

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

TOWN OF NORTH HEMPSTEAD
BOARD OF ZONING APPEALS
PUBLIC HEARINGS

Wednesday
July 12, 2023
10:15 a.m.

BOARD MEMBERS PRESENT:

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

ALSO PRESENT:

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

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

Proceedings

VICE CHAIRMAN FRANCIS: All right. Good morning, everyone. We will get started.

Please join Mr. Donatelli in the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was said.)

VICE CHAIRMAN FRANCIS: Okay. The Chairman had to take a little break so I'm just going to get it started off. Excuse me. If you have never been before us before, I'll just give you a brief synopsis of how we do business here. The applicant will present their case first, you know, in total and then if there's anyone who has any interest in the case, they will have an opportunity to, you know, make a statement. We limit those statements to three minutes, you know, we're not exactly going to cut you off at three minutes, but we try to stay as close to three minutes as we can. In terms of the applications, we can either grant the application, reserve the application for a later date in terms of making a decision on it. We can continue the application for additional information or we can deny the application. The other thing is cell phones, please put them on vibrate. We do take a record. The stenographer is here to take the record. It's difficult if cell phones are going off and somebody is making a presentation, it's very disturbing. So if you expect anyone to come a little bit later, please make sure you tell them the same thing. And I think with that we will get started.

Ginny, are there any -- any changes to the -- the

1 Appeal Number 21406

2 calendar today?

3 SECRETARY WAGNER: Chairman, I'm not sure if we may
4 have request -- we may be adjourning the first appeal. Appeal
5 number 21406, Jenelle Balk; 80 Station Road, Great Neck;
6 Section 1, Block 104, Lot 72 in the Residence-A Zoning
7 District. Variances from 70-100.2(A)(2) and 70-100.2(A)(4)[a],
8 to legalize fencing located in the front yard that is too tall.

9 Is the applicant here?

10 I believe there -- we will be adjourning this --
11 continuing -- adjourning to the next hearing date, which is
12 August.

13 VICE CHAIRMAN FRANCIS: Okay.

14 SECRETARY WAGNER: And if they don't do their mailings
15 and noticing requirements by that date, then the application
16 will be considered withdrawn and stricken from the calendar.

17 MEMBER DONATELLI: And I'm sorry, what is the date in
18 August?

19 SECRETARY WAGNER: I think it's the 14th, but I'm not
20 sure.

21 MEMBER HERNANDEZ: 16th.

22 MEMBER DONATELLI: Thank you.

23 MEMBER HERNANDEZ: You're welcome.

24 SECRETARY WAGNER: The first appeal is Appeal Number
25 21407, Ok Ja Kim; 72 Tobin Avenue in Great Neck, Section 2,
26 Block 284, Lot 405 in the Residence-B Zoning District.

1 Appeal Number 21407

2 Variances from 70-39.B and 70-40.A, to construct additions that
3 would make the house too big and would be located too close to
4 the street.

5 VICE CHAIRMAN FRANCIS: You've heard Appeal Number
6 21407 Ok Ja Kim. Is there anyone interested in the application
7 other than the applicant?

8 Seeing no hands.

9 Mr. Kim, whenever you are ready, please give your name
10 and address.

11 MR. KIM: Hello. My name is Shaun and I'm from Sun
12 Ocean Architect office representing Ok Ja Kim, 72 Tobin Avenue,
13 Great Neck.

14 MS. ALGIOS: I'm sorry, can you please put your last
15 name on the record as well.

16 MR. KIM: My name is Shaun Kim.

17 MS. ALGIOS: Thank you.

18 VICE CHAIRMAN FRANCIS: Are you an architect as well?

19 MR. KIM: Yes.

20 May I give you all a copy of the plan drawing?

21 VICE CHAIRMAN FRANCIS: Sure.

22 SECRETARY WAGNER: Is this different then what was
23 submitted with the application?

24 MR. KIM: No. It is the same.

25 VICE CHAIRMAN FRANCIS: We have it.

26 MEMBER HERNANDEZ: We have it. Thank you.

Appeal Number 21407

MR. KIM: We are doing an interior renovation and second floor extension, and we're rebuilding the front entry portico. We're trying to align the exterior walls of the new second floor to the existing bearing walls on the first floor. The average front yard setback for the area right now is 22.4 foot. Required is 30 foot. We currently have a 24.6 foot noncompliant existing to remain. The second floor walls are also going to be 24.6 foot. The front yard portico is going to be 20.3 foot setback, front yard setback and that is also gonna be existing to remain. We are rebuilding. However, the setback is going to be the same.

The other variance we are requesting is the area variance. There's a 45 percent maximum floor area requirement. We are currently 4.1 square foot over the limit, which means we will have to inset offset the rear wall of the building by less than two inches in towards the building. So we're trying to align the exterior wall as much as possible so we would appreciate it very much if we could get a variance on the area too.

MEMBER DONATELLI: So as I understand the application, you are merely building up on the structure as it currently exists. You are not coming any closer to the street. Is that correct?

MR. KIM: Yes. That is correct.

MEMBER DONATELLI: And the porch that you are

Appeal Number 21407

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

proposing, will that be an open porch?

MR. KIM: Yeah. It's a portico. It's a covering for the front entry to the door.

MEMBER DONATELLI: But on the sides it will not be closed?

MR. KIM: Yeah. It is open. Yeah. It's opened.

VICE CHAIRMAN FRANCIS: And it's a one story portico, right?

MR. KIM: Yes, it is.

MEMBER GOODSSELL: As I recall the houses in that area, they all look like they come just a little bit too close to the street. So even though you don't need meet the legal setback, you seem to be pretty average with the other houses that come close. Is that correct?

MR. KIM: Yes.

MEMBER GOODSSELL: The neighborhood itself has other houses that have been approved. I looked at your plans and your drawings, we're not an anesthetic board, but they certainly seem to be in keeping with the neighborhood, but it is a box. It's basically a box with the a roof on it. Is that correct?

MR. KIM: Yeah. Yeah. Just a box with a roof, yes.

MEMBER DONATELLI: Mr. Chairman, I think for the record, I would just note that the additional gross floor area of 4.1 square feet would be my estimation in this particular

Appeal Number 21407

instance would probably be de minimus. That the cost of actually constructing the proposed addition and to attempt to save the 4.1 square feet would actually be a very large cost as opposed to just building up an existing walls. So in a my opinion, that 4.1 square feet of additional gross floor area is de minimis.

VICE CHAIRMAN FRANCIS: I agree.

MEMBER GOODSSELL: What's the current square footage of the house right now?

MR. KIM: The current square footage right now is --

MEMBER GOODSSELL: This is a substantial increase in the use of the property.

MR. KIM: Yes. Right now it's a one story cape house. We're rebuilding so that the entirety of the second floor will be available as a living space so it is a substantial, increase yes.

VICE CHAIRMAN FRANCIS: Was there an increase in the family size necessitating the increase in the house?

MR. KIM: No. However, I think they're always short of space and storage, and area to live and so they've been wanting to build an upper floor that is -- takes advantage of the entirety of the first floor square footage or close to it so.

VICE CHAIRMAN FRANCIS: Okay.

MEMBER DONATELLI: Sir, are you familiar with the five factors that we're required to consider?

Appeal Number 21407

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

MR. KIM: Yes. Yes.

MEMBER DONATELLI: Can I ask you to address those,
please.

MR. KIM: Yes. Yeah. The principal points; number one, by the granting of the area variance, undesirable change will not be produced in the character of the neighborhood nor will a detriment be created. We ask for a 4.1 square foot area variance. This will allow the proposed second floor walls to align with the first floor bearing walls. The second point, the benefit of a larger second floor with exterior walls align well to the existing first floor walls cannot be achieved by any other feasible method since down below areas are not recognized by the town -- sorry -- as subtractable from the floor area. The third point is the requested area variance is not substantial. It's only 4.1 square foot. Number four, the proposed variance, both the area variance and the front yard variance will not adversely impact the physical or environmental conditions in the neighborhood or district. The proposed work does not create more nonpermeable areas and the storm water discharge. Number five, the front yard difficulty was not self created. It is an existing noncompliant condition that existed at the time the property was purchased.

MEMBER DONATELLI: Well, not to be argumentative, but probably it is self created because even though the house is preexisting nonconforming, by building up now and creating your

Appeal Number 21407

request for a new variance, that is self created. I think under law, but that is not necessary dispositive is what we might say.

MR. KIM: Okay.

MEMBER DONATELLI: I would also note that as to your paragraph number four, the proposed area variance will have an adverse affect on the neighborhood. I think in your previous comments you indicated that most of the houses already are about 22 feet in the current setback of the average houses are 22 feet. So the point of fact is this is actually a little bit better than the average setback for the houses in that immediate area.

MEMBER GOODSSELL: I'd like to clarify something for the record. I'm looking at your proposed plans for the basement and there is an existing bathroom, which I presume is being renovated as a shower in the first bath.

MR. KIM: Existing bathroom is -- it's remaining. It's existing to remain.

MEMBER GOODSSELL: Okay. And I see that there is a window in a window well. Is that now going to become an egress window in the basement?

MR. KIM: Yes. Egress window.

MEMBER GOODSSELL: You're client is aware that there is no bedrooms in the basement?

MR. KIM: Yes, they are aware.

Appeal Number 21407

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

MEMBER GOODSSELL: Okay. And there's no plans to put a separate basement entrance in anywhere, is there?

MR. KIM: No. The room there its recreation space and they don't plan to put another exit from the cellar.

MEMBER DONATELLI: I have nothing further.

VICE CHAIRMAN FRANCIS: Ginny?

Mr. Kim, I don't know if you're aware that there was an opposition submitted from the neighbor behind you.

SECRETARY WAGNER: We just checked and they didn't submit any --

VICE CHAIRMAN FRANCIS: Okay.

MEMBER DONATELLI: Mr. Kim, can I just ask, did your office receive any opposition to this application?

MR. KIM: No.

MEMBER DONATELLI: Just give us a moment, please.

MR. KIM: Sure.

MEMBER DONATELLI: All right. So, Mr. Chairman, having reviewed the file, I -- I would agree with the applicant, that the gross floor area variance of 4.1 square feet would really be di minimus and it would be cost prohibitive for the applicant to try to build up on the second floor in a way that would avoid that -- that variance. So I would -- I also find, having reviewed the file and seeing the average front yard setbacks of the other houses in the area, that even with the requested variance, this house would be in keeping with the

Appeal Number 21407

houses in the area. Therefore, having said all of that, 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: Ginny, please poll the Board. Motion by Mr. Donatelli, second by Mr. Hernandez.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Acting Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

Application is granted.

MR. KIM: Thank you. Thank you.

MEMBER GOODSSELL: Thank you for answering the questions.

VICE CHAIRMAN FRANCIS: Before we move on, I neglected to mention that because we are taking a record, we really have to be very, very careful in terms of crosstalk. So if you have a conversation, make sure that, you know, only the two of you can hear it and it doesn't interfere with the court reporter her, you know, her -- her record or just, you know, go out in

1 Appeal Number 21408

2 the hallway and you can talk as loud as you want out there.

3 Okay.

4 SECRETARY WAGNER: Appeal Number 21408, Stefano and
5 Lisa Troia; 203 Aldershot Lane, Manhasset; Section 3, Block
6 231, Lot 10 in the Residence-A Zoning District. Variances from
7 70-102.C, 70-102.C(2)(a)(5) and 70-100.2(I), to construct a
8 pool and to install pool fencing and pool equipment in a side
9 yard which is not permitted.

10 VICE CHAIRMAN FRANCIS: You've heard Appeal Number
11 21408, Stefano and Lisa Troia. Is there anyone interested in
12 the application other than the applicant?

13 Seeing no one.

14 Please give your name and address, sir.

15 MR. PIRRONE: Yes. My name is Albert Pirrone. I'm the
16 attorney for Mr. and Mrs. Troia. I have with me tonight
17 Mr. Troia and I have our engineer Mr. Monica.

18 VICE CHAIRMAN FRANCIS: Just put your address on the
19 record.

20 MR. PIRRONE: Yes, I will. My address is 81 Main
21 Street, White Plains, New York.

22 VICE CHAIRMAN FRANCIS: Welcome to Nassau County.

23 MR. PIRRONE: Thank you very much.

24 First of all, this is my first time being before this
25 Board. I want to tell you I've been reading the transcripts so
26 I knew what the heck to say and I'm really impressed with the

Appeal Number 21408

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

Board, but I'm more impressed with your staff. They've been fabulous.

VICE CHAIRMAN FRANCIS: Application granted.

CHAIRMAN MAMMINA: My exact words.

MR. PIRRONE: I always knew what to say, you know, I know nothing about the law.

VICE CHAIRMAN FRANCIS: Go ahead right.

MR. PIRRONE: Anyway, good morning, Chairman and Members of the Board. My name is Albert Pirrone and I represent the applicant in this particular case. Tonight we have an application which concerns three area variances all related to the uniqueness of the lot, which is a wedged shaped lot which is triangular in shape which has no rear yard. The application is to put in a swimming pool, a six foot fence to surround the pool, as well as heating equipment and other accessory equipment to the pool. In that regard, it necessitates three area variances, because we have no rear yard. Before I commence the presentation, I'd just like to note to the Board, with your permission, Chairman, I have submitted my affirmation dated June 5, 2023, which addresses the case law regarding the five factors. I have submitted an affidavit by Mr. Troia, which addresses the fact there's no conflicts in the community with regard to no incongruences to the application. I've submitted an affidavit equally of mailing and we've submitted another application by Mr. Troia so

Appeal Number 21408

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

that there is in fact testimonial evidence before the Board,
which addresses the five factors. With your permission, I
would ask that those be made part of the record.

VICE CHAIRMAN FRANCIS: Yes.

CHAIRMAN MAMMINA: Those will be part of the record as
those have been submitted.

MR. PIRRONE: Thank you. So if I may briefly then --

VICE CHAIRMAN FRANCIS: One moment, sir.

MR. PIRRONE: Certainly.

CHAIRMAN MAMMINA: Just one thing we're of different
opinion, you know, is that yes, there has to be a rear yard and
yes, there has to be a side yard and the building department
calls which one they say is which, but that's why we're here,
that's why you're here.

MR. PIRRONE: Yes.

CHAIRMAN MAMMINA: So, you know, you can say yes,
there's a variance, no there's not a variance and I'm sure you
understand that.

MR. PIRRONE: No, I do Mr. Chairman. Frankly, I never
understood the differentiation in these cases between what one
building department will call a side yard or rear yard setback.

CHAIRMAN MAMMINA: Without getting into a whole lot of
discussion on it, it's really what each plan examiner --

MR. PIRRONE: I understand.

CHAIRMAN MAMMINA: -- you know, looks at it and how you

Appeal Number 21408

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

calculate this serpentine extremely unique piece of property.

MR. PIRRONE: Yes, I understand. Whatever it is, we want to comply with what the building department sees is the determining factor.

CHAIRMAN MAMMINA: Or what the Zoning Board addresses to them, which -- and they understand that completely.

MR. PIRRONE: Right. Well, I felt it was easier to apply for the variance then apply for the interpretation and appeal on the interpretation.

CHAIRMAN MAMMINA: Okay.

MR. PIRRONE: So I thought this was the way to go.

SECRETARY WAGNER: One second, sir.

We just want to note for the record that the Chairman has returned to the meeting before we proceed any further.

Go ahead. I'm sorry.

MR. PIRRONE: Thank you.

So having submitted those documents, you have a full record before you of testimonial evidence and as you know, lawyers statements is not evidence, but in this particular case, we have addressed all of the case law. I'd like to very quickly, without taking up too much of the Boards's time, simply go through the five factors, if I may.

CHAIRMAN MAMMINA: Please.

VICE CHAIRMAN FRANCIS: Sure.

MR. PIRRONE: So what I've been indicating,

Appeal Number 21408

1
2 Mr. Chairman, Members of the Board, the lot is unique. It's
3 wedged shape and that's a very important factor as you know
4 when we make applications. Perhaps a classic type of area
5 variance case. In this particular case, there's no change to
6 the charter of the neighborhood. In fact, two adjacent
7 properties to our west, 187 and 185 Aldershot have swimming
8 pools. We've notified all of the residence in the area. In
9 fact, some additional lots that are not within the required
10 area, but they're behind in a way so we notified them as well.
11 We've had -- at least I don't know of anybody who has put in
12 any opposition.

13 The southern property line of the home is naturally
14 screened already and by landscaping there will be further
15 landscaped by our landscape architect, because the applicant
16 would like to have some additional screening in the backyard.
17 Therefore, you know, there will be no change or impact to the
18 character of the neighborhood, particularly since the swimming
19 pool is an accessory permitted use in that zone. There will be
20 no adverse affect or impact on the physical or environmental
21 conditions in the neighborhood in that the property is level in
22 terms of its topographic conditions. There are no wetlands or
23 other environmental constraints. Landscaping will screen the
24 property along the side yard will the pool will be located and
25 the fence placed. And the difficulty, as I indicated, arises
26 because of the shape of the lot. The difficulty was not self

Appeal Number 21408

created. We're in a situation because of the nature of the parcel, which was an approved lot by the subdivision plan approved by the planning Board and therefore it's --

CHAIRMAN MAMMINA: Difficulty is always self created unless you're an American Indian who came here, bought this piece of land and staked it out, and said not -- and of course it's not self created physically with hands and hammers.

MR. PIRRONE: That's correct.

CHAIRMAN MAMMINA: But, you know, when you buy the piece of property, theoretically they should have done research so that they knew. And again, that's why we are here.

MR. PIRRONE: Thank you. And that concludes my presentation.

MEMBER GOODSSELL: Mr. Pirrone?

MR. PIRRONE: Yes.

CHAIRMAN MAMMINA: Who is immediately to the rear? What is immediately to the rear of the property, which will be behind them. You can't see it from the street. It's not visible. What -- who is the back neighbor. The side, back neighbor? Is the wall, a mountain, a cliff?

MR. PIRRONE: Oh, we have -- we have a fence already.

CHAIRMAN MAMMINA: Please, sir, you can't do that. Okay. If you wish to speak, you know, your counsel can bring you up and put you on the record.

MR. PIRRONE: Yes. Ms. Goodsell, we have a fence that

Appeal Number 21408

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

is a solid fence. I forget what you call it, you know, the wooden fences.

MEMBER GOODSSELL: A stockade fence.

MR. PIRRONE: And it has also -- that's covered with bushes and screening. So we can't see their property, they can't see ours.

MEMBER GOODSSELL: Is it a residence?

MR. PIRRONE: Yes. And they were notified.

MEMBER GOODSSELL: Okay.

CHAIRMAN MAMMINA: And just for clarification for the record, when you say rear yard, are you talking about the building department's designation of a rear yard?

MR. PIRRONE: Yes. Yes. I'm talking about the side yard that's been designated rear yard.

CHAIRMAN MAMMINA: Okay.

MEMBER HERNANDEZ: It's the other way around. You're calling it backyard and they call it --

MR. PIRRONE: I beg your pardon. Thank you, Mr. Hernandez.

CHAIRMAN MAMMINA: Yeah. And that was what I thought.

MEMBER GOODSSELL: So as I look at the property, one side of the property -- to the right of the property, that is housed on Aldershot Lane?

MR. PIRRONE: Yes.

MEMBER GOODSSELL: To the rear of the property which is

Appeal Number 21408

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

not visible from the street, there is another residential property --

MR. PIRRONE: Yes.

MEMBER GOODSSELL: -- on another street. Is that correct?

MR. PIRRONE: Yes. There is, Ms. Goodsell, yes.

MEMBER HERNANDEZ: There's a whole community which is a different community behind that house. Okay. Similar type of houses. Very large houses.

MR. PIRRONE: Yes. It might be called Bristol, if I remember.

MEMBER HERNANDEZ: It's Bristol Lane, Bristol Drive or something like that. But they do not connect. Aldershot is a dead end, only accessible from the extreme western end and you have to drive half a mile to get to the neighboring residence.

MEMBER GOODSSELL: I found that out. I had to execute yet another three point term. We've all looked at the property. We look at all the properties.

MR. PIRRONE: Oh, wonderful. Thank you. Yeah.

MEMBER GOODSSELL: So I have been to see this property. It's a very nice house.

MR. PIRRONE: Thank you.

MEMBER GOODSSELL: It's a very large house. It's going to be absolutely beautiful. We understand the reason for the application.

Appeal Number 21408

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

MR. PIRRONE: Yes, ma'am.

MEMBER GOODSSELL: Just to clarify the record, the two other properties that you have cited that also have swimming pools.

MR. PIRRONE: Yes, ma'am.

MEMBER GOODSSELL: We are aware of, but they did not need a variance. They were able to put their pools in as of right.

MR. PIRRONE: Right.

MEMBER GOODSSELL: So the fact that you're client is requesting a pool does not change the character of the neighborhood.

MR. PIRRONE: That's correct.

MEMBER GOODSSELL: What's different is, this particular property, you do need a variance to put a 20 foot by 36 foot pool in the back.

MR. PIRRONE: Yes, ma'am. And I beg your pardon if I didn't state it correctly. I only brought up the other two homes that have pools in terms of the character of the area. Not in terms of any precedential impact or affect, but thank you.

VICE CHAIRMAN FRANCIS: This is an in-ground pool?

MR. PIRRONE: Yes, it is.

CHAIRMAN MAMMINA: Just wanted to make sure.

MEMBER DONATELLI: You know, one of the concerns that

Appeal Number 21408

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

we voiced on other applications, is whether or not there is a direct access or a blind spot in viewing the pool from inside the house. It appears that there is no blind spot here so that -- what has been a concern in other applications does not appear to be a concern here.

VICE CHAIRMAN FRANCIS: Right.

CHAIRMAN MAMMINA: Just for the record, just a couple of words further. A blind spot is so that if there were children --

MR. PIRRONE: Children. Yes.

CHAIRMAN MAMMINA: -- playing in the backyard, they can't be hiding in a corner and nobody knows.

MR. PIRRONE: Yes. I should have mentioned that. I have read that in one of your minutes that that was a concern. Yes.

MEMBER HERNANDEZ: You read our minutes and you know that I'm not necessarily a lover of pools in general. However -- however, I do -- because we have a lot of very nice clubs in the area, but I do appreciate a house this size and where it's located having a pool. I also think that all though it can be debated as to what is the backyard and what is the side yard.

MR. PIRRONE: Yes.

MEMBER HERNANDEZ: In this case, it is really irrelevant, because the only place where it really makes sense to put a pool in this house is in what you call the backyard

Appeal Number 21408

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

and what the building department calls the side yard.

MR. PIRRONE: Yes, Mr. Hernandez.

MEMBER HERNANDEZ: So as I look at the house, the unique shape of the property, the unique shape of the house, it's an L shape house, the pool is in the practical backyard of the house.

MR. PIRRONE: Yes. Yes.

MEMBER HERNANDEZ: It's the one place where it will be seen least from the streets, either one of them. If you would try to squeeze it into where you can legally put it, by code put it, you will be almost in the front. Almost in the street level. You can see it clearly from the street. So it is in the best possible place.

MR. PIRRONE: It's the rear of the house. I don't know what you call it, but that's where it is.

MEMBER HERNANDEZ: The practical rear of the house, correct.

MR. PIRRONE: Yes.

MEMBER HERNANDEZ: The fencing is in the right place, it's at the rear corner of the house.

MR. PIRRONE: Yes.

MEMBER HERNANDEZ: It is creating almost a perfect rectangle where there's no hiding spots for a child to be hiding. The fence is six feet tall, which is what the code requires. So given all of those circumstances and this

Appeal Number 21408

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

particular location of this house, I move that we grant the application as requested.

CHAIRMAN MAMMINA: Okay. We have a motion from Member Hernandez. Do we have a second?

MEMBER DONATELLI: Second.

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

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye.

The application is granted, but I would just like to say one other thing.

MR. PIRRONE: Yes.

CHAIRMAN MAMMINA: Where you had characterized the lot as being wedged shape and I understand why.

MR. PIRRONE: Yes.

CHAIRMAN MAMMINA: This thing goes beyond. This thing has a squiggle.

1 Appeal Number 21409

2 VICE CHAIRMAN FRANCIS: It has a shape all its own.

3 CHAIRMAN MAMMINA: All its own. I've never seen one
4 like this.

5 MR. PIRRONE: I know. Well, that's why I say it's a
6 classic area variance case. But I want to thank you for the
7 privilege of being before you. Thank you very much.

8 VICE CHAIRMAN FRANCIS: You did an excellent, Mr.
9 Pirrone, for your first time before us. So please, we welcome
10 you back any time.

11 MR. PIRRONE: Thank you, Mr. Francis. I appreciate
12 that. Thank you.

13 CHAIRMAN MAMMINA: Thanks very much. Good luck and
14 enjoy the pool.

15 MR. PIRRONE: Thank you very much.

16 MEMBER GOODSSELL: Enjoy the pool is right.

17 CHAIRMAN MAMMINA: Please call the next case.

18 SECRETARY WAGNER: Appeal Number 21409, Douglas & Karen
19 Cornell; 10 Derby Road, Port Washington; Section 5, Block 147,
20 Lots 43 & 59 in the Residence-B Zoning District. Variances
21 from 70-101.A and 70-101.B, to legalize a roofed over porch
22 that is too close to the street and a trellis (roof members)
23 that is too close to the side property line.

24 CHAIRMAN MAMMINA: You've heard Appeal Number 21409,
25 Douglas and Karen Cornell. Is there anyone in the room
26 interested in the application other than the applicant?

1 Appeal Number 21409

2 Seeing no one.

3 Please give your name and address.

4 MR. BIVONE: Good morning, Chairman, Members of the
5 Board. Richard M. Bivone, 308 East Meadow Avenue, East Meadow
6 appearing as the agent for the owners of the property, which
7 are seated to the left first row, Douglas and Karen Cornell.
8 The subject location is 10 Derby Road, Port Washington.
9 Section 5, Block 147, Lots 43 and 59. It's in a Residence-B
10 Zone.

11 For housekeeping, I just submitted an update to the
12 original package that we submitted. A photograph of the front
13 of the subject location from 2003.

14 MEMBER GOODSSELL: There's an appealing child sitting on
15 the snowbank. That has not escaped our notice.

16 MEMBER DONATELLI: I thought that was Santa Clause.

17 CHAIRMAN MAMMINA: Also, I hate snow. You should have
18 sent a balmy, humid day.

19 MR. BIVONE: I do too.

20 That would be Exhibit 1, the snow picture and Exhibit 2
21 will be a tax map with a copies of records on file with the
22 Town of North Hempstead of previous variances and properties
23 within the subject location being similar in nature.

24 MEMBER DONATELLI: Please continue.

25 MR. BIVONE: Okay. The Cornells purchase the house in
26 1991. They have four children. It's a one family dwelling

Appeal Number 21409

1
2 since they purchased it and it's continued to be a one family
3 dwelling. The property is 48 lineal feet wide at the front
4 property line and to the rear property line it's 68.50 lineal
5 feet. Approximately 150 feet deep and it's 97.7 square feet as
6 per the survey that was prepared. The subject property has two
7 residential properties abutting on the east and west side and a
8 north property is the Port Washington Police Department
9 commercial property; Municipal.

10 The client is requesting two variances. The first for
11 70-101. It's to maintain an existing open porch. As you can
12 see from the photo from Exhibit 1 that was submitted, that is
13 time stamped from 2003. That was the existing porch for the
14 house, which was noted on previous surveys. There were permits
15 that were granted for this house since 1991. There was a
16 sizable renovation for a second story and also in 2002, there
17 was a rear addition, which, at that time or thereafter, the
18 front open porch was then enlarged but not part of the record.
19 The setback difference from the front yard setback is
20 approximately 4.01 feet still remaining open as an open porch
21 and there is no intention to enclose that porch, because of the
22 character of the neighborhood. That would not happen. It's
23 actually very well done.

24 The second variance is 70-101.A, for cornices and eaves
25 projecting not more than 18 inches. It's an existing condition
26 on the west side, which is a terrace. Just an area, it's an

Appeal Number 21409

open area. A wood structure that encroaches into the side yard setback. You have existing conditions of 24 inches into the setback. Maintaining still a setback of 5.17 feet. There were three letters from neighbors that were submitted to --

MEMBER DONATELLI: Sorry, I hate to interrupt you. Was it 5.17 feet or inches the cornices and eaves?

MR. BIVONE: Sure. The actual -- it's 5.7 feet.

MEMBER DONATELLI: But what is the encroachment.

CHAIRMAN MAMMINA: The point being .7 feet is how many inches?

MR. BIVONE: So it's 24 inches from the existing setback. So again, it's just an open trellis area. It's not a formal enclosed structure itself. As noted, the neighbors submitted three e-mails to the Board indicating that they have no objection to this Board granting an approval. That was number eight, number nine and number 12 Derby. Those letters have also been submitted. We also have foiled records on file with the Town and we actually visited the properties, took photographs of the existing conditions to find that they are similar existing conditions keeping the character of the neighborhood the same. And we have number 37 Essex Court, which had a front open porch. 27 Essex Court, front open porch. 32 Derby Road, front open porch and vestibule, which is granted a variance in 1966. 18 Derby Court with a front open porch. 12 Derby Court front open porch and side yard with a

Appeal Number 21409

trellis, similar to what my clients have.

The request to maintain the existing of the subject location clearly are similar to the conditions of the surrounding neighborhood. There's no adverse impact to this property and/or surrounding properties. The existing conditions are well maintained. Although it was self created, it's, in my eyes, this is a minor variance maintaining, keeping with the character of the neighborhood. Even the neighbors have submitted documents that are an indication that they have no objection to this Board granting the variances. There is no adverse impact to the environment. It's a residential property. It's not going to be further changed. It's at that time in their life they feel that they may be moving or ready to sell, and they would like to make sure all of the permits have been issued properly by the building department. And again, this property is still going to be a one family dwelling and it's going to remain that way.

MEMBER GOODSSELL: So if I'm understanding correctly, the house was originally built with a six foot porch and this is now a 10 foot porch?

MR. BIVONE: That is correct.

MEMBER GOODSSELL: So it comes four feet closer to the street?

MR. BIVONE: Yes. That is correct.

MEMBER DONATELLI: So just to clarify the record,

Appeal Number 21409

1
2 Mr. Chairman, I'd like just to put into the record that the
3 minimum side yard is seven feet, but an encroachment is
4 permitted of 1.5 feet for eaves and cornices. The encroachment
5 here that is being proposed is for an additional four inches
6 for the cornice so that that is the additional encroachment of
7 over the 1.5 that is already permitted. So it is, again, in my
8 opinion, relatively minor in this instance. I just wanted to
9 clarify that.

10 CHAIRMAN MAMMINA: It's a bit of a transparent kind of
11 -- architectural addition onto the building. So it's not --
12 it's a wall, but it's also very nice.

13 MEMBER DONATELLI: So also just to continue on my
14 comments. I did just want to address that ambiguity on the
15 record and make another comment. I'm very familiar with Derby
16 Road. I actually live not too far away from that area. It is
17 a charming area and many of the houses there do have these open
18 porches, which tends to add to the sense of community and that
19 is part of what is so special about that area. I would notice
20 that the trellis itself, even though obviously a trellis is
21 cross hatched for lack of a better term, it still presents
22 itself as open space. It is only on the side of the open
23 porch. It is not in front. So that in looking at the house
24 from the front of the street, it still does appear to be open
25 space. So it's -- Member Goodsell indicated the porch was made
26 wider, but it was not brought closer to the street. I would

Appeal Number 21409

also note for the record that the little child in Exhibit 1 is probably already in college at this point.

MR. BIVONE: Thank you, Mr. Donatelli.

MEMBER DONATELLI: Does anybody else have any other questions?

MEMBER GOODSSELL: No. I drove through the area and I noted many of the same properties that the applicant is showing, do have porches or overhangs. None as quite as nice as this one, but they do have them.

MEMBER DONATELLI: Am I mistaken or was Derby Road where Miracle on 34th Street was filmed?

MEMBER GOODSSELL: Yes.

MEMBER DONATELLI: It was. Right. Yes. Okay.

CHAIRMAN MAMMINA: The actual house?

MEMBER DONATELLI: The actual house that is seen at the end of the movie.

Anyway, having said all of that, Mr. Chairman, I make a motion that we grant the application.

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

MEMBER GOODSSELL: I will second.

CHAIRMAN MAMMINA: Seconded. Please poll the Board.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

1 Appeal Number 21371

2 MEMBER HERNANDEZ: Aye.

3 SECRETARY WAGNER: Member Donatelli?

4 MEMBER DONATELLI: Aye.

5 SECRETARY WAGNER: Vice Chairman Francis?

6 VICE CHAIRMAN FRANCIS: Aye.

7 SECRETARY WAGNER: Chairman Mammina?

8 CHAIRMAN MAMMINA: Aye.

9 The application is granted.

10 MR. BIVONE: Thank you have much and have a wonderful
11 day.

12 SECRETARY WAGNER: Next appeal, Appeal Number 21371 -
13 Pastor Medina; 245 Jerome Avenue, Carle Place, Section 9, Block
14 80, Lot 65 in the Residence-C Zoning District. Variance from
15 70-50.B, to construct additions and to legalize additions that
16 are located too close to a street.

17 CHAIRMAN MAMMINA: You heard Appeal Number 21371,
18 Pastor Medina. Is there anyone in the room interested in the
19 application other than the applicant?

20 Seeing no one.

21 Please give your name and address.

22 MR. MEDINA: My name is Pastor Medina. I reside at 245
23 Jerome Avenue. I'm both the owner and the architect for this
24 property.

25 So the 245 Jerome Avenue is a corner property with two
26 front yards. The second front yard, which is on -- the smaller

Appeal Number 21371

1
2 front yard, which is on Park Avenue and the larger front yard
3 -- the main front yard is on Jerome Avenue. The front -- Park
4 Avenue front yard back in 1981, there was an application that
5 was submitted by the previous owner for a dinning room
6 addition. The application was reviewed by the building
7 department and approved. It was constructed and it was signed
8 off, and a letter of completion was -- was granted Number 4836.
9 It's a certificate of completion. I'm sorry. Number 4836.
10 What I'm proposing now is that we are proposing to move our
11 kitchen into the dining room, the old dining room area and
12 install a canopy. Open portico over the door -- the existing
13 door that leads to the driveway and garage area. I don't know
14 if you have a copy of the previous building application. I
15 didn't bring enough copies, but I have two.

16 SECRETARY WAGNER: This will be Exhibit 1.

17 CHAIRMAN MAMMINA: That new doorway doesn't bring that
18 existing piece of construction closer to the street. It turns
19 and it's on the side as I'm reading the drawing.

20 MR. MEDINA: It's not a new doorway. It's an existing
21 doorway. I'm just putting --

22 CHAIRMAN MAMMINA: I'm saying that canopy.

23 MR. MEDINA: No, it's not. It's only extending over
24 the doorway.

25 CHAIRMAN MAMMINA: No. No. I understand that. I'm
26 saying -- but it's not bringing that addition closer to the

Appeal Number 21371

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

street?

MR. MEDINA: No, it's not.

CHAIRMAN MAMMINA: It's around the side so it's still setback more than what the original application was back that was -- that was approved and, you know, and a letter of completion was issued.

MR. MEDINA: That's correct.

MEMBER HERNANDEZ: So you're basically flipping the dinning room and the kitchen?

MR. MEDINA: That's correct.

CHAIRMAN MAMMINA: But you're not increasing the volume of the house in what you're doing?

MR. MEDINA: That's correct.

CHAIRMAN MAMMINA: Because interiors generally we don't care about.

MEMBER GOODSSELL: Well, we care a little bit.

CHAIRMAN MAMMINA: Generally.

MEMBER HERNANDEZ: Depends on what the improvement is.

MEMBER GOODSSELL: That's true.

Mr. Medina, I have to say, you have one of the nicest front doors that I've noticed.

MR. MEDINA: Thank you.

MEMBER GOODSSELL: And I have noted it a couple of times, because you -- your application has come up but then it's been adjourned or it's been withdrawn, and I always say

Appeal Number 21371

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

the same thing, nice front door. So I'm hoping you're going to maintain that, because it's a very nice front door.

MR. MEDINA: We plan to.

MEMBER GOODSSELL: I don't really have any objection.

CHAIRMAN MAMMINA: Any other questions?

MEMBER GOODSSELL: It's a beautiful area. It -- it seems to be in keeping with the neighborhood and I'm sure that it's going to enhance your family's living space.

CHAIRMAN MAMMINA: Anybody have any other questions?

I'll ask for a motion.

VICE CHAIRMAN FRANCIS: Yeah. I'll move that we grant the application.

CHAIRMAN MAMMINA: We have a motion by Vice Chairman Francis. Do we have a second?

MEMBER GOODSSELL: I'll second.

MEMBER HERNANDEZ: Second.

MEMBER GOODSSELL: He shouted out first.

CHAIRMAN MAMMINA: Lady goes first. That's all. That's the rule.

Seconded by Member Goodsell.

Please poll the Board, Ms. Wagner.

MEMBER GOODSSELL: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

1 Appeal Number 21410

2 SECRETARY WAGNER: Member Donatelli?

3 MEMBER DONATELLI: Aye.

4 SECRETARY WAGNER: Vice Chairman Francis?

5 VICE CHAIRMAN FRANCIS: Aye.

6 SECRETARY WAGNER: Chairman Mammina?

7 CHAIRMAN MAMMINA: Aye.

8 The application is granted.

9 MR. MEDINA: Thank you very much.

10 CHAIRMAN MAMMINA: Thank you.

11 VICE CHAIRMAN FRANCIS: Thank you.

12 SECRETARY WAGNER: Next appeal, Appeal Number 21410,

13 Kamaljit Singh, 7 Larch Drive, New Hyde Park; Section 9, Block
14 614, Lot 19 in the Residence-A Zoning District. Variance from
15 70-202.1(C), to construct a retaining wall that is too tall.

16 CHAIRMAN MAMMINA: You've heard Appeal Number 21410,
17 Kamaljit Singh. Is there anyone in the room interested in the
18 application other than the applicant?

19 Seeing no one.

20 Please give your name and address.

21 MR. IMRAN: My name is Mohammed Imran, I'm from the
22 architect office and Mr. Singh is here, he's the property
23 owner. He's the applicant also. We filed this application to
24 construct --

25 MEMBER DONATELLI: Sorry, sir. Your address first.

26 MR. IMRAN: Oh, yeah. It's at 1227 Tulip Avenue,

Appeal Number 21410

Franklin Square, New York 11010.

SECRETARY WAGNER: And you said you're last name is Imran, I-M-R-A-N?

MR. IMRAN: Yes. I-M-R-A-N.

Okay. So we file this application to construct a retaining wall on the property line instead of, you know, stepping, you know, inside of a backyard. The problem is, if we would follow a Town of North Hempstead criteria to construct a retaining wall in the backyard, then we will not be able to construct the garage. The garage application has been approved already with the house application and this house has been constructed already.

VICE CHAIRMAN FRANCIS: One moment, sir.

MR. IMRAN: Yeah.

CHAIRMAN MAMMINA: Do you have a more current survey than this?

MR. IMRAN: Yes.

CHAIRMAN MAMMINA: That should really be part of the application.

MR. IMRAN: It's was submitted with the building department.

UNKNOWN SPEAKER: This will be Exhibit 1.

MR. IMRAN: And also I have a current picture of the backyard.

UNKNOWN SPEAKER: And this will be Exhibit 2.

1 Appeal Number 21410

2 SECRETARY WAGNER: Survey is Exhibit 1?

3 UNKNOWN SPEAKER: Yes.

4 CHAIRMAN MAMMINA: Why don't you finish the
5 presentation.

6 MR. IMRAN: Okay. So our biggest concern is by
7 constructing the retaining wall based upon the Town of North
8 Hempstead criteria of five feet, we will lose a space to
9 construct a garage. The garage had been approved with the
10 house application and the house has been constructed already,
11 but it's still under construction. Doing some interior
12 finishes. So the second concern is by constructing this
13 containing wall we, we are losing our rear yard there.

14 MEMBER HERNANDEZ: Excuse me. Can I just stop you one
15 second?

16 MR. IMRAN: Yes.

17 MEMBER HERNANDEZ: You said the plans were approved
18 with a one car garage, but you said you can't build the garage
19 unless you remove the existing retaining wall?

20 MR. IMRAN: Yes.

21 MEMBER HERNANDEZ: So the retaining wall wasn't shown
22 on the plans, the original retaining wall?

23 MR. IMRAN: It wasn't mentioned originally and I think
24 that's the reason the plan examiner approved the actual garage.

25 MEMBER HERNANDEZ: That's why I wanted to clarify. So
26 it was approved because the plans that were presented did not

1 Appeal Number 21410

2 include something that was there.

3 MR. IMRAN: Yeah. Exactly. That is right.

4 MEMBER HERNANDEZ: Thank you.

5 VICE CHAIRMAN FRANCIS: Please, continue.

6 MR. IMRAN: So that's the only reason we applied for
7 this variance. By constructing this retaining, we won't be
8 able to maintain minimum distance between the garage and the
9 building, back portico, which will be approximately eight foot
10 and a half inch. So -- yeah. Between the building and the
11 garage. So constructing the retaining wall criteria you need a
12 five foot space and then the garage will be too close to the
13 porch. The back deck.

14 MEMBER GOODSSELL: I'm sorry, the garage will be too
15 close to wear?

16 MR. IMRAN: The rear deck. Rear deck. Concrete deck.

17 CHAIRMAN MAMMINA: Too close based on your esthetic
18 feeling.

19 MR. IMRAN: Exactly. Based on what they approved right
20 now I understand because once we will, you know, get permission
21 from the building, we have to resubmit our work to get to
22 permission from the building department, even though building
23 department has approved already the garage as shown in the
24 approved drawings.

25 MEMBER HERNANDEZ: Again, I would like to correct you.
26 The building department only approved the garage, because the

1 Appeal Number 21410

2 plans that you showed were inaccurate.

3 MR. IMRAN: That's right. Yes.

4 MEMBER HERNANDEZ: Okay. So you can't say they didn't
5 approve it. They didn't approve it, because your plans were
6 inaccurate. So you need to be specific in what you're saying.

7 MR. IMRAN: Okay.

8 MEMBER GOODSSELL: And just to clarify the record, there
9 is currently a retaining wall, a series of retaining walls in
10 the yard now.

11 MEMBER HERNANDEZ: Steps.

12 MR. IMRAN: Yes. Steps. A step wall, right. Timber
13 wall.

14 MEMBER GOODSSELL: Steps and they are what I call
15 pressured treated lumbar.

16 MR. IMRAN: That's correct.

17 MEMBER GOODSSELL: Is there anything about that
18 retaining wall that presents a danger; is it collapsing, is it
19 cracked, is it -- is it anything that requires it to be
20 rebuilt?

21 MR. IMRAN: Well, it's required to rebuild according to
22 the structural engineer. The existing retaining wall is not
23 stable any more. Even though -- even though in both situations
24 we have to reconstruct the wall any way.

25 CHAIRMAN MAMMINA: I would want to see why your
26 structural engineer says that.

Appeal Number 21410

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

MR. IMRAN: Okay.

CHAIRMAN MAMMINA: I'm an architect for 45 years, you know, and have, you know, built things thousands of times taller and bigger than this. It's very well constructed -- you have what's called dead men even that project back underneath. I'm not sure how you put that in without going to your neighbor next door, but I mean, that's all pressure treated lumbar and looks to be in perfect condition.

MEMBER GOODSSELL: That's why I'm asking, the pictures you submitted look as if the wall is in very good condition.

MR. IMRAN: Yeah.

MEMBER GOODSSELL: We have seen retaining walls, which scare me. This one does not.

CHAIRMAN MAMMINA: And also, it's important to understand the intent of the Town Board was not to have these big blank concrete walls or, you know, some split face block, you know, because if your neighbor asked for the same thing and the neighbor next door asked for the same thing, suddenly we have this entire wall of concrete, you know, that's moving down, you know, this street rather than having some landscaping, a bit of a wall, some landscaping and a little bit of a wall. So you already have that, you know. So I guess what we need to do, you know, is, you know, is -- is do that balancing testing between what's a benefit to you as oppose to what is the detriment to really the purpose of zoning.

Appeal Number 21410

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

MEMBER GOODSSELL: I presume that you notified the neighbor to your rear?

MR. IMRAN: Yes, we have.

MEMBER GOODSSELL: Have you received any opposition?

MR. IMRAN: No.

MEMBER GOODSSELL: And just to clarify the record, the garage that you're saying is approved is a standard 14 foot by 20 foot garage. It's a one car garage?

MR. IMRAN: That's right.

MEMBER GOODSSELL: No extensions?

MR. IMRAN: No extensions.

MEMBER DONATELLI: Actually, as I look at the plans, I think that I see that the garage is 21 feet long. Do you know if it's 20 feet or 21 feet.

MR. IMRAN: It's 21 feet. 14 by 21.

MEMBER DONATELLI: 21. Okay.

CHAIRMAN MAMMINA: We are also -- I'm saying -- did the building department check the amount of paving in the rear yard? I mean, it appears that virtually the entire rear yard is paved.

MR. IMRAN: Yes. They have already checked the rear yard, because we submitted calculations, the driveway calculation with the house application.

MEMBER DONATELLI: What extent do you intend to pave the rear yard?

1 Appeal Number 21410

2 MR. IMRAN: The entire backyard we are paving.

3 MEMBER GOODSSELL: With what type of surface?

4 MR. IMRAN: That will be pavers.

5 MEMBER GOODSSELL: Pavers.

6 MR. IMRAN: Yes.

7 MEMBER DONATELLI: All right. Can I just ask for some
8 clarification, because I'm sorry, I was looking at something
9 else when I think you addressed this issue. What is the
10 distance right now between where you proposed to put the garage
11 and the retaining wall?

12 MR. IMRAN: That is three feet from the property line,
13 which is the minimum requirement.

14 MEMBER GOODSSELL: Three feet from the property line or
15 three feet from the bottom of the retaining wall?

16 MR. IMRAN: From the property line.

17 MEMBER GOODSSELL: From the property line. So it's much
18 closer to the retaining wall?

19 MR. IMRAN: Yeah. That's right.

20 MEMBER DONATELLI: And what is the distance between the
21 proposed end of the house, the rear building line and the front
22 of the garage?

23 MR. IMRAN: That is eight foot and a half an inch.

24 MEMBER DONATELLI: It looks like four, two plus 4.10.
25 So would that be nine feet?

26 MR. IMRAN: Eight foot and two and a half inches.

Appeal Number 21410

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

MEMBER DONATELLI: Okay. I mean, as one Board member I don't see why the garage could not be brought forward so as to -- so as to have a step. If -- if -- if the, as the applicant has indicated, which is not really evident from these photographs. If the applicant indicated the retaining wall does need to be replaced, as one Board member, I don't know why the retaining walls couldn't be replaced and still be code compliant, even if the garage were brought forward a bit to allow for the stepping of the retaining walls.

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

MEMBER GOODSSELL: That's why I asked whether or not it's three feet from the property line or three feet from the retaining wall. And if it's three feet from the property line, even though the retaining wall would be closer, it's still in the correct place. But if the applicant wants more space in the back there without moving the retaining wall, yes, the garage would have to be brought forward.

CHAIRMAN MAMMINA: He has a solution.

MEMBER HERNANDEZ: We need one step. So you need five feet plus one foot from the wall and that's it. And I would give him a four foot step absolutely.

VICE CHAIRMAN FRANCIS: You also show a 25 foot retaining wall in the side yard. Is there a retaining wall there similar to the one that's in the rear yard?

MR. IMRAN: Which side?

1 Appeal Number 21410

2 MEMBER HERNANDEZ: I think it's the western side.

3 MR. IMRAN: Yeah.

4 MR. SINGH: Actually there is a retaining wall.

5 VICE CHAIRMAN FRANCIS: Sir, please give your name and
6 address.

7 MR. SINGH: My name is Kamaljit Singh and I'm the owner
8 of the property. I live at 80-22 37th Street. Bellrose, New
9 York.

10 CHAIRMAN MAMMINA: Thank you.

11 MR. SINGH: You're welcome.

12 So there is an existing wall, which is in the steps.
13 It's very high and then it slopes down as it's coming towards
14 the front. Also, on the right side looking at the rear wall.
15 The picture that you guys seeing here, it's -- the rotten
16 lumbar that's being used in previous constructed, you may not
17 see it in the bottom, a few of those rows are completely gone
18 and -- and I also do get a water infiltration coming through
19 that wall.

20 CHAIRMAN MAMMINA: You're supposed to get water coming
21 through that retaining wall.

22 MR. SINGH: Well I agree with that but I'm saying --

23 CHAIRMAN MAMMINA: You should be very happy that you're
24 getting water.

25 MR. SINGH: I'm getting too much water from the upper
26 side.

Appeal Number 21410

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

MEMBER GOODSSELL: Listen, last weekend everybody got too much water.

MR. SINGH: Yeah. And also, there is missing fence on top from the neighbor.

CHAIRMAN MAMMINA: You needn't put the fence up top. That's just a suggestion.

MR. SINGH: I think I will definitely do that, but I just want to get to a better condition.

CHAIRMAN MAMMINA: I'm saying when that little PVC fence gets knocked over by a kid running to catch a ball, it's gonna land on your property.

MR. SINGH: Yes, sir. Absolutely. And I do know that, but I was holding off until I can get better answer to whether I can construct a new fence or I mean, the retaining wall, where I'm going to put the garage. It's all within a year that I'm trying to address this.

MEMBER HERNANDEZ: To talk about the retaining wall that you're proposing. The rear wall says that it's between height of nine feet and eight inches and 11 feet one inch. But I don't notice the returns. The return on the right appears to be very low. It's a six foot wall, but it appears to be low so your neighbor is almost equal to you, right. How high is that?

MR. IMRAN: That will be five foot.

MEMBER HERNANDEZ: Five feet.

MR. IMRAN: Yeah.

1 Appeal Number 21410

2 MEMBER HERNANDEZ: And the one that's 25 feet in depth
3 on your left side, how high is that retaining wall?

4 MR. IMRAN: Right. That will be six foot, three and a
5 half inches.

6 MEMBER HERNANDEZ: Six foot, three and a half inches.

7 MR. IMRAN: Six feet.

8 MEMBER HERNANDEZ: Just a little over five.

9 MR. IMRAN: Yeah.

10 CHAIRMAN MAMMINA: But I'm looking at a photograph of
11 the eastern side property line. So if I'm looking at the
12 house, I'm looking to the right and his girth in there goes up
13 to the top railroad tie of your existing wall. How can that
14 only be a five foot return?

15 MR. IMRAN: Well, because when we took pictures, the
16 property was under construction. So the entire backyard was
17 deconstructed so maybe that's the reason. But you can see the
18 difference on the survey. The survey that we have already
19 submitted.

20 MEMBER GOODSSELL: We do recognize that your property is
21 much lower than the house behind you.

22 MR. IMRAN: Yes.

23 MEMBER GOODSSELL: So we understand that if something is
24 necessary, your neighbors have a system as well. I looked at
25 your property. I did not look at any of the neighbors.

26 CHAIRMAN MAMMINA: Also, I think we will continue the

Appeal Number 21410

1
2 application, which means that we hold the record open. The
3 record is not closed and I guess, in addition to whichever
4 Board members want to go and take a look again, that gives us
5 time to do that. And also, I would suggest that if your
6 structural engineer says that this wall is deteriorated, that
7 he gives us some documentation more than just a letter that
8 says I've looked at the wall and it's deteriorated.

9 MR. IMRAN: Right. Okay.

10 CHAIRMAN MAMMINA: I want to know why structurally. I
11 want to see him dig behind there. I want to see that it's
12 rotted from the back. I want to see that you can just take a
13 screwdriver and poke through it. I mean, as I've seen with --
14 with presoaked railroad ties from way back in the day, you
15 know, where -- with, you know, with these kind of treated
16 railroad ties, they just don't deteriorate, you know, at the
17 same rate as those presoaked ties there.

18 MR. IMRAN: Okay.

19 VICE CHAIRMAN FRANCIS: And also why -- why a solid
20 wall as oppose to a stepping wall, like the one that you
21 already have.

22 MR. IMRAN: The only reason we are trying to save space
23 in the backyard.

24 VICE CHAIRMAN FRANCIS: So it's not structural?

25 MR. IMRAN: It's a structural wanting, but the other
26 side structure and the space between the garage and the

Appeal Number 21410

building. We are -- we are going to reduce the actual space between the garage and building by constructing similar shape of wall.

VICE CHAIRMAN FRANCIS: And moving the garage as Mr. Donatelli said further up is not --

MR. SINGH: Further back. If we do the new wall, that will be further back as per the code. Three feet away from the rear and keeping the minimum from the rear porch to the garage. So we move the garage forward, it will be probably not in line with the house in the rear. It might be more towards to the front.

MEMBER HERNANDEZ: According to your plans, there's 28 feet between the rear of the house and the back of the wall. If we were to take seven feet to accommodate you like the Chairman said, we would probably give you six feet, because we would allow a four footstep rather than a five foot step. Okay. It would still give you at least 21 -- potentially 21.10 or 22.10. So it will still give you enough room for a garage.

MR. IMRAN: But the problem is the space between the garage and the rear deck -- complete deck. That will be already there.

MEMBER HERNANDEZ: I don't see a deck in the back of your house. I see a landing of four feet. Is that what you're calling a deck?

MR. IMRAN: Yes. That is a deck.

1 Appeal Number 21410

2 MEMBER HERNANDEZ: The landing.

3 MR. IMRAN: Yeah.

4 MEMBER DONATELLI: But again, it would bring the garage
5 closer to that rear deck.

6 MR. IMRAN: Yeah.

7 MEMBER DONATELLI: It will bring the garage closer to
8 the house, but there is nothing that would prohibit either the
9 use of the deck or the use of the garage by bringing it closer.

10 MR. SINGH: That's correct.

11 MR. IMRAN: No, there is not a problem. But it's going
12 to be hard to use that space from driveway going into the
13 backyard.

14 CHAIRMAN MAMMINA: You're rear deck is four feet wide.
15 So that's from here to the wall. It's more of a platform where
16 the stairs are.

17 MEMBER HERNANDEZ: It's a landing.

18 CHAIRMAN MAMMINA: And it looks like it has some sort
19 of piles on the side that maybe its got some kind of a design
20 element that could be smaller. But we don't see any floor
21 plans, you know, of what the house is, you know, and that would
22 open up that area in there, you know, that couple of feet, you
23 know, that -- that you'll need. I mean, because right now
24 you're showing -- well, that garage should be setback three
25 feet in order to be a legal garage. Oh, it is setback three
26 feet.

Appeal Number 21410

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

MEMBER HERNANDEZ: Yeah.

CHAIRMAN MAMMINA: So you yo would just be moving it forward a couple of feet and you're done.

MEMBER DONATELLI: Let me just indicate for the record that of the five factors that we are required to consider, one of them is whether the benefit sought by the applicant can be achieved by some method which would be feasible for the applicant to pursue but would not require a variance. So as we do our test by law, the five factors that we are required to examine, it seems to me that that one is really very appropriate of this application. So there is a way to achieve this, what the applicant is seeking without seeking a variance. So that's what we're grappling with here.

CHAIRMAN MAMMINA: Just another thought that was brought up by Member Hernandez, you know, is that if you wanted to and you need a variance to do it and I think we would have to think about it, but, you know, you're required to have three feet around that garage. Maybe you can push that garage all the way back into the corner, you know, and use that 10 foot retaining wall as the back of your garage. You know, just strictly a thought. We are not -- we are not in that business.

MEMBER HERNANDEZ: Or go over five feet.

CHAIRMAN MAMMINA: Right.

MR. IMRAN: So in other words, we don't need to leave a space between the garage. The four foot space?

1 Appeal Number 21410

2 CHAIRMAN MAMMINA: Yes. Yes, you do and I said that
3 that would require a variance in order to do that. But, you
4 know, if you want to put that in when you submit papers back,
5 you know, that you would consider that, you know, as well, you
6 know, then I mean it could be -- it could just be another way
7 of mitigating. It's just a thought.

8 MR. IMRAN: Right.

9 VICE CHAIRMAN FRANCIS: I think what you're hearing
10 from us is that we're not real pleased with the application as
11 it stands right now, in terms of the one solid wall. What we
12 would offer you is to continue the application for one, more
13 information from the structural engineer with regard to the
14 retaining wall, but also, we'd like to see other plans that
15 show a step -- step -- yeah. A step retaining wall.

16 MR. IMRAN: Okay.

17 VICE CHAIRMAN FRANCIS: As an alternative. Now, would
18 that be something that you would want to do or that you could
19 do?

20 MR. IMRAN: Step retaining wall with the same kind of
21 material timber?

22 MEMBER HERNANDEZ: It can be concrete.

23 VICE CHAIRMAN FRANCIS: Yeah. I don't care about your
24 material.

25 MEMBER HERNANDEZ: Yeah. And the idea is that it can't
26 be more than five feet tall or you need a separation between

1 Appeal Number 21410

2 the two walls, which is what the code requires.

3 VICE CHAIRMAN FRANCIS: Correct. Right.

4 MEMBER HERNANDEZ: They would need a variance, because
5 they are running out of room and we are trying to give them
6 options. They have to bring the garage closer to your landing
7 to your deck. So one of the things you can do is reduce the
8 depth of the landing of the deck to give you more room.

9 MR. SINGH: I'm sorry, which deck are we talking about?

10 MEMBER HERNANDEZ: The deck on the rear right of the
11 house.

12 MR. SINGH: It's already constructed.

13 MEMBER HERNANDEZ: It's already built?

14 MR. SINGH: Yeah. It's already built.

15 MEMBER HERNANDEZ: You have 38 feet. It's not that
16 small.

17 MR. SINGH: Trust me with that wall back there.

18 MEMBER HERNANDEZ: I'm looking at the measurements from
19 your architect. Okay. So you have 38 feet. That wall should
20 take six to seven feet so that gives you 30 to 31 feet.

21 MR. SINGH: It's 36 feet. That's from the rear of the
22 property. That's not including the retaining wall, which is
23 seven to eight feet.

24 MEMBER HERNANDEZ: Right. So you have a 29 foot
25 backyard. Okay.

26 VICE CHAIRMAN FRANCIS: Okay. I'm going to take back

Appeal Number 21410

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

what I said.

MEMBER GOODSSELL: That's a legal term.

VICE CHAIRMAN FRANCIS: Yeah. I do it all the time.

We're going to reserve decision on this application. Some of us may want to take another look at the property, talk a little bit more about the issue with regard to the retaining wall and then make a decision at some point in time. Not today, but at some point in time.

MR. IMRAN: Okay. So do you want to meet the property owner over there or what will be the time schedule like?

VICE CHAIRMAN FRANCIS: I can't really give you a firm time schedule.

MEMBER GOODSSELL: We only meet once a day now in August 16th and then we start our regular every two weeks in September. So the earliest would be August 16th.

VICE CHAIRMAN FRANCIS: Yeah. The earliest decision will be August 16th.

SECRETARY WAGNER: So we don't need the letter from the structural engineer.

VICE CHAIRMAN FRANCIS: No. We don't need the letter from the structural engineer. We dont need any plans.

MR. SINGH: Sorry. Anybody need access to the property to look at it as you guys mentioned?

MEMBER HERNANDEZ: No. We drive by it and look at it from the street.

Appeal Number 21410

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

MEMBER GOODSSELL: And your pictures are very clear.
What I didn't look at is what your neighbors have.

MEMBER HERNANDEZ: Yeah. We focused on your house.

MEMBER GOODSSELL: And if they have different retaining
walls then you do, I'd like to see what they did.

MR. SINGH: The property on the right don't have any
retaining walls. It's slanted all the way.

MEMBER HERNANDEZ: Right. It's more gradual.

MEMBER GOODSSELL: And the person on the other side of
you?

MR. SINGH: I think he has a block wall. It's not a
timber wall. It's blocks.

MEMBER GOODSSELL: And what we had discussed is if you
wanted to spend the money with what you've got with some other
material where it is now, you don't need our permission to do
that. What you're looking for our permission for is to crunch
it and make it higher.

MR. SINGH: I mean, I don't mind spending the money,
but it's getting expensive.

VICE CHAIRMAN FRANCIS: We understand.

MEMBER DONATELLI: So it's reserved.

VICE CHAIRMAN FRANCIS: We're going to reserve
decision.

MR. SINGH: Thank you, guys.

SECRETARY WAGNER: Let the record reflect that the

1 Appeal Number 21411

2 Chairman is not present.

3 Next appeal, Appeal Number 21411, Argyris Kanos; 335
4 Roslyn Avenue, Carle Place; Section 10, Block 12, Lots 17 & 18
5 in the Residence-C Zoning District. Variances from
6 70-100.2.A(2) and 70-100.2.A(4), to erect fencing that is too
7 tall and is located in a front yard.

8 VICE CHAIRMAN FRANCIS: You've heard Appeal Number
9 21411, Argyris Kanos. Is there anyone interested in the
10 application other than the applicant?

11 Seeing no one.

12 Sir, please give your name and address.

13 MR. KANOS: Good morning, Mr. Chairman, Members of the
14 Board. My name is Argyris Kanos, I live at 335 Roslyn Avenue
15 in Carle Place.

16 I'm here today because I want to put fencing in the
17 front yard and my backyard, which is technically considered a
18 front yard, because my property is unique. I have my front of
19 my house is facing Roslyn Avenue. The backyard of my house
20 where my driveway is facing Glen Cove Avenue. So we are
21 looking to put a six foot fence in front and in the backyard,
22 to stay aligned with what my other neighbors have and also to
23 kind of provide a safe place for my now two and a half-year-old
24 daughter who likes to play outside and we really didn't
25 beforehand for her to play safely. So in our neighborhood, we
26 have a lot of foot and car traffic. We are down the block from

Appeal Number 21411

1
2 three Carle Place schools and we are also down the block from a
3 small church that has a lot of social gatherings and, you know,
4 nightly meetings so. And then on the -- on our property line
5 between my property and 337 Roslyn Avenue, there is an old
6 metal fence that's rusted. So I kind of wanted to put a new
7 fence in front of it to, you know, avoid any injuries and
8 that's really it.

9 VICE CHAIRMAN FRANCIS: Let the record reflect that the
10 Chairman has rejoined the hearing.

11 CHAIRMAN MAMMINA: Thank you so much Vice Chairman
12 Francis.

13 And Carle Place is my neighborhood. Four decades worth
14 and I'm very familiar, you know, with this street there and I
15 guess I always refer to it, in my head, you know, the portion
16 of Carle Place that's -- that's south of Westbury Avenue as the
17 old part of Carle Place. Old doesn't mean bad. It's
18 beautiful. All of Carle Place I think is beautiful, but that
19 was the first part to get developed when the railroad went, you
20 know, went in. I live on Titus Avenue so we are kind of dead
21 end, you know, into, you know, into you. And -- and, you know,
22 certainly I notice those fences that are -- are your neighbors
23 for decades and said, those can't have permits. But I'm not in
24 the business of being the zoning police, you know. So I just
25 leave -- let it go. But they drastically affect what that
26 house looks like, what that block looks like on that north

Appeal Number 21411

side, you know, because then when you go across the street, now you're back to Carle Place. Where Carle Place looks like everywhere, or Mineola, or New Hyde Park, you know, it's very odd. And I guess to check from -- from our people in the -- excuse me -- in the zoning department, there are no records of any permits, you know, for those fences. So I have to assume that those were put up without -- without the benefit of any permits. You do have a thru lot, you know, in that you go from one side, you know -- you know, to the other and that's a good thing. I guess my suggestion or my thoughts, you know, on this, because a variance was granted for the garage, you know, to be in there and -- and closer than it should have been. But, you know, for -- for me, the fence pulled back to where the front line of the garage is, would be something that could potentially be acceptable. I mean, the rest of the Board, you know, is here, you know, as well, but not as a six foot fence. That would be a four foot fence and you can plant in front of it, you know, or you could plant evergreen around the old piece of property. If you were to go a block over into where the Levitt houses, you know, begin and if you -- if you went to the southwest corner of Titus Avenue, Titus Avenue and 12th Street, there's a house there that came in many, many years ago asking for the six foot fence and we denied the six foot fence and he put up evergreen there.

MR. KANOS: Okay.

Appeal Number 21411

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

CHAIRMAN MAMMINA: And about three or four years after, you know, he said -- he said to me, you know what, you did me favor, because it looks so nice having all of that evergreen there. And also a corner lot and said, you know, now I've got the use of this whole area, you know, in there. So just as one Board member, you know, I'd certainly would say yes, four foot fence there I think would look very nice.

MR. KANOS: So four foot fence on the side facing Roslyn Avenue or the side facing Glen Cove, because my only concern is on the side on Glen Cove -- so my two-year-old, she's already climbing out of her playpen. It's got a three foot wall. I'll give her six months, you know, before she's climbing over a four foot fence and that's on the backside.

CHAIRMAN MAMMINA: Historically the way that the Board looks at it.

MR. KANOS: Yes.

CHAIRMAN MAMMINA: Unless there's a special needs child, you know, your -- your four-year-old?

MR. KANOS: Two-year-old.

CHAIRMAN MAMMINA: Two-year-old. I mean, I just had a birthday, you know, for my six-year-old, you know, granddaughter, you know. She's can climb a fence.

MR. KANOS: Yeah.

CHAIRMAN MAMMINA: She can climb a five foot fence. She knows how to open a fence.

1 Appeal Number 21411

2 MR. KANOS: Yeah. Okay.

3 CHAIRMAN MAMMINA: You know, so it's really not
4 something that we consider. I mean, it's part of what the Town
5 Board, you know, puts into the zoning. They create the zoning.

6 MR. KANOS: Okay.

7 CHAIRMAN MAMMINA: We look at it and we do a balancing
8 test.

9 MR. KANOS: Okay.

10 CHAIRMAN MAMMINA: And, you know, I think that -- that
11 we have an opportunity here to give you somewhat of a backyard.

12 MR. KANOS: Okay.

13 CHAIRMAN MAMMINA: Okay. It's small, but it's a
14 backyard still, because you have a very unique piece of
15 property.

16 MR. KANOS: Yes.

17 CHAIRMAN MAMMINA: And we also have to look if you have
18 any other alternatives. Your other alternative would be to
19 plant that whole area, you know, in there to give you the
20 benefit, you know, of that entire area.

21 MR. KANOS: Okay.

22 CHAIRMAN MAMMINA: You know, and then also to look at
23 what's across the street. What does the whole neighborhood
24 look like if you go down the block.

25 MR. KANOS: Yeah.

26 CHAIRMAN MAMMINA: You know, and again, as far as I'm

Appeal Number 21411

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

concerned, those two -- those two houses that are next to yours, you know, they're -- they're out of compliance and they really hurt what the block looks like.

MR. KANOS: So instead of a six foot fence where their fences are and lead into my property, it would be a four foot fence?

CHAIRMAN MAMMINA: Four foot fence. Back line --

MEMBER HERNANDEZ: I just want to stop you, because you just said something different from what you said in the beginning. I happen to agree with him. Okay. You said you wanted it at the end of the garage.

CHAIRMAN MAMMINA: The front of the garage.

MEMBER HERNANDEZ: Yes, the front or end. Whatever the -- yeah. The very end of the wall or the beginning of the garage. His original request was at the end of the property line. I disagree with that. I don't think you can put it to the property line, because it would be right up against the street.

MR. KANOS: Yeah.

MEMBER HERNANDEZ: It won't look nice. It will look very strange. But he's not asking if he could match it to his neighbor. Is neighbor is somewhere in between the end of the street and his garage. Somewhere, like, five feet in or something like that.

CHAIRMAN MAMMINA: I guess the question will be and I

Appeal Number 21411

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

apologize, because which neighbor are you talking about?

Because I'm -- what I'm saying is that where the garage is setback 19.5 feet, that that's where the fence would go.

MEMBER HERNANDEZ: That's where they normally would go. Absolutely. These neighbors have their fences here.

CHAIRMAN MAMMINA: Yeah. I know.

MEMBER GOODSELL: He's asking to come all the way to the curb.

CHAIRMAN MAMMINA: Which is not his property any way. A lot of people don't know what.

MEMBER HERNANDEZ: You can't do that. Right.

MR. KANOS: Well, I'm not --

CHAIRMAN MAMMINA: I guess, my position and I'll take the hard nose position, which I would probably wouldn't do myself if I was -- well, maybe I would. You know, I -- I would call code enforcement, you know, on those two people, you know, and have them -- have those fences taken down, you know, because it -- it just -- we're all about the character of the neighborhood. We are not about esthetics and what looks pretty.

MR. KANOS: Yeah. My only issue with having the fence basically inline with the garage, because I already have a deck in the backyard. So now if I put a fence there, there's no backyard. There's --

CHAIRMAN MAMMINA: Well, no there is. I mean, again,

Appeal Number 21411

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

on Titus Avenue, I have a 30 foot backyard. You know, my property was 60 feet wide, you know, but I have a 30 foot backyard.

MR. KANOS: Maybe I'm misunderstanding, because I'm picturing where my deck ends and where the line of my garage ends, and I'm not seeing more than 10 feet.

CHAIRMAN MAMMINA: I'm not talking about up to your deck. No. I mean, you elected to build a deck. I had a deck too.

MR. KANOS: Oh, no, I have a deck. I currently have a deck.

CHAIRMAN MAMMINA: I know. So I'm saying that's where -- where I think it should be in terms of character of the neighborhood.

MEMBER DONATELLI: Would you consider plantings, for example, arborvitae?

MR. KANOS: Oh, yeah. I can put that to make up for the height loss. I was looking for a minimum of a four foot fence.

MEMBER DONATELLI: Yeah. But the question really is again, the proximity to the street. Glen Cove Avenue, which -- excuse me -- you use as a backyard?

MR. KANOS: Yes.

MEMBER DONATELLI: Technically that's the way your house is situated and on the other hand, because it is an

Appeal Number 21411

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

L-shape lot, it is a front yard to Glen Cove Avenue.

MR. KANOS: Yes.

MEMBER DONATELLI: So the question is, would you be able to accomplish the same thing with arborvitae?

MR. KANOS: I mean, yeah. The -- the L-shaped fence that I was planning on putting on, like, right where I consider the backyard right next to the driveway and parallel to Glen Cove Avenue, we could put arborvitae. I mean, instead of paying for fencing, I would just put arborvitae over there. But then it doesn't really, like, it won't really contain the area, because I need, like, a doorway to present, like, my child or dog running into the street, because there was supposed to be, like, a swinging door where the walkway from my driveway to my deck sort of branches off.

MEMBER DONATELLI: I see that.

MR. KANOS: Yeah. So yeah, I could put arborvitae parallel to the street, but it doesn't really do much to contain the area and fence, like, a child running into the street.

MEMBER GOODSSELL: Well, it gives you privacy. But you're right, a child --

MR. KANOS: I mean to be honest with you, the privacy hasn't really mattered. We've had the house for seven years. Now the safety concern is in place, because we have a kid. Yeah.

1 Appeal Number 21411

2 MEMBER GOODSSELL: What the Town is trying to do is to
3 prevent what's happening on this block, which is the neighbors
4 of a residential property looking at a wall.

5 MR. KANOS: No, I totally understand.

6 MEMBER GOODSSELL: Just looking at wall.

7 MR. KANOS: Yeah.

8 MEMBER GOODSSELL: And so where ironically a six, or
9 five, or four foot fence could go, a 10 foot arborvitae can go.

10 MR. KANOS: Yeah.

11 MEMBER GOODSSELL: So the Chairman is suggesting
12 greenery for privacy.

13 MR. KANOS: Yeah.

14 MEMBER GOODSSELL: But you're correct, it doesn't create
15 a safe place.

16 MR. KANOS: Yeah. Not to cut you off, my neighbor on
17 337, which doesn't have the big white fences that you're
18 seeing, they have a four foot metal framed fence around the
19 entirety of the property. It's like 100 by 100 and then to
20 provide privacy, they have, like, I don't know, the arborvitaes
21 have to be like 10 feet tall.

22 CHAIRMAN MAMMINA: They also may predate the fence
23 ordinance.

24 MR. KANOS: Oh, that house has been around for 60
25 years. Yeah.

26 CHAIRMAN MAMMINA: Yeah. Because that was very, very

Appeal Number 21411

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

common in various parts.

MR. KANOS: Yeah.

CHAIRMAN MAMMINA: You know, of the Town. Especially the vintage that these houses were built. These were built in the 50s generally.

MR. KANOS: I think my house is built in the 20s.

CHAIRMAN MAMMINA: That's what I said. It's the older -- old part of Carle Place. Beautiful still, but older.

MR. KANOS: Yeah.

CHAIRMAN MAMMINA: And just between, you know, us as, you know, as neighbors, my position on this would be the same regardless of where it was or who it was. We look very, very carefully at fences. We have a lot of fences that come in. We used to have even more.

MR. KANOS: Okay.

CHAIRMAN MAMMINA: And so the zoning board suggested to the planning department to suggest to the Town Board, that they create a new standard for fences, which is four feet at -- at the front, it's six feet at a rear yard line. Okay. In this case you don't have a rear yard. And then it's five feet on the sides.

MR. KANOS: Okay. Okay. So what is the --

CHAIRMAN MAMMINA: We're going to reserve decision so that we can look at it again and make sure that we're giving you the fairest shape we can possibly done.

1 Appeal Number 21411

2 MR. KANOS: Okay. Okay. Okay. All right. I prefer
3 that.

4 CHAIRMAN MAMMINA: No doubt about it. And we'll just
5 reserve it.

6 MR. KANOS: So how does that work? It's the first time
7 I've ever been here so.

8 CHAIRMAN MAMMINA: What will happen is, you may call
9 the Zoning Board after the next hearing or you can call
10 tomorrow, but I don't think we're going to make a decision
11 today.

12 MR. KANOS: Okay.

13 CHAIRMAN MAMMINA: You know, and you can, you know, get
14 in touch with Ginny and she'll tell you whether or not we've
15 made a decision.

16 MR. KANOS: Okay.

17 SECRETARY WAGNER: It's a possibility it could be
18 today.

19 CHAIRMAN MAMMINA: Right. Not a probability.

20 SECRETARY WAGNER: And then the next hearing won't be
21 until August. We only make decisions after on the hearing
22 dates.

23 MR. KANOS: Gotcha.

24 CHAIRMAN MAMMINA: And we do that publically. In that
25 you can certainly come. Anyone in the room can come or we are
26 now televised. So if you want some really exiting TV, you can

Appeal Number 21412

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

watch us.

MR. KANOS: So the next possible date when this would be resolved would be the next hearing date in August?

MEMBER GOODSSELL: August 16th.

SECRETARY WAGNER: Or today.

MR. KANOS: So should I call tomorrow to find out if it was resolved?

CHAIRMAN MAMMINA: Certainly you can.

MR. KANOS: All right. Thank you. Thank you very much.

MEMBER HERNANDEZ: Thank you.

CHAIRMAN MAMMINA: We're going to take a 15 minute break at about one o'clock. Okay. And the 15 minutes is really 15 minutes. We're going to be sitting up here probably eating a sandwich.

SECRETARY WAGNER: Next appeal, Appeal Number 21412, - Plymouth Realty Company, LLC (Kenetic Physical Therapy P.C.); 489 Great Neck Road, Great Neck, Section 2, Block 51, Lot 209 in the Business-A Zoning District. Variance from 70-103(A)(1), to construct interior alterations for a new physical therapy office with not enough parking.

CHAIRMAN MAMMINA: You heard Appeal Number 21412, Plymouth Realty Company, LLC; Kenetic Physical Therapy P.C.

Please give your name and address.

MR. MIGATZ: Bruce W. Migatz, law firm Albanese and

1 Appeal Number 21412

2 Albanese, 1050 Franklin Avenue, Garden City, New York.

3 Still one minute before noon so good morning, Members
4 of the Board.

5 CHAIRMAN MAMMINA: Good morning.

6 MR. MIGATZ: At the outset, I'd like to hand in one
7 additional return receipt first class mail that came back. And
8 I had premarked in a binder three exhibits. I offer them as
9 Exhibits 1, 2 and 3. I have one copy for the record and one
10 copy for each member of the Board. Should be one for counsel
11 as well.

12 The applicant is Kenetic Physical Therapy. With me
13 this morning is Jay Je, J-A-Y, J-E, who is the principle of
14 Kenetic Physical Therapy. The owner is Plymouth Realty Co,
15 LLC. Subject property 489 Great Neck Road in Great Neck. The
16 store that is the subject of the application is at the address
17 of 489 Great Neck Road in the former Mayflower cleaners. For
18 the record Section 2, Block 51, Lot 209 Zoned Business A. The
19 subject store, which we are converting to a physical therapy
20 office has an area of 1,059 square feet. Exhibit 1 is a
21 photograph, a recent photograph of the subject store, which was
22 Mayflower cleaners and behind that is an aerial photograph that
23 is contained in the traffic report from R&M Engineering. Wayne
24 Muller is here today to address the parking variance. And that
25 aerial shows the H Plaza shopping center and that has been
26 before this Board several times. I've had handled several

Appeal Number 21412

1 applications for that shopping center. The shopping center
2 itself was constructed, I believe in 1950s. It has been owned
3 by the current owners since 1970. The -- it was improved in
4 2007, when it became known as H Plaza or H Mart Plaza. Those
5 improvements were made pursuant to a parking variance this
6 Board granted under Appeal Number 18268 and was decided 2007.
7 A 17 space parking variance was granted -- bless you.

8
9 MEMBER HERNANDEZ: Excuse me. Thank you.

10 MR. MIGATZ: 107 spaces were required for the
11 improvements and a 153 were provided. Now, I've been back and
12 forth with the plan examiner to try to clarify the disapproval
13 notice, which is still slightly confusing. Let me try to
14 explain it. The disapproval notice states, "the previous BZA
15 number 20686 cited 107 spaces required with 153 provided".
16 That appeal did not grant that variance. If you look at
17 Exhibit 2, that is a decision in that appeal and that was
18 strictly for a conditional use permit that did not require a
19 parking variance, but the site plan, which is part of Exhibit
20 2, does cite the prior variance granted in Appeal Number 18268.
21 So that's what the plan examiner was referring to, but that was
22 sited in the later appeal, but the variance itself was granted
23 in the prior appeal. Exhibit 3 is that prior Appeal 18268 that
24 granted that 17 space parking variance.

25 Now, the present application is to convert the vacant
26 retail space to a physical therapist office. Jay Je holds a

Appeal Number 21412

1
2 doctorate in physical therapy since 2015. The practice now has
3 been going to patients homes. He still intends to do that to
4 some degree, but he rather concentrate in an office setting and
5 this is his application to locate his office in this shopping
6 center.

7 Now, the dry cleaner was a retail space required one
8 space for every 300 square feet, four spaces. Physical therapy
9 is deemed a medical use so its one per every 150. So this
10 applicant is only increasing the nonconformity by four spaces.
11 However, in preparing this application, we discovered there was
12 an error in the 2007 site plan and that plan inadvertently
13 omitted 2,411 square feet of retail space. So obviously once
14 we discovered that, we included that in this application. But
15 that -- that extra -- that's 13 spaces required for that
16 omitted retail space. That is not in this applicant's doing.
17 Okay. So we have to correct that. So we are trying to
18 correct. So we are asking for a parking variance of actually
19 nine spaces for that retail space omitted and four spaces for
20 the physical therapy office. So it's an additional 13 spaces
21 we are seeking today. Did I lose you?

22 MEMBER DONATELLI: No.

23 MEMBER GOODSSELL: No.

24 MEMBER HERNANDEZ: So it is 13 in total or 13 plus 14,
25 which is 17?

26 MR. MIGATZ: We are seeking 13 altogether. The

Appeal Number 21412

restaurant is grandfathered in.

MEMBER HERNANDEZ: Okay.

MR. MIGATZ: And the disapproval notice did clarify that. They had us re-file the parking calculations for the restaurant using today's standards. Explained to me by Deputy Commissioner Norgent that they do that to have a baseline going forward, but the restaurant is grandfathered in for those spaces. So we are now seeking -- I misspoke, I'm sorry. We are seeking a 13 space parking variance; nine for the omitted retail space and four for the physical therapy office, which is 13 altogether.

This is an area variance balancing the benefit to the applicant verses detriment to the community. First factor is will an undesirable change be created in the neighborhood or detriment to other properties. Wayne Muller has submitted a traffic study on that issue and I would ask him to come forward at this point to summarize his report.

CHAIRMAN MAMMINA: Thank you, Mr. Migatz.

MR. MULLER: Good afternoon, Members of the Board. Wayne Muller, Robinson and Muller Engineering. Offices at 50 Elm Street, Huntington, New York.

As Mr. Migatz has indicated, we did prepare a parking and traffic analysis for the proposed project. That analysis is dated revised June 29, 2023, which reflects the modifications that Mr. Migatz has dug up based on

Appeal Number 21412

1
2 inconsistencies existing in the letter of denial. As indicated
3 in our report, we observed the parking activity at the subject
4 property on two separate occasions. First one being Friday,
5 April 21st from 7:30 a.m. to 7:30 p.m., which would be the
6 hours the physical therapy office will be open. And again on
7 Saturday, April 22nd 7:30 a.m. to 4:30 p.m. during the peak
8 times that the physical therapy office will be open. During
9 those times, we saw a maximum of 101 vehicles parked, leaving
10 52 vacant parking spaces on the property and that translated to
11 an occupancy of 66 percent on the subject site, factoring in
12 some vacant retail space that currently exists and the activity
13 that we believe could occur in the PT office, the occupancy
14 would increase it to 74 percent, with a 113 vehicles parked
15 leaving 41 parking spaces vacant.

16 So based on our observations at the site, our analysis
17 of the activity generated by the proposed PT office, it is our
18 professional opinion that there will be plenty of parking on
19 the property to satisfy the demand. And as indicated in our
20 reporter, the level of traffic that will be generated by the
21 change in use from a dry cleaner to the retail space to the PT
22 office would be a minor increase and will not have a
23 significant impact on the traffic conditions in or around the
24 area.

25 I'll be happy to answer any questions.

26 CHAIRMAN MAMMINA: Any questions?

Appeal Number 21412

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

MEMBER DONATELLI: I guess perhaps more of an observation. Dry cleaning seems to me to be more of a business that is just pick up and drop off. People will drive there, hop out, pick up or drop off and then leave. Whereas physical therapy I would assume is by appointment.

MR. MULLER: Correct.

MEMBER DONATELLI: So that it's probably less traffic oriented and probably a bit more strutted with appointments than an dry cleaning establishment.

MR. MULLER: I totally agree with that, yes. There's well defined schedules. People don't just show up for PT. You're scheduled, go to the office, you have your -- do your PT and then you go home or you may go to the H Mart.

MEMBER GOODSSELL: And I was going to ask you whether you had taken into account, there are one or two vacant stores in there but you did take that into account.

MR. MULLER: We did, yes. Absolutely.

MEMBER GOODSSELL: As we both know, you've done presentations where the parking is plentiful, because there's vacant businesses that aren't using the parking that one existing business can take advantage of that. But in this case, you did look at -- I did notice right around the corner there were one or two spaces that were not occupied.

MR. MULLER: That's correct.

That's my presentation.

Appeal Number 21412

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

MEMBER HERNANDEZ: If anything, this is a prime example of a self limited parking. There's no place to park anywhere near this parking lot.

MR. MULLER: Yeah. There's limited amounts of on street parking, which we did observe when we were the.

MEMBER HERNANDEZ: You have to walk quite a bit to get there.

CHAIRMAN MAMMINA: You take your life in your hands.

MEMBER GOODSSELL: As oppose to further up Great Neck Road where there is no parking.

MR. MULLER: That's correct.

CHAIRMAN MAMMINA: So do with have a motion?

MEMBER DONATELLI: I'm not sure if the applicant is finished yet.

MR. MIGATZ: You want me to finish the other factors?

CHAIRMAN MAMMINA: Please do that.

MEMBER GOODSSELL: Mr. Migatz, you prepared. We're ready to listen to you.

CHAIRMAN MAMMINA: I apologize, sir.

MR. MIGATZ: We don't think the variance is substantial based upon Mr. Muller's testimony having an adverse impact on the neighborhood. There's no other means to achieve the benefits sought by the applicant except for the variance. It is an unlisted action, but we submit to you it will not have an adverse impact on the environment and technically by law, the

Appeal Number 21412

difficuly is self, but that is not one factor to consider decision.

A personal note, having gone through rotator cuff surgery and going through physical therapy where I could not move my arm out of a sling, I now have full movement so I really respect what they do.

MEMBER HERNANDEZ: Absolutely.

MEMBER DONATELLI: So, Mr. Chairman, having reviewed the application, I would like to express my gratitude to Mr. Migatz for pointing out the inconsistency in the prior granted variance. I make a motion that we grant this application.

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

VICE CHAIRMAN FRANCIS: Second.

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: I'll give it to Vice Chairman Francis.

Please poll the Board.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

1 Appeal Number 21432.A

2 SECRETARY WAGNER: Vice Chairman Francis?

3 VICE CHAIRMAN FRANCIS: Aye.

4 SECRETARY WAGNER: Chairman Mammina?

5 CHAIRMAN MAMMINA: Aye.

6 Application is granted.

7 MR. MIGATZ: Thank you very much.

8 CHAIRMAN MAMMINA: Totally off the record.

9 (A discussion was held off the record.)

10 SECRETARY WAGNER: Next appeal, Appeal Number 20432.A,
11 Louie's Manhasset; 339 Plandome Road, Manhasset, Section 3,
12 Block 45, Lots 415 & 417 in the Business-A/Business-B Zoning
13 District. Conditional use 70-126.A and variance from 70-103.A,
14 to construct an addition to a restaurant (a conditional use),
15 with not enough parking on site.

16 CHAIRMAN MAMMINA: Good afternoon, Ms. Curto.

17 MS. CURTO: Good afternoon.

18 CHAIRMAN MAMMINA: Name and address, please.

19 MS. CURTO: Good afternoon, Chairman Mammina and
20 Members of the Board, Andrea Tsuokalas Curto with the firm of
21 Forchelli, Deegan, Terrana. Offices at 333 Earl Ovington
22 Boulevard, Uniondale, New York.

23 With me today is my client, Mr. Tom Pagonas. As
24 mentioned, this is an application for a conditional use permit
25 and a 33 stall parking variance for Louie's Manhasset
26 restaurant, which is on Plandome Road. I'm sure you're all

Appeal Number 21432.A

very familiar with the restaurant.

My client is proposing a minor 175 square foot rear addition to expand his kitchen prep area. He's also adding an ADA compliant bathroom. My client obtained a variance for this site in 2017, under Appeal Number 20432. They're substantial the same. Unfortunately those approvals expired, because after three renewals with the prior law, you couldn't extend it any more. So because of personal reasons, Covid and other -- other things that happened, he has to now come before you again today to renew that prior approval.

VICE CHAIRMAN FRANCIS: Should we incorporate that prior approval with this record?

MS. CURTO: Yes, please do that. Thank you very much.

We explained at that time that the expansion would not have an impact on parking, because we are not increasing the seating. The same applies to this application. He does have four tandem stalls in the rear of the restaurant that he uses for employee parking. He's going to continue to do that. He's not increasing the seating. He does also have three parking stalls from the Manhasset Fire District that he uses for employee parking. As you know, this used to be Andy's Luncheonette. There has been a restaurant at this location for over 51 years. My client has operated his restaurant here for 44 years. As you all know, this is part of the downtown area so it's very close to the Long Island Railroad so he draws from

Appeal Number 21432.A

commuters and people who work in the area, including yourselves and so this is not a big parking, you know, issue or demand. People are either parking on the street or they walk over. And for so those reasons, we ask that you grant the application again so that he can complete his renovation.

VICE CHAIRMAN FRANCIS: I think we'll deny it this time.

MEMBER DONATELLI: It's too close to lunch.

MS. CURTO: And thank you for taking lunch at one. I appreciate that.

CHAIRMAN MAMMINA: Makes you nervous, right.

Do we have a motion, please?

MEMBER HERNANDEZ: Mr. Chairman, given that we already approved this once before a few years ago and he was unable to get it built, I move that we regrant the application.

CHAIRMAN MAMMINA: Okay. We have a motion.

MEMBER HERNANDEZ: With of course, as in the last plan, restaurant conditions.

MEMBER GOODSSELL: And I will second that motion.

CHAIRMAN MAMMINA: We have a motion by Member Hernandez with a second be Member Goodsell.

Please poll the Board.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

1 Appeal Number 21413

2 MEMBER HERNANDEZ: Aye.

3 SECRETARY WAGNER: Member Donatelli?

4 MEMBER DONATELLI: Aye.

5 SECRETARY WAGNER: Vice Chairman Francis?

6 VICE CHAIRMAN FRANCIS: Aye.

7 SECRETARY WAGNER: Chairman Mammina?

8 CHAIRMAN MAMMINA: Aye.

9 Application is granted.

10 MS. CURTO: Thank you very much. Have a good day.

11 CHAIRMAN MAMMINA: Thank you.

12 SECRETARY WAGNER: Next appeal, Appeal Number 21413, -

13 Leonard Sessa (Leonard's Palazzo); 555 Northern Boulevard,
14 Great Neck, Section 2, Block 359, Lot 20 in the Business-A
15 Zoning District. Variance from 70-202.1(C), to construct a
16 retaining wall that is too high.

17 CHAIRMAN MAMMINA: You heard Appeal Number 21413,
18 Leonard Sessa, Leonard's Palazzo. Is there anyone here who has
19 interest in the applicant, other than the applicant?

20 Seeing some hands.

21 MS. WILCOX: Good morning.

22 MEMBER DONATELLI: Good morning. Good afternoon at
23 this point.

24 MEMBER GOODSSELL: Name and address.

25 MS. WILCOX: Yes. My name is Vanessa Wilcox from the
26 Law Office of Schneider Buchel, 666 Old Country Road, Suit 412,

Appeal Number 21413

Garden City, New York.

So I am here to represent my clients who are the co-op South Middle Neck Road Corp., who are the --

MS. ALGIOS: So you're not the applicant?

MS. WILCOX: Yes. I'm also here on behalf of Leonard's. But it -- that's why I wanted to know if they wanted to come up and speak. We're not aware that they were going to be here today. But yeah, I'm just here to represent -- I can give the presentation. I'm not sure if you want to --

Unknown SPEAKER: No, that's okay. She can present on our behalf.

MS. WILCOX: Yeah. I'm here to represent on both of our behalves for the retaining wall that is between the properties. So we've been working on this together.

MEMBER DONATELLI: So sorry, you represent the applicant?

MS. WILCOX: I represent South Middle Neck Road Corp., which is the co-op which is on the other side of the retaining wall.

MS. ALGIOS: So who are you representing here? Who are you representing?

MS. WILCOX: I'm also here to represent Leonard's, who is also here.

MS. ALGIOS: So you are presenting though the

Appeal Number 21413

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

application on behalf of the applicant Leonard's?

MS. WILCOX: On behalf of the applicant Leonard's.

MS. ALGIOS: Yes.

MS. WILCOX: Yes. Okay. Okay. Yeah. The architect is also here for any -- the engineer is here for any technical questions that, you know, you may have.

So this is an application for the rebuilding of the retaining wall that was already located between the two properties. It did fail. So what we're asking for is just a replacement in kind of the wall that was already existing. It's a 12 foot wall. I have submitted some photographs for you to see where the wall used to be. The only thing that will be -- it's an exact wall in kind, the only thing that will be different is some additional materials, as well as some drainage that will prevent further issues in the future.

MEMBER DONATELLI: Just for orientation, can you just -- I'm looking at these photographs that you just handed up. Which building is Leonard's on this photograph? Is that this building right here?

MS. WILCOX: Yes.

MEMBER DONATELLI: Okay.

MS. WILCOX: So that view from the photo that you're holding up is from the 200 South Middle Neck side looking towards Leonard's, which is the building that you see on the left.

Appeal Number 21413

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

MEMBER DONATELLI: So Leonard's is lower in this photograph?

MS. WILCOX: Yes. Leonard's is lower. And the other picture is the view is from Leonard's looking forward.

MEMBER DONATELLI: I see. Thank you.

VICE CHAIRMAN FRANCIS: Did you get any report as to why this retaining wall failed?

MS. WILCOX: So it actually failed during a storm. It was, like, heavy rains on that particular day. I do believe that is the reason that it failed, as well as the older building materials that had been used to construct it had been in place for quite sometime when it failed.

MEMBER GOODSSELL: Would that be this block material?

MS. WILCOX: Yes. Exactly. That is what remains of the previous --

MEMBER GOODSSELL: That's shown in photograph Exhibit 1, I believe. And the block material, was that nine feet or 12 feet high?

MS. WILCOX: It was 12 feet high, yes.

MEMBER GOODSSELL: So it was not terraced. I believe you -- did you listen in the audience, we did have a previous retaining wall case. It was not terraced, it was a straight wall. Is that correct?

MS. WILCOX: I believe that's correct.

VICE CHAIRMAN FRANCIS: And -- I'm sorry.

Appeal Number 21413

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

MEMBER GOODSSELL: Do you know how long ago it failed like this?

MS. WILCOX: The failure was in September of 2021.

MEMBER GOODSSELL: So it's been a couple of years.

MEMBER DONATELLI: Just looking at that photograph, I would just notice on the right side of the photograph you can actually see where the retaining wall collapsed.

MS. WILCOX: Yes. So the idea here is to construct a new wall the same height with more modern materials, additional drainage to prevent, you know, further issues that would match up seamlessly with the pieces of the wall at the very end that are currently still standing.

VICE CHAIRMAN FRANCIS: Yeah. I have a feeling that drainage was one of the issues that caused the failure of the wall.

MS. WILCOX: Absolutely. We believe that was the issue.

MEMBER DONATELLI: What use is made of that area, that paved area right behind the building? Is that a truck ally way or is that -- is use made of that area?

MS. WILCOX: Are you speaking about the area on Leonard's property?

MEMBER DONATELLI: On Leonard's property.

MS. WILCOX: Yes. So I believe that's part of their driveway that they, you know, it's towards the back of their

Appeal Number 21413

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

building.

MEMBER DONATELLI: Yeah. Yeah. Okay. So -- so trucks would -- would drive through that area?

MS. WILCOX: Absolutely. Absolutely. You know, that's one of the reasons, you know, we're asking for approval here. It's been very undesirable condition to have, you know, the earth that spilled over. It's still currently on the property.

MEMBER DONATELLI: And if the wall were terraced as required by the town code, that would cut into that truck right of away?

MS. WILCOX: It would, yes.

UNKNOWN SPEAKER: Has the existing wall that is still standing or that you're proposing to keep, has that been examined for structural integrity?

MS. WILCOX: I believe it has, but I would leave the technical questions to our architect.

UNKNOWN SPEAKER: Give us your name and address.

MR. RAKIS: Good afternoon. George Rakis R&M Engineering, 50 Elm Street, Huntington, New York.

Yes, the remaining part of the wall that is still intact is structurally sound.

MEMBER GOODSSELL: I'm sorry, is structurally --

MR. RAKIS: Sound.

MEMBER GOODSSELL: Okay. Is there an attempt to replace it though for continuity with the new material?

Appeal Number 21413

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

MR. RAKIS: No. They wanted to keep the same block.
We're just adding a proposed wall essentially.

CHAIRMAN MAMMINA: But are you correcting the
construction of the block? Just because from what I see in
this -- in this collapse, which may not be the case, but when I
look at your drawings, your drawings show a proper installation
using this type of gravity block. So the intent is not to
reuse what's there. It's going to go in the same place?

MR. RAKIS: Correct. Replace meaning in kind, in the
same location.

MEMBER DONATELLI: So I think speaking for myself, I
would just -- I want to put on the record the fact that the
applicant here is proposing to repair wall that collapsed some
two years or so ago, and that use is made of that ally way
behind the building for trucks and deliveries, and for goods.
So that, in my mind, this is distinguishable from other
applications that we may have had and I think it's important to
preserve that truck access for this area and not require
terrace that may otherwise be required by the town code.

CHAIRMAN MAMMINA: Right. And I think just supporting
that point, this wall most probably predates the ordinance that
generated the required stepping back. Now, clearly it's been
replaced from what was there originally, which was probably
railroad ties or, you know, that sort of thing. So I guess we
could argue that they should have come to the Zoning Board

Appeal Number 21413

1
2 then. But be that as it may, the wall got rebuilt, you know, I
3 accept completely and I'm going to guess that -- that
4 Leonard's, you know, as a catering facility is older even than
5 I am. So it's been there forever.

6 MEMBER GOODSSELL: I am actually surprised that there is
7 actually a Leonard. I did not know that. You learn something
8 every day.

9 Ms. Wilcox, you also indicated that you represented the
10 adjoining property, which was the co-op.

11 MS. WILCOX: Yes, that's correct.

12 MEMBER GOODSSELL: What were was their feeling after
13 that collapse, because I believe I see barricades there
14 preventing residents from using parking in that area?

15 MS. WILCOX: Yes. It's been, like I said, an extremely
16 undesirable condition for both Leonard's, but also the co-op.
17 Because there was so much deterioration of that earth there,
18 they haven't been able to use some of their facilities,
19 including some of their parking for the residents, as well as
20 their pool since the time of the collapse. So it's definitely
21 a condition that we want to have restored as quickly as
22 possible, as it will give both of the proprietries, you know,
23 the ability to fully use that area.

24 CHAIRMAN MAMMINA: It will also restore parking that
25 you currently lost as it slid down.

26 MS. WILCOX: Exactly. Exactly.

1 Appeal Number 21413

2 VICE CHAIRMAN FRANCIS: It works out.

3 CHAIRMAN MAMMINA: It's nice when neighbors come to an
4 agreement on something.

5 MEMBER GOODSELL: We do. We encourage that, but you're
6 actually an example that people do that, which is very
7 refreshing to us.

8 So are the two properties working together to determine
9 what type of wall will be best, or what type of materials are
10 going to be used, or is there a reason why you actually
11 represent the co-op?

12 MS. WILCOX: Right. So the reason that I'm here is
13 that we have been working together since the beginning to, you
14 know, figure out how the wall will be rebuilt and replaced. So
15 yeah, we have been working together and I think we are in
16 agreement about the plans and just, you know, need your
17 approval to get it underway.

18 MEMBER GOODSELL: Is there anyone in the room that is
19 objecting to this proposal?

20 Did you receive any objections when you sent out the
21 notices?

22 MS. WILCOX: I don't believe there was any objections.

23 MEMBER DONATELLI: All right. So -- yeah. I'm going
24 to make a motion that we grant the application for the reasons
25 indicated previously. I think that this is distinguishable
26 from other cases that we've had requesting the same thing. So

1 Appeal Number 21413

2 I make a motion that we grant the application.

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

5 VICE CHAIRMAN FRANCIS: Second.

6 CHAIRMAN MAMMINA: Second from Vice Chairman Francis.
7 Please poll the Board.

8 SECRETARY WAGNER: Member Goodsell?

9 MEMBER GOODSSELL: Aye.

10 SECRETARY WAGNER: Member Hernandez?

11 MEMBER HERNANDEZ: Aye.

12 SECRETARY WAGNER: Member Donatelli?

13 MEMBER DONATELLI: Aye.

14 SECRETARY WAGNER: Vice Chairman Francis?

15 VICE CHAIRMAN FRANCIS: Aye.

16 SECRETARY WAGNER: Chairman Mammina?

17 CHAIRMAN MAMMINA: Aye.

18 So the application is granted.

19 MS. WILCOX: Thank you.

20 CHAIRMAN MAMMINA: I think we're going to do a little
21 break right now and then get to those last three cases.

22 (A recess was taken.)

23 CHAIRMAN MAMMINA: If everyone will please have their
24 seat.

25 SECRETARY WAGNER: Next appeal, Appeal Number 21415,
26 St. Gregorio's Malankara Orthodox Church (Reverend Father

Appeal Number 21413

Gregory Varghese); 175 Cherry Lane, Floral Park; Section 8, Block 11, Lots 40-44 and 60-65, Zoned Residence-C. Variances from 70-103.A(1), 70-46.B, 70-49.B, 70-52.6, and 70-100.2.A(2), to construct a new church that is too large with portions of the façade and eaves that are too tall, not enough parking onsite and fencing that is located forward of the front building line.

CHAIRMAN MAMMINA: You've heard Appeal Number 21415, St. Gregorio's Malankara Orthodox Church, Reverend Father Gregory Varghese. Is there anyone in the room interested in the application other than the applicant?

MR. MASTROIANNI: For the applicant. For the applicant, Mr. Chairman.

CHAIRMAN MAMMINA: Okay. So we do have other people who are interested and you will have the opportunity to speak after the applicant. And just so everyone knows from now, anyone else who wishes to speak, either in favor or in opposition, you know, after the applicant's presentation, we have a three minute limit, you know, on -- on that time. We ask that people try not to repeat, you know, each other. Keep their focus on this application and not maybe other problems that they may perceive in the -- in the neighborhood and then the applicant has the opportunity to come back up and the Board can ask whatever questions it feels it needs to ask of the applicant, based on things people said or the applicant can

Appeal Number 21413

respond then to things that might have been said either positively or negatively about the application.

So with that said, please give your name and address.

MR. MASTROIANNI: My name is Anthony Mastroianni, I'm an attorney and today I have the pleasure of representing the applicant, the St. Gregorio's Malankara Orthodox Church.

Good morning -- well, no, now it's afternoon. Good afternoon, Mr. Chairman, Members of the Board. As a matter of procedure, I want to hand up the return receipts for the mailings that were done at this time.

UNKNOWN SPEAKER: Thank you.

CHAIRMAN MAMMINA: Do we have a sign in sheet?

Okay. We're going to pass around a sign in sheet so everybody can put their name, you know, on that and, you know, that way there's a record and if you -- if you choose not to speak ultimately or whatever, you all -- you don't need to. The record will show that you were here either in support or in opposition to the application. Thank you.

MR. MASTROIANNI: Thank you, Mr. Chairman.

The applicant is St. Gregorio's Malankara Orthodox Church. The subject property is located at -- well, let me first say that as legal counsel, I'm going to be the principal presenter of this application. However, I will be calling up three individuals to speak with respect to different aspects of the application and I have some exhibits that I will want to

1 Appeal Number 21413

2 submit as part of the record, Mr. Chairman.

3 CHAIRMAN MAMMINA: Fine. Thank you.

4 MR. MASTROIANNI: Thank you.

5 The church has served the local community. It's
6 located at 175 Cherry Lane in Floral Park, New York and it's
7 situated in a Residence-C Zone. The church has served the
8 local community from 2001 to date for over two decades. It
9 replaced the local bar or tavern and has conducted services for
10 it's congregation throughout that time without incident or any
11 complaint from any neighboring properties. The applicant has
12 enjoyed a prospering congregation that has grown in numbers
13 over the years. The existing facility can no longer adequately
14 meet the needs of the present congregation, therefore the
15 church has made applications to expand it's facility to
16 continue to provide spiritual and fellowship meeting place for
17 the surrounding community members as its present congregation.

18 My first exhibit is the site plan, Mr. Chairman. With
19 a description of the project by the architect that drew it. So
20 I'm gonna have this marked as Exhibit Number 1 on behalf of the
21 applicant. I have a copy for town counsel and a courtesy for
22 the Board to share. The applicant submitted it's site plan
23 drawings to the town and the town building department
24 disapproved the site plan citing certain variances that would
25 be required for the approval. So the next exhibit is the
26 denial of this approval letter from the town building

Appeal Number 21413

department, which I would like to submit.

MS. ALGIOS: This is already submitted. Yes, we already have it. It's part of our record.

MR. MASTROIANNI: The building department has calculated that the parking requirements are 183 parking spaces and the applicant proposes 13 parking spaces, although we believe that the number will be reduced to 12 after hearing the concerns of one of the adjoining or nearby property owners, which will be addressed by Father Gregory. The building department also requires a variance for the height of the facade, as it exceeds the maximum height by the code of 45 feet and the proposed facade height is 60 feet. The building department also requires a variance as to the total gross floor area. The building department found that the applicant proposed a 14,275 square feet, which exceeds the 11,000 square feet maximum allowable under the code. The building department also states that the applicant exceeds the eave height. The proposed eave height is 30 feet and it exceeds the 22 maximum under the code. The building department also cites that the fencing that exists on the premises and that the code prohibits the location of any fences in the area between the public and private street and the nearest affected building line.

At this time, I'm going to call Father Gregory in order to explain or address the Board with respect to the activities of the applicant and to address any questions that the

1 Appeal Number 21413

2 neighbors, property owners may have. Father Gregory.

3 FATHER GREGORY: Good afternoon.

4 CHAIRMAN MAMMINA: Good afternoon. Name and address,
5 please?

6 FATHER GREGORY: Father Gregory Varghese, 175 Cherry
7 Lane, Floral Park, New York 11001.

8 Respecting Members of the Board of Zoning Appeals, as I
9 mentioned, my name is Father Gregory Varghese. I have been
10 serving as the vicar and the president of St. Gregorio's
11 Orthodox Church located on 175 Cherry Lane, Floral Park, New
12 York. I've been serving this parish for the last seven years
13 as the vicar and the president, and prior to that six years, I
14 was serving as the assistant priest at the parish. This has
15 been the first parish that I have been assigned to after my
16 graduation from seminary and ordination to the priesthood in
17 2010, and it has been a great blessing serving the people of
18 this parish and the members of the surrounding community in
19 Floral Park, New York. Our parish lovingly referred to as
20 Cherry Lane Church by our friends, our neighbors and
21 parishioners. Let me also note that I'm joined this afternoon
22 with some of the members of my parish that serve on the
23 executive board and let me also note I have Ms. Joanne Johnson
24 here who is a student of architect and just wanted to witness
25 the process here this afternoon.

26 The Cherry Lane Church belongs to the Northeast

Appeal Number 21413

American Diocese of the Malankara Orthodox Syrian Church. Our diocese and headquarters is located Muttontown, New York and our global headquarters is located in the southern state of Kerala in India. We are members of an ancient christian tradition that traces back nearly 2,000 years when the Apostle of Jesus Christ St. Thomas landed on the shores of India and delivered to our ancestors the christian faith. The Cherry Lane Church started worshipping in her current location on 175 Cherry Lane in Floral Park, New York starting in 2001. As you may already know and already mentioned by counsel, the building that we currently worship in was previously used as a bar or a tavern. I believe many will agree with me when I say that the Cherry Lane Church has improved the current location dramatically and has made a tremendous indelible positive impact on the property and the surrounding community. Our parishioners, they work in various parts of our community. They work in law enforcement, have served in the armed forces, they're health care workers, engineers, attorneys, scientists and public service employees. I also want to highlight the great service of the many doctors and nurses, and frontline workers in our parish that selflessly worked among the sick and the dying during the Covid-19 pandemic. Additionally, during the pandemic, our parish partnered with the Town of North Hempstead and the Department of Services for the Ageing to implement a caring hands program that assisted residents with

Appeal Number 21413

1
2 purchasing groceries and other items. As the Board is aware,
3 we have submitted an application to construct a new church
4 building on our current -- on our current property. Our
5 parishioners are absolutely in love with and are very
6 protective of our current location. Let me be clear in saying
7 that the Cherry Lane Church is committed to our town and the
8 surrounding area of our parish. Our parishioners, they live,
9 they work and they play in the vicinity of the parish and all
10 of them want to see the community and our current property, not
11 only protected but also improved. The new building will help
12 meet the current spiritual and emotional needs of our parish
13 membership. I want to make several points clear about the
14 intended use of our church building, which is consistent with
15 how our building is currently used. The main meeting time for
16 our parish is on Sunday morning. We meet starting at 8:30 a.m.
17 and the divine liturgy or the mass is completed by 11 a.m.
18 after 11 a.m. we serve refreshments followed by a one hour
19 session with the children for Sunday school and that typically
20 concludes at one p.m. and the building is locked after that.
21 During the week, Monday through Saturday, we remained closed
22 for the most part. If we do open, they are typically for
23 community support and prayer groups, which are usually attended
24 by a small number of people. In addition to this, we do have a
25 set number of fee stays and to be specific, 12 fee stays or we
26 can refer to it as days of obligation, and that -- these days

Appeal Number 21413

1
2 take place at different times and different days throughout the
3 year. These are days like Easter, Good Friday, Christmas, Palm
4 Sunday and notably the feast of our patron saint. Other than
5 these days, the church remains locked and draws little or no
6 traffic to the neighborhood. There is also a very small number
7 of weddings, baptisms and funerals that take place at the
8 church. And this is a very small number. Typically in a given
9 year can number between five and 10 of these types of
10 occasions. Let me also note that we do not allow or promote
11 large parties to be conducted on the church premises. If a
12 wedding, for example, were to take place in our church, the
13 reception would take place offsite. Mainly because of the
14 limitations that we impose on such parties, such as no loud
15 music and alcohol is absolutely prohibited on the church
16 property.

17 The design of the new church shows the main church
18 sanctuary on the upper floor and a cellar or a church hall in
19 the basement. I want to make it clear that while church
20 services are being conducted in the main sanctuary, the cellar
21 or the church hall will remain closed. We do not allow any
22 other meetings to be conducted while the sanctuary, the main
23 sanctuary is being used. This is the tradition and the
24 etiquette of our church. We absolutely do not allow that to be
25 done and with a small hall that we have currently, even
26 currently, we do not allow for that to happen. When services

Appeal Number 21413

1
2 are completed in the main church, many of the members they,
3 exit the church and they go home. While a subset, as I
4 mentioned, may proceed to the church hall for refreshments
5 followed by Sunday school. Even within the church, even within
6 the sanctuary that would be located on the upper floor, many
7 areas like the alter, the balcony and other parts of the church
8 will remain closed off to the general public as they're used
9 only for necessary purposes.

10 I understand that there have been several requests made
11 by neighbors directly to the Board. Some of them have been
12 shared directly with me and I have also directly communicated
13 with some of the neighbors to alleviate some of their concerns.
14 As I have told them already and I wish to state directly to the
15 Board, our parish seeks to be a good neighbor and will work
16 with our neighbors to accommodate their request to the best of
17 their ability and of course, at the direction of this Board.

18 In light of the above, I kindly request the respected
19 Members of the Board of Zoning Appeals to consider the positive
20 contributions made by the Cherry Lane Church and her members
21 when reviewing any zoning related matters concerning our church.
22 And we firmly believe that our presence enhances the social
23 fabric and the wellbeing of the entire community, and we are
24 committed to continuing our efforts to be exemplary neighbors.
25 I thank this Board for their time and their consideration and
26 may God Bless America. Thank you.

1 Appeal Number 21413

2 CHAIRMAN MAMMINA: Thank you, Father.

3 MR. MASTROIANNI: Thank you, Father.

4 Now that you've heard from Father Gregory, I also want
5 to address the Board with respect to the variances being sought
6 and for that purpose, the applicant has retained the services
7 of Barry Nelson, who is here to address the variances that have
8 been requested and what their impacts on the surrounding
9 properties will be. Mr. Nelson.

10 MR. NELSON: Yes, sir.

11 MR. MASTROIANNI: Thank you.

12 MR. NELSON: Good afternoon, Chairman, Members of the
13 Board. For the record, it's Barry Nelson, 220 Petit Avenue,
14 Bellmore, New York.

15 CHAIRMAN MAMMINA: Good afternoon.

16 MR. NELSON: Do you want to swear me in?

17 CHAIRMAN MAMMINA: No, we don't swear in.

18 MR. NELSON: Thank you.

19 I'd like to just hand in some exhibits and then I'll
20 get into the application.

21 I have a copy of the official zoning map for the area
22 from the Town of North Hempstead.

23 UNKNOWN SPEAKER: Exhibit 2.

24 MR. NELSON: Copies of the zoning map for the
25 Incorporated Village of New Hyde Park, which would be just to
26 the south.

1 Appeal Number 21413

2 UNKNOWN SPEAKER: Exhibit 3.

3 MR. NELSON: And photographs of the subject property
4 and surrounding uses.

5 UNKNOWN SPEAKER: Exhibit 4.

6 Is this all duplicates of the same?

7 MR. NELSON: Yes.

8 The subject property currently situated at 175 Cherry
9 Lane on the easterly side, Section 8, Block 11. The -- as you
10 heard, originally or -- or the property was used as a
11 bar/restaurant built in the 1920s, which was situated on lots
12 -- Section 8, Block 11, Lots 62 through 66. I'm sorry, 60
13 through 66. Today's application, it does include two dwellings
14 adjacent to the property on the west side of North First Street
15 known as 911 and 915 North First Street and now it incorporates
16 Lots 40 through 44. Generally 120 by 100 on the Cherry Lane
17 side to the rear, approximately 100 by 100 now it will all be
18 incorporated to the future development of the site for a new
19 church. 22,000 square feet. The Cherry Lane is a roadway
20 through from Hillside on the north side to Jericho Turnpike on
21 the southerly side. The zoning map, which could be used as a
22 location map as well, will depict the zoning in the area. The
23 subject property is in a Residential RC Zone and a religious
24 institution is a permitted use. The prior use, which was the
25 bar/restaurant/tavern was a nonconforming use built in the
26 1920s as I mentioned, but the church use is a permitted use and

Appeal Number 21413

1
2 it is permitted in the Residential-A/B and so on and the
3 Residential-C Zone. I handed in the second zoning map, which
4 would be for the Incorporated Village of New Hyde Park and
5 generally that zoning and that boundary lines begin south side
6 of Bryant Avenue, east side of Cherry Lane and runs south. And
7 you will see that the good part of Cherry Lane on the easterly
8 side within the Incorporated Village is a business zone. The
9 remaining area is residential in nature. You have one or two
10 family homes in the area, generally well maintained and if you
11 look through my photographs, you will see many of them have
12 been upgraded and expanded over the years.

13 As you heard from the Father, the church has been there
14 for 20 plus years and has now become part of the community.
15 The photographs will depict many properties that have been
16 upgraded since the church has been at that location and are
17 well maintained.

18 The application before the Board today would be for
19 area variances, as the use is permitted and they incorporate
20 relief sought for parking, onsite parking, which is the
21 application has engaged the professional services of a traffic
22 and parking engineer. It incorporates or requests relief for
23 height, gross floor area, eaves height and fencing. The -- if
24 you look at the plans that were submitted as part of the
25 application, you'll see that the height of the building -- I'll
26 -- I'll -- I'm not gonna touch on parking since we do have

Appeal Number 21413

another engineer. The height of the building. And the height of the building would be limited to the front facade of the building. The building itself eliminating the or leaving out just for the front facade, which would be on Cherry Lane. The rest of the building complies in height and it is 45 feet. The code allows for three stories of 45 feet, other than residential use in this zone and specifically for a religious institution. The facade and as the denial notices were referred to, doesn't fit the criteria of a belfry or a steeple, but it incorporates the west side of the building, which is the main entrance to the institution, the religious institution and it's how this church looks to be identified as. Again, it doesn't fit the definition under -- as the denial notice -- The Merriam-Webster Dictionary and I guess today many things don't fit under their definitions. We don't need to get into that, but it's changing times. Most of your religious institutions were built in the 1920s, 1930s, 1940s and I would understand where the definition came about. But today, in changing times, this applicant seeks to have a facade. And I believe the building itself complies with height so the front facade where it narrows down to the cross is approximately 15 feet above the peak of the roof. With that said, I believe the applicant was to move forward or wanted that facade and has put three sides, opened it up and put a bell in there, it would fit the definition of a belfry, or a tower, or so on like the older

Appeal Number 21413

1 churches were constructed. It's not the trend today.
2 Nevertheless, it's just a facade. Regarding that facade, if
3 you look at the, I believe you should have a survey of the
4 existing building. The existing building is on the front
5 property line. Maybe there's an inch or two between the front
6 property line and the building. The building itself is on the
7 northerly property line, less than six inches off that property
8 line. The new proposed church now -- and that would be on Page
9 SP2 has now set the building back 40 feet from the property
10 line on Cherry Lane, where the existing building is inches off
11 the property line. So that said, it's also compliant with the
12 north and south side setbacks at the nearest point on the
13 northerly side, the building complies with the setback
14 requirements of 15 to 20 feet. It is 20 feet on the northerly
15 side. On the southerly side, the closest point of the building
16 is 22 feet off the southerly property line. But there's a
17 significant difference between a religious institution that
18 exists today at that location, the building and what's being
19 proposed. Again, 40 feet back from the street. The residents
20 across the street would have a viewing of that and the street
21 is at least 50 feet wide. So you're talking about 91 feet --
22 God bless you.

23
24 MEMBER HERNANDEZ: Thank you.

25 MR. NELSON: From facade to the curb line on the
26 westerly side of Cherry Lane, as well as 20 feet off the

Appeal Number 21413

1
2 northerly side, 22 feet on the southerly side and it's limited
3 to the front facade. The -- under the definition or the
4 criteria for a religious institution to have a belfry or
5 whatever, there is no height limitations. So if we redesign
6 it, brought it back and put it in the middle of the building or
7 off the front of the building, we can go as -- there is no
8 limitation on the height. It can go on the same -- at the same
9 height as what is being proposed in today's application.

10 The eaves, which is another denial under the denial
11 notices for this application that is before this Board under
12 section 70-52.6 and it's interesting, because a good part of
13 the code talks about the height and for whether it's a
14 residential or nonresidential building. Under the eaves
15 section of the code, it only refers to the maximum height of an
16 eave to be 22 feet. And in my understanding, that would
17 typically be for a two story colonial style dwelling, high
18 ranch, whatever it is and approximately 22 feet would be the
19 eaves of the roof on a two story dwelling. I believe the code
20 has a snafu in it's section under eaves, because under height,
21 it allows for a non-dwelling building not to exceed 45 feet,
22 which is what the church is being proposed at. But it doesn't
23 address the eaves for that building and to have a building
24 permitted at 45 feet and eaves at 22 feet, it just doesn't work
25 together. So I believe the code just has a snafu.
26 Nevertheless, it's important to note that the side yard

Appeal Number 21413

setbacks are compliant to the code at a minimum of 20 feet for a 45 foot building. And the eaves are minor in nature in my opinion and does not affect the adjacent properties on the north or the south side.

The last portion of the code-- the denial would be the fencing and the fencing not to be located in the area between a public street and the nearest effective building line, where proposed a four foot high concrete masonry wall that extends forward of the front building line on the north and south property lines. It's twofold as far as fencing, security, privacy. Security are minimum, mitigating any viewing from the residential to the north and to the south side. I believe you will hear from the residents and they will have their own opinion. Many religious institutions now have incorporated fencing on all four sides and that's to protect the institution, to protect the privacy of the institution and the neighbors. Nevertheless, I believe what's being proposed is no different than you'll find in many religious institutions in this area and really does not have a negative impact on the adjacent residents or the character of the neighborhood. Again, I believe what the Board may ultimately decide, the church would go forward with that and as far as the neighbors, you will hear from them what they want.

I've been practicing now many, many years. I've worked on many religious institutions throughout the towns and

Appeal Number 21413

1
2 locations, and I can provide you with many of them. Most of
3 them are older in architectural styles. Few have -- and I've
4 worked in the five towns, Town of Hempstead with new religious
5 institutions. Very few stand with the old traditions. What's
6 being proposed today is a modern tradition. In my opinion, the
7 facade itself is not going to be detrimental to property values
8 or quality of life for adjacent neighbors. It's not going to
9 depreciate property values, it's harmonious with the new trend
10 and the residential. And you will see many of them -- the new
11 houses, are not the traditional cape codes. They are now, I
12 don't want to say it, but they are the big colonials. So
13 trends have changed and what's before this Board is slightly
14 different than what the definition would draw out as far as the
15 religious institution and the belfry, and the heights and the
16 eaves. But in totality, I believe it's a good use for the
17 site, it's a harmonious use, harmonious design and fits well
18 within the community. Again, Cherry Lane is a main arterial --
19 or a secondary road from Hillside north to Jericho Turnpike on
20 the south. You have many religious institutions within the
21 area.

22 In summation, I believe it's a reasonable request.
23 It's more cosmetic items that are before other than you will
24 here from the traffic engineer. It's a use I believe
25 communities need and the design architecturally, the features
26 on it fits for the trend that this church looks to set forth.

Appeal Number 21413

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

Thank you.

CHAIRMAN MAMMINA: Any questions?

MEMBER DONATELLI: I do have a brief question.

MEMBER GOODSSELL: Yes.

MEMBER DONATELLI: You mentioned there are many other religious institutions in the area. Are there any that have a facade that is equal in height to the one that's being proposed here by the applicant?

MR. NELSON: I believe, to answer that quickly, no. But to add to that, many of them were older buildings, older styles and they are not being completely built new. I can give you a list of what I put together and there are many religious institutions in the area. But I can provide one as far as going with -- in Merrick, the Greek Orthodox Church that I've worked on several times and it keeps growing with what you may see as a permitted use or permitted designs. I'll hand you some pictures.

SECRETARY WAGNER: So which exhibit is this now?

MEMBER DONATELLI: These photographs are of religious institutions?

MR. NELSON: This one is one in Merrick. Yes.

MEMBER DONATELLI: In Merrick.

SECRETARY WAGNER: This is number five.

MEMBER GOODSSELL: So, Mr. Nelson?

MR. NELSON: Yes.

Appeal Number 21413

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

MEMBER GOODSSELL: This is -- in order to accomplish this, what you're doing, the property -- the overall property size appears to be 120 feet by 200. The -- the church is going to take down everything and build the institution, the building in the center?

MR. NELSON: Yes.

MEMBER GOODSSELL: So as to be setback.

MR. NELSON: Yes.

MEMBER GOODSSELL: And that's where you going from 100 and some odd parking spaces to 13. You also have to comply with handicap parking so I see that you --

MR. NELSON: Yes.

MEMBER GOODSSELL: So it's basically knocking everything down and moving this building to the center lot. The two residences of the church, those are coming down, the sheds are coming down. We are starting from scratch here, correct?

MR. NELSON: Correct. I think I left out gross floor area and I do need to --

MEMBER GOODSSELL: We were going to ask someone about that. So if you'd like to address that you can.

MR. NELSON: I can address that. So what -- for 22,000 square feet, you're allowed 11,000 square feet of a gross floor area. The lot coverage permissive for this zone for 22,000 square feet is a 7,700 square foot footprint. What's proposed for the current church or the proposed church is 6,265 square

Appeal Number 21413

1 feet. A lot coverage area of 28.5 percent, where the code
2 allows 35 percent. The gross building area comes about in that
3 it's a -- got a lower level, the main level and a, sort of
4 speak, second level or a mezzanine area. And we all know the
5 functional utility of many of the rooms and the items that are
6 kept in certain locations. And we can eliminate a lot of that
7 area by keeping it open, but there is a need for it. A
8 multipurpose room, the stage area, the library and so on, and
9 that's where it comes about. But more importantly, it does fit
10 the footprint. It's smaller than what would be permitted, it
11 complies -- the building itself without the facade complies
12 with the height. It's just for the study, for the multipurpose
13 room and none of that would be used simultaneously as you heard
14 from the Father. If there's a ceremony going on, the rest of
15 the building is not going to be used. The lower level will not
16 be used at the same time as the main level. The mezzanine or
17 the second floor, which is part of it, is not going to be used
18 when the rest of the building is going to be in use.

19
20 CHAIRMAN MAMMINA: Floor area does control bulk, you
21 know.

22 MR. NELSON: Right. But if we were to put that same
23 building up --

24 CHAIRMAN MAMMINA: But if we were talking parking and
25 you want to claim nonsimultaneous occupancy, which I think you
26 will.

1 Appeal Number 21413

2 MR. NELSON: Right.

3 CHAIRMAN MAMMINA: Floor area is all about bulk, bulk,
4 bulk.

5 MR. NELSON: Again, we are going with a building that,
6 I believe is substantially smaller than what would be permitted
7 with a 35 percent lot occupant. It's the internal use of the
8 building. And if you cut out part of the second floor that's
9 already in the building itself and you close out part of the
10 lower level, you have the same building.

11 CHAIRMAN MAMMINA: I'm not sure that I'm following you
12 here.

13 MR. NELSON: Okay. So we got a 58 foot wide building
14 at 108 depth. You can build that two stories.

15 CHAIRMAN MAMMINA: Right. Okay.

16 MR. NELSON: Or you could build that building at 45
17 foot high and use the same footprint.

18 CHAIRMAN MAMMINA: Okay. I'm not talking -- we're not
19 talking about the 45 feet yet.

20 MR. NELSON: Okay. So we're just talking about the
21 usage within the building itself. Inside.

22 CHAIRMAN MAMMINA: Yeah. Right. I'm saying your floor
23 area is over.

24 MR. NELSON: Correct.

25 CHAIRMAN MAMMINA: By whatever it is, 3,275 and you
26 said well, the other building was significantly smaller.

1 Appeal Number 21413

2 MR. NELSON: Oh, no.

3 CHAIRMAN MAMMINA: I don't think you can compare the
4 two of those, but it's over in FAR. FAR controls bulk of the
5 building. So you couldn't build a building as big as this as
6 of right. That's the only point I'm making.

7 MR. NELSON: Okay.

8 CHAIRMAN MAMMINA: Okay. That's all. You can stop at.
9 Okay. That's all. Okay. You can't.

10 MR. NELSON: Yeah. We're over slightly, yes.

11 CHAIRMAN MAMMINA: That's not slightly.

12 MR. NELSON: But okay.

13 CHAIRMAN MAMMINA: That's a lot. You're allowed 11,000
14 feet and you're proposing 14,275, you know. So you're over by
15 3,375 and I'm an architect, because I'm not good at math. So
16 you know, it's over by, I'm just pulling out a number, I think
17 25 percent.

18 MR. NELSON: Yeah, a little bit more.

19 CHAIRMAN MAMMINA: You have to make the building 25
20 percent smaller. Now, you can still make it 45 feet high, you
21 know, that's not an issue.

22 MR. NELSON: And we can still have the same footprint
23 and you can take out the second level on it.

24 CHAIRMAN MAMMINA: Sure you can. Oh, yeah. Of course
25 you can do that. But I can do that with anything, you know.

26 MR. NELSON: No, really. It's a church. It's a

Appeal Number 21413

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

religious use.

CHAIRMAN MAMMINA: No. No. When I said I could do that with anything, I can do that with any building. I can say, well, you know, I can make a building, you know, what's the 30 percent, you know, that's maximum lot coverage, I think and I'm just -- here's my rectangle and I want to fit the building into there, but yeah it's a religious use. I've done churches that are 500 seats, you know, but I've played within -- within that zoning, you know. And, you know, the only point I'm making is that the way that the building is proposed, it's over by about 23 percent in it's square footage and it's just my opinion as one Board Member and an architect that's done this for 45 years, especially in New York City where gross floor totals everything, you know. The bulk of your building is hiding in gross floor area. It's usually parking and gross floor area. Those are the two things that strangle your building. So that's all.

MR. NELSON: Okay.

CHAIRMAN MAMMINA: Can I ask you one other question?

MR. NELSON: Sure.

CHAIRMAN MAMMINA: St. Demetrius Church. I mean, that's in the Town of Hempstead. Very different town than North Hempstead. Look at Roosevelt Field and, you know, the bulks. I'm just saying, the bulks of things that are permitted, the signage and I'm not saying that this is that

Appeal Number 21413

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

type of use, but is there anything in North Hempstead, you know, which I think was Mr. Donatelli's question, that is similar to this?

MR. NELSON: What we are talking about, facade?

CHAIRMAN MAMMINA: No. No. No. I'm talking about everything.

MEMBER GOODSELL: Height.

MR. NELSON: Oh, height. It's just the facade on the front of the building.

CHAIRMAN MAMMINA: I understand. But is there any religious significance to a facade? If we can answer that question.

MR. NELSON: No, I don't believe so. But many of them do have belfries and towers on top of them that would equal the height.

VICE CHAIRMAN FRANCIS: But things have -- they have a purpose.

CHAIRMAN MAMMINA: And we know that. I mean, I think that the disapproval of the building department is extremely fair, you know, in that you says, look, you need the cross and I agree, you need the cross. A cross is important. That's a symbol, you know, of, you know, of a religion. You know, but I don't want to get to the height.

MR. NELSON: The cross can sit on top of the belfry, the steep and it will still be --

1 Appeal Number 21413

2 VICE CHAIRMAN FRANCIS: Yes.

3 CHAIRMAN MAMMINA: I can do the elevation now, if you
4 want to.

5 MR. NELSON: What's that?

6 CHAIRMAN MAMMINA: I can do the elevation now if you
7 want to. I don't know if your attorney wants us to do it with
8 you or somebody else?

9 MR. MASTROIANNI: I don't understand the question.

10 MEMBER GOODSSELL: We have questions about the
11 elevation.

12 MR. NELSON: The front facade.

13 MEMBER GOODSSELL: Are you the person that is going to
14 do the presentation on the front facade or does your attorney
15 have someone else?

16 MR. NELSON: Okay. We'll have the Father to address
17 it. It's his church.

18 MEMBER DONATELLI: Okay. And I'm sorry, I do want to
19 ask you a question about the photograph that you submitted as
20 Exhibit Number 5, which is the Greek Orthodox Church in
21 Mineola.

22 MR. MASTROIANNI: Father Gregory is going to address
23 the facade.

24 CHAIRMAN MAMMINA: Okay. We've got one other question
25 being asked.

26 MEMBER DONATELLI: I have one other question, please.

Appeal Number 21413

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

As I look at this photograph, I see that this church is a stand alone church and it doesn't appear to be fitted in among other residences. Can you explain that picture?

MR. NELSON: Oh, no. They have -- the church itself was surrounded on three sides by residences. They have residences to the north and to the east, and they're now expanding to include other issues, as far as educational and recreational on the site.

MEMBER DONATELLI: No, I understand that. But I'm saying it is not representative if this church you had submitted as Exhibit Number 5. I'm drawing the distinction. This is a stand alone structure that really appears to be on a block by itself.

MR. NELSON: No. But that's what I'm saying, no, it wasn't. It had houses in the last two, three years. Those houses have been demoed. They received special use permits, area variances to enlarge the educational for schooling and for future uses of the property, in conjunction with that church. That church was in the middle, there was some commercial to the south, but there were two houses to the north and Hewlett and on the side street that have all been removed in the last year or two. The last two years.

MEMBER DONATELLI: All right. Okay.

MR. NELSON: Thank you.

MEMBER DONATELLI: Please, Father.

Appeal Number 21413

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

FATHER GREGORY: Just discussing the facade. When our architect was designing the church, the intent was to create a structure that intimidated some of the traditional churches they have back in India. So it has -- it brings -- it has a spiritual significance for a lot of people, like, the church I was ordained a deacon in looks almost -- very similar to that. It's like a Portuguese style of church that exists back home in India. So, you know, of course, you know, there are, you know, we would willing, you know, to accommodate, but generally we want a church looks similar to that.

CHAIRMAN MAMMINA: I would say -- no. Go ahead.

MEMBER DONATELLI: Could that facade be made shorter, smaller?

FATHER GREGORY: Yeah. If that's -- this was what -- this was the ideal, but if we wanted to make it smaller, we could. We -- and again, we're -- we're -- we're looking to the Board for their direction and if there's something that we could do to accommodate, we're happy to do it.

CHAIRMAN MAMMINA: And I appreciate that very much and, I think for me, even if I was standing on that side of the podium, which I do most, you know, of the time, I guess as long as we're moving in that direction, I think at least that's a positive thing. Okay. When I look at drawing A 16, you know, it clearly shows that this is nothing more than just a stage set that's put on the front of the building. It's not integral

Appeal Number 21413

1
2 to the design of the building and, you know, based on that and
3 I know I'm only going off what I see visually, but I tried to
4 air on the side of safety, I mean, this thing is bigger than a
5 third of the width of the church. So, you know, a belfry is
6 not something that's -- that's the side of a third of a church.

7 FATