me to say. We sent it regular postage.

And then for our first Hearing, we sent return receipt again to the 300-foot radius map. And you guys have the receipts that were signed for or not. We also sent it United States Postal Service, the two-pronged approach. And then for today's meeting, we did the same thing. Also, in addressing transparency, when we had our meetings, there was a woman from the Salem Civic Association. She addressed herself as the president and we actually developed a relationship. We believed, because Ms. Rogner was at every one of the meetings, we believed that -- and I'm not trying to blame her for anything -- that they would pass on the information.

Additionally, if you are looking for anything about anyone, people go to the worldwide web and they look up. And when you go to the worldwide web and you type in Port Washington Fire Department, PWFD, boom, we appear, and the first is FAQ for the renovations to the fire station. So the transparency is there.

Also addressed was traffic and danger. Well, our traffic engineer gave expert testimony at the first Hearing that what we proposed originally was not a danger. The state concurred with our traffic engineer. But because the residents were so upset about it, we removed that. So please, don't say how dangerous Colonial and the other intersections are, we removed that threat. It's completely removed. The parking lot is going to be the same parking lot that's there now that has

been used for over 50 years. And the bus stop was addressed. Yes, we have to come get over a bus stop. We are working with the state and the NICE bus company on which direction it should be moved. But again, that will be an expert that will do that. And we completely understand that if it is to move to the north one parcel, we believe it would be a danger for us entering and exiting the fire station, but we also believe it will be a hindrance to the businessmen operating a family practice next door to us. So we are going to request it to be moved farther south, a lot farther north to the commercial district in front of the shopping center by TD Bank where it would be more appropriate when it comes do that.

And again, we sent out letters. We had meetings. Yes, we did offer, when we broke from the civic association meeting, which you people all were very enthused about it, when you left, you suggested we meet with the people. We had several meetings. I don't know if people were handpicked to be there, that's not for me to say. Our attorney communicated with the president of the organization. I know that I'm a member of the organization and I received quite a few e-mails from the organization. So they were very transparent. That being said, please know that we are just doing all that we can. And when it comes to the building, I think anyone would rather have a bigger home. Anyone would rather have a bigger Town Hall. If we interviewed the supervisor right now, she would rather have

a bigger Town hall, but we are all dealt a hand of cards. And I am not trying to get four aces out of this or a full house or a flush. Three of a kind would be nice. And we think we have three of a kind here and we are doing things safely. We have involved the community and we are thinking of the taxpayer. And it's very unfortunate, very unfortunate that residents purchased next to properties that exist. And for that, there is nothing I can say. But please know, I'm seven generations in this community. There is a lot of people watching me right now behind me. Everyone knows me. I'm not trying to sell you people, the Board, a bill of goods. My word is my word as a man, as a person in this community. We are not changing what the firehouse does. It's a firehouse. And we need what we need and we are trying to take every taxpayer into consideration. And we are trying to love our neighbors and make it as safe as possible. Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER DONATELLI: Mr. Bollerman, I am sorry. One more question.

MR. BOLLERMAN: Yes, sir.

MEMBER DONATELLI: Do you know how long this fire department has been in that location?

MR. BOLLERMAN: Yes. We have been at this location approaching 60 years. And in our testimony that I gave at the original Hearing, the building was built explicitly, explicitly

to house the chief of the fire department and an ambulance. That's what it was built for, to house the chief of the fire department and an ambulance, and that's what it still does. And currently, greater than 60 percent of the ambulance calls in Port Washington are answered out of that building between 6:00 a.m. and 6:00 p.m. 7 days a week. So if 60 percent is already there, it's not going any higher than that because our fire medic company membership picks it up for the other 40 percent. So the characteristic is not going to change.

VICE CHAIRMAN FRANCIS: Thank you. Mr. Alberto, any last comments?

MR. BOLLERMAN: Thank you.

MR. ALBERTO: Sure. I wish we could have replayed the first presentation where we went through a lot of information about why this is needed. Technology has changed, laws have changed. The fire department is just trying to keep up with the times and provide the absolute best service. Now, in terms of why do it? Why? Just move. Life safety is counted in seconds in this industry. The fire department and their experts, they are doing this many years. I trust them. And I think we have to give them the benefit of the doubt, they need this space. They need to put in equipment, the technological equipment they need. They need an emergency room to deal with emergencies. So it's very serious stuff to them and they are doing it because it's needed. There is no other way to say it.

So I think we have to consider all of the issues and kind of weigh them, but we worked very hard to get to this point. This is about three or four years in the making. So we think we are at the best point for an answer. Thanks.

VICE CHAIRMAN FRANCIS: Thank you very much. All right. We have a lot to digest, as you can imagine.

MR. DARIAN: May I say a few words?

VICE CHAIRMAN FRANCIS: I asked earlier if there was someone who wanted to speak and no one raised their hand. We will allow you to, yes, make a few comments. Give your name and address, please.

MR. DARIAN: I'm Gregory Darian. Right now at 1 Colby Road, Port Washington. From the time this structure was built, it has, indeed, been repurposed. Now with an increased purpose, there is an effort by our fire department to increase its functionality. Things like abatement and green space seem academic when you consider the impact of the firehouse activity on the neighborhood. If you consider the impact of, say, a fence on one property in a neighborhood to its neighbors, consider the impact this increased functionality will have on this neighborhood. This southern area of Port Washington and Port Washington Boulevard is residential. It will impact categorically the neighborhood, Port Washington Boulevard, including the environment, contrary to what we've heard, traffic, as such the environment, the neighborhood.

We are proud of our fire department. Part of the value of living in Port Washington, I think, are both its schools and our services, in particular the fire department. Growing up so many of my friends have been volunteers and made that a rather championship fire department on Long Island in its competitions over the years. It's a source of pride for this neighborhood and for all of Port Washington. And the community here is not trying to devalue the growth of the fire department or its needs for that growth, just trying to protect itself, the value of our homes, the quality of life for this neighborhood. Thank you.

VICE CHAIRMAN FRANCIS: Thank you. As I was saying -- oh, someone else? Is there anyone else other than this gentleman who is approaching?

MR. MURPHY: Okay. I'm Donald Murphy. I live in the neighborhood on Plymouth Road, 4 Plymouth Road. I have a couple of points. Number one, if the community had known about this whole thing -- and we knew nothing, we got no notifications -- if our community had known, the Salem residents would fill this room. I think that's an important factor. I use this intersection several times a day to come in and go out of Salem, as many other people do. The traffic is tremendous there and growing. It's a busy intersection, plus a bus stop, and now we are going to have a supermarket on the other side of the street. There is going to be more and more

traffic. I think this is a major factor here that this hasn't been discussed at any great length. But I think the residents have been given an injustice by not being notified, and that has to be taken into account.

VICE CHAIRMAN FRANCIS: Thank you.

MR. BOLLERMAN: Just in closing, sir. I can't say it enough. There would not be an increase in functionality. We are simply looking to increase our proficiency in the use of our property. Thank you.

VICE CHAIRMAN FRANCIS: With that said, we are going to reserve decision on this. Probably, it will not be made today. I want to thank the residents for coming out and voicing your opinions. That's very important to us in terms of making our decision. So thank you for coming out.

MS. MEYER: Just one.

VICE CHAIRMAN FRANCIS: No more, ma'am. All right. Thank you all.

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

Appeal #21398

MR. PEROTTA: Up next we have Appeal #21398 – Cove Realty, LLC; 54 Glen Cove Rd., Greenvale, Section 20, Block J06, Lot 102; Zoned Business-A/Residence-C.

Variance from § 70-103(A)(1) to construct interior alterations to a commercial building with not enough parking.

VICE CHAIRMAN FRANCIS: You have heard Appeal #21398 - Cove Realty, LLC. Is there anyone interested in the application other than the applicant? Seeing no one. Sir, please give your name and address.

MR. COTELIDIS: Good afternoon, Mr. Vice Chairman. Peter Cotelidis; 200 Old Country Road, Mineola, New York. Appearing on behalf of the applicant, Cove Realty. I have present with me -- and by the way, thank you all for your indulgence and your patience. I know it's been a long day for you. We will do the best that we can to move it along as best we can, that's my commitment to you. And I will thank you for hanging in there without taking a break. So we appreciate that. Thank you very much.

So present with me today, we have the two principals of Cove Realty, Ms. Vasi Ypsilantis, Mr. Chris Neocleous. Also, our architect, James Haralampoudis and our traffic expert, Mr. Aaron Machtay. By the way, if anyone has a flight scheduled out of LaGuardia, I hate to tell you this, but you are not going anywhere. I would also like to submit for the record the return receipt cards that we have received so far,

if I may.

So we are appearing before you this afternoon seeking relief from Section 70-103(A)(1) of the Town of North Hempstead Zoning Ordinance as it relates to off-street parking. Before I get into the actual merits of our application, I just want to do some quick math. So let's do the math, if we may. We have a building of, roughly, 1955 square feet that's located on a lot comprised of 5,120 feet. The parcel is located on the northeast corner of Glen Cove Road and Elm Street; Section 20, Block J06; Lot 102. The property is zoned Business-A. Although, if you take a look at our site plan, you will notice that there is a small triangular piece, roughly, 54, 55 square feet, which represents a tad over one percent of the total lot area, which is zoned Residence-C. I think the reason for that is that the district line that runs runs parallel with Glen Cove Road. And consequently, it encroaches slightly onto our parcel. The property itself initially had been improved with a one-family dwelling. However, in 1985, an application had been made and it appeared before this Board seeking relief on two-fold: One, with respect to an elimination of a 15-foot buffer; and, two, allowing for an accessory use within a greater restrictive district. That application was granted and consequently, there was a retail appliance store that was constructed on that site in 1986. And it continued to be used as a retail appliance store until such time as the applicant,

Cove Realty, purchased the property in 1921.

So as I indicated, the principals of Cove Realty are Ms. Ypsilantis and Mr. Neocleous. The sole occupant of the property is a business entity by the name of the Breakfast Room Limited. And the Breakfast Room Limited is owned solely by Ms. Ypsilantis. It is a business that engages in the planning and design of custom kitchens. The business was incorporated, roughly, 22 years ago. It has always been located in the Town of North Hempstead. Initially, in the Village of Manorhaven in 2006, and then it relocated to 1492 Northern Boulevard in Manhasset up until 2021 when it moved to the current location.

But let's go back again to the math. So the total square footage of the improved space works out to 1955 square feet. The additional gross floor area that would be added by the proposed renovations adds 598 square feet for a total of 2,553 square feet. However, if you look at the zoning calculations, they have actually been grossed up to 2,737 square feet. And you may want to know why is that? The reason is simply attributable to the fact that there is double counting of a stairwell and an elevator shaft. The elevator shaft, which leads up to the top of the building, and the space attributed to the elevator shaft has been counted as has the stairwell. That, represents 184 square feet, which if that would have been taken away would reduce the allowable of the total square footage of the improvements. But having said

that, the current location, which was taken back in 2021 by the Breakfast Group, basically, is all located on a single level and it houses a makeshift showroom, as well as an office area, a rather confined, cramped and congested office area.

The applicant is seeking to renovate and expand upon its operation with the following respect. They want to have a new modern enhanced and professional-looking showroom located on the main level, an area that would be designated as a library that would serve as a point where clients can sit down, look at samples, whether it be tile, granite, fabrics, color samples, catalogs, hardware, lighting, and the like. And consequently as a result of that, that area that is currently used as an office would be relocated in the mezzanine area, which would comprise 598 square feet. Now, just to give you a sense as to what the current office area looks like, I would like to submit, for the record, as Exhibit 1 a photograph depicting the existing what we would call the office area. You can see that it's rather tight, to say the least.

So the Breakfast Room business model is pretty simple. It does not cater to or attract any walk-in business. As a matter of fact, in the two years since the Breakfast Room has moved into the facility, I am told by Ms. Ypsilantis there have not been more than four walk-ins in that two-year period. The business is conducted on an appointment-only basis. As a matter of fact, if you see, there is a sign on the entrance

door to the building stating "by appointment only." All appointments are scheduled and conducted with Ms. Ypsilantis. On a good day, she would have, perhaps, one, maybe two appointments. On a great day, two, perhaps, three appointments.

VICE CHAIRMAN FRANCIS: So parking really is controlled?

MR. COTELIDIS: Absolutely. And that is a distinguishing factor from the prior use, which was retail. The prior use being retail as an appliance store, obviously, could not be controlled. But in the context of our business model, it is totally controlled. Ms. Ypsilantis is the only salesperson, the only planner, the only designer. She is the point-person. She is the person who will sit down and meet with an individual client or a customer, whether it is to engage that on an initial basis or a follow-up basis as the design progresses. So there are no other salespeople on staff. There is a part-time administrator who does work onsite and there are two CAD operators who split their time between working remotely or coming into the office. Very rarely would both of them ever be at the facility at the same time. So given the current layout and the configuration of the main level, it just doesn't lend itself to the image and the type of presentation that the applicants want to be able to make to their customers. Consequently, that's why they are looking to

move the office area into this mezzanine level.

The proposed work that is going to be performed, assuming we are granted the relief, will be confined within the existing business envelope. It will comply in all respects with lot coverage, FAR, and height discretions all as a matter-of-right. The only distinction is we will need relief as it relates to the off-street parking. I will note that none of the proposed renovations are being proposed for the purpose of increasing staffing. It is merely to provide for a better work environment for the staff and at the same time, for a better professional presentation when the client comes in to visit.

So when considering the application for the relief that we are seeking, I would ask you to consider the following. The current use of the parking lot clearly results in placing much less stress in the context of this particular business model as opposed to a retail use. And Mr. Machtay will speak to that point shortly. The proposed work will all be confined within the existing footprint and the building envelope of the improvements as they currently exist. The applicant's business model will remain exactly the same. The same as it has been for the last 22 years. There will be absolutely no change. It will be appointment-only, one-on-one appointment, staggered appointments. Staffing will not increase, but rather the functionality and office productivity will be vastly improved

to better serve the staff with adequate work areas.

So when applying the balancing test under Section 267-b of the Town Code, I would ask you to consider the following. Whether the granting of the relief being requested will result in an undesirable change in the character of the neighborhood or will it be detrimental to neighboring properties? I submit to you the answer is no. The use is expressly permitted by Section 70-125 of the Town Code. It's in a Business-A District and it's not going to have any impact whatsoever in that regard. It is surrounded to the south, to the north, and to the west by other business establishments, primarily retail. The relief being requested is not substantial when considered in light of the applicant's business model. The relief being requested represents the minimum amount of relief that we would require in order to achieve our desired benefit. There is really no other feasible alternative to achieve the benefit that we seek. So basically, there are three ways that the benefit could have been achieved. One, add a second floor. That, would not do anything to ameliorate the issue of off-street parking and could possibly create a second need for a height variance. Two, expand the existing footprint of the building. Well, we could only expand in one direction, and that would go directly into the parking lot to further exacerbate the problem. So we would go from five to possibly four or more likely, three available spots, and then therefore

increasing our need to seek a greater variance. So the only real feasible alternative was to create a mezzanine level within the existing building envelope. And then consequently, preserve the available parking that is currently there.

As far as, you know, the alleged self-created difficulty. Yes. Yes, we acknowledge that. But we also have to take into account the constraints with respect to the lot itself. There isn't much room to do anything other than what we are doing at this point in time. And in light of the business model and the intended use, our current use, by the way. And incidentally, in the two years that we have moved in, we have been in business, albeit with great difficulty given the constraints of the facility as they currently exists, but we have been in business and I don't see anyone to have appeared here this afternoon to object for the relief that we are requesting.

So unless you have any questions of me, at this point in time, I would ask Mr. Machtay to appear before you and give his testimony. I would like to submit for the record, his CV. I know that he has appeared before this Board previously on numerous occasions, but he has been qualified as an expert. But notwithstanding that fact, I would like to submit the CV in any event.

SECRETARY WAGNER: This will be Exhibit 1.

MR. COTELIDIS: Yes, Exhibit 2. Thank you.

MEMBER GOODSELL: Mr. Cotelidis, the only thing that I would comment is it is a difficult location and that parking is extremely limited as there is no on-street parking.

MR. COTELIDIS: Understood.

CHAIRMAN MAMMINA: Well, we can ask Mr. Machtay if there is on-street parking on the street.

MR. MACHTAY: For the record, Aaron Machtay of VHB. Offices at 100 Motor Parkway in Hauppauge, New York. The answer to your question, Mr. Chairman, is no. Also, I would just like to comment to the Board that I can't help but look outside and feel much more comfortable in my continued commitment to wear a mask in public. This is ridiculous.

The reality of this application is it's about efficiency. The space that they currently occupy isn't efficient for the existing use and they are looking to expand and renovate it to make it a little bit more efficient. But it's not expected to increase the level of activity associated with the use. And as it's an existing use, we can go out and take a look at how it's operating and see what the actual parking demand is. And we did that. We did that on Wednesday, April 5th. We did some spot-observations here and there. Basically, what we saw was that it had a maximum of four vehicles parked there. Generally, three. This jives with the information that the applicant gave us, which is that, in general, there is two to three individuals that work on the

site and then there is a delivery vehicle, which may be there intermittently throughout the day. They also indicated to us that customers and visitors, as Mr. Cotelidis said, they are at the site by appointment. So it's a controlled system, basically. The reality is is that on a constrained site like this, you want something like this because it allows you to schedule when you are going to have your peaks of activity and schedule when the point of parking activity would be the five vehicles that you have and make sure that there wouldn't be a customer that appears at the same time as another one overloading the parking that's available. And that allows this site to work for this particular land use.

Conversely, obviously, there are a number of different land uses that could occupy the space without the benefit of the relief being sought without the modification that would not operate under this premise. My predecessor, as this Board is well-aware, may have invoked the dreaded hair salon.

VICE CHAIRMAN FRANCIS: That's right. We just said that up here.

MR. MACHTAY: I won't say that particular land use, but, obviously, there is a number of other ones that could occupy this space that would operate similarly that even if their general demand isn't more than the five spaces, it has the ability to fluctuate in an uncontrolled manner such that the five spaces wouldn't be adequate. So with that in mind,

this use is perfect for this site. And the parking that is provided for the property, for the building is adequate for the demand that's generated. So it's my opinion that this application, if granted, would not generate any undue traffic hazard or congestion. Happy to answer any questions.

VICE CHAIRMAN FRANCIS: Thank you.

MR. COTELIDIS: So unless the Board has any further questions for either myself or the applicant or our architect, we thank you for your consideration and hopefully you can grant us the requested relief. Thank you.

MEMBER DONATELLI: Does anyone have any questions?

VICE CHAIRMAN FRANCIS: No.

MEMBER DONATELLI: Mr. Chairman, having reviewed the application -- you are okay, right? Okay. Having reviewed the application, I am persuaded by the applicant's argument that this business model is based on appointments-only and that that would mitigate any negative factors that might result. I also note that Elm Street does not appear to have any public parking so that the impact to any residents in the area would be minimal. I note that the business has already been there in existence for a couple of years and has been operating and no one has come to object to this. So having said all of that, I make a motion that we grant the application.

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

Appeal #21398

MEMBER HERNANDEZ: Second.

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

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. Thank you. The application is granted. And off the record.

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

Appeal #21383

SECRETARY WAGNER: Next Appeal is Appeal# 21383 - The Paper Store; 1454 Union Turnpike, New Hyde Park; Section 8, Block 235, Lot 56; Zoned: Business-AA.

Variance from §70-196.J(1)(f) to erect a sign that is too high.

CHAIRMAN MAMMINA: You have heard Appeal #21383 - The Paper Store. Is there anyone in the room that has interest in the application other than the applicant? Very good to see you, Ms. Prevete.

MS. PREVETE: Good to see you all. Good afternoon, Mr. Chairman and Members of the Board. My name is Diana Prevete. I'm an attorney with the Law Firm of Albanese & Albanese; 1050 Franklin Avenue, Garden City, New York 11530. I will try and be as brief as possible. I represent the lessee of the subject property, who is also the applicant, The Paper Store. We are seeking variances for a wall sign that exceeds permitted height above the ground. The sign is proposed for a retail store, The Paper Store, which is located within Lake Success Shopping Center. With me today is Pat English, he is the head of construction for the applicant. He has been with you all day also so he is about to jump out of his skin.

The Paper Store, there is some history, has about a hundred locations as of 2022. It sells office products, books, cards, jewelry, and gifts similar to Hallmark. It has locations on Long Island in Lake Grove, East Islip, Huntington

Station, Farmingdale, and Massapequa Park. As you know and I know you are all familiar with the shopping center, it was constructed in, approximately, 1949. The space where the proposed Paper Store is to be located was previously occupied by Modell's. It's located in the eastern end of the center, generally speaking. They have taken, approximately, 14,000 square feet of space in that Modell's location.

As the Board knows, the property is known on the Nassau County Land and Tax Map as Section 8, Block 235, Lots 56, 57A, and 57B. I have a copy of the tax map that I will hand up as an exhibit.

SECRETARY WAGNER: Exhibit 1.

MS. PREVETE: Yes, that's fine. At the end of March when this application was filed, The Paper Store was taking, approximately, half the space that it's currently taking. Originally, the storefront was 53 linear feet. And thereafter, it entered into a lease for more space and took up to the 14,000 square feet. So now the storefront is 96 linear feet.

The original sign applied for was disapproved for exceeding permitted size and also exceeding permitted height above the ground. Now, with the addition of the linear feet, the storefront is wider. It has 96 linear feet. The sign has only been disapproved for height. So we are seeking a variance of 70-196.J(1)(f) to permit the wall sign exceeding permitted height above the ground. 18 is permitted. This sign is

proposed to be at 27 feet 9 inches. The proposed sign has halo-lit LED lights with black channel letters. As you know, the property is located in a Business-AA District. I have a copy of the zoning map here, which I will hand up.

SECRETARY WAGNER: Exhibit 2.

MS. PREVETE: Yes, that will be Exhibit 2. So we are in the Business-AA District. I have some photographs. The first few photographs show the actual subject property, which is currently under construction. So you don't get a really good look at it, but the important thing to note here is that the owner of the property is redoing the front facade and they are putting on a new facade, which is higher, much higher than what the Modell's facade had over the front storefront area.

As the Board knows, you have granted many variances for height within this shopping center related to the configuration of the facade. It varies in height depending on where the store is located and there is kind of an overhang so that putting signs, in many cases, at 18 feet would be a problem. I'm going to hand up just the more recent signs granting height variances for the Board and make it part of the record.

SECRETARY WAGNER: So the photographs will be Exhibit 3.

MS. PREVETE: Yes. And the decisions for previous height variances will be 4. So you have granted variances for Express at 23 feet, Deli King at 20 feet, Sears previously had

a sign located at 29 feet. Bed Bath & Beyond, which you will see in the picture there because it's fairly close to the subject property, was granted a variance for 27 feet 8 inches. We are asking for 27 feet 9 inches. Target was granted variances recently for 30-feet high and 29-feet high. Again, it's a higher location, higher facade wall there. Pier 1 Imports was granted variance for 21 feet 5 inches. So there is precedent for granting height variances. And the height of the sign is really related to the height of the facade where the sign is located.

Just to go through the provisions of Town Law 267-b. We don't believe any undesirable change will be produced in the character of the neighborhood or nearby properties. The sign is located within the shopping center within the Business-AA District. It doesn't face any residential area. The benefit sought by the applicant cannot be achieved by some other feasible method other than an area variance since the sign is to be located on the parapet wall above the storefront. It's not possible to lower this sign so that it's located at 18 feet since the sign would be lower than the bottom of this facade. As I said, there is an overhang here. There is physically not enough wall space to affix the sign so that it can be placed at 18 feet. And this sign is going to be centered on the wall within the 96 storefront at the 27 foot 9 inch height. The requested variance is not substantial. Only one variance is

requested for the height of the sign. The sign in all other respects complies.

Case Law holds that substantial variances are more likely to cause an impact on adjoining properties. And here, the applicant seeks only one height variance. And you have to look at the percentage of deviation in and of itself as not being the sole factor and determining factor. You have to look at all the circumstances and all the facts and use your common sense appraisal as to whether in your mind this is a substantial variance. There is no physical or environmental effect locating the sign at this higher elevation since the only real possible effect would be visual. And if you look at the other signs and precedents within the shopping center, none of those signs look like they are hanging way too high in mid-air. They are based on the height of the facade. So we don't believe there is any physical or environmental effect.

Again, we don't believe the difficulty is self-created by results from the height of the parapet wall. If we weigh the benefit to the applicant, if the variance is granted, as against the detriment to the health, safety, and welfare or neighborhood and community, if the variance is granted, we believe that the balance is in favor of the applicant. Because there really is no detriment to the community.

Given all of the foregoing, I would respectfully request that application be granted. And certainly, I'm here

to answer any questions, as is Mr. English from The Paper Store.

MEMBER GOODSELL: Mr. Chairman, I just want to comment that I have been a long time resident of New Hyde Park and I remember when the shopping center changed its original flat look to this various facade. We used to call it the wild west and the old west. Some are higher, some are lower. Some are higher, some are lower. I think the idea was to make it more visually appealing. I don't find that The Paper Store is going to have such huge letters and so far above the ground that it will stand out from the others. It's not like a gigantic bull's-eye for Target. This is a number of letters that are going to have to be self-limiting based on the size of the sign. And I for one do not have any objection to this application.

CHAIRMAN MAMMINA: We will consider that a motion?

MEMBER GOODSELL: You may consider that a motion by me to grant the application.

CHAIRMAN MAMMINA: We have a motion by Member Goodsell.

MEMBER DONATELLI: Second.

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

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. The application is granted.

MS. PREVETE: Thank you very much. I appreciate your time.

SECRETARY WAGNER: Somebody want to move SEQR?

VICE CHAIRMAN FRANCIS: I will move it.

CHAIRMAN MAMMINA: We have a motion on SEQR from Vice Chairman Francis. Do we have a second?

MEMBER HERNANDEZ: Second.

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

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye. SEQR is approved.

(Time noted: 2:50 p.m.)

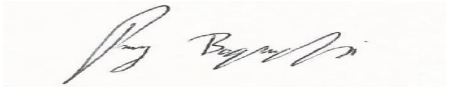
C E R T I F I C A T E.

STATE OF NEW YORK)
) Ss.
COUNTY OF NEW YORK)

I, Amy Boguszewski, a Shorthand (Stenotype) Reporter and Notary Public, do hereby certify that the foregoing proceedings, taken at this time and place aforesaid, is a true and correct transcription of my shorthand notes.

I further certify that I am neither counsel for nor related to any party to said action, nor in any wise interested in the result or outcome thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of June, 2023.



AMY BOGUSZEWSKI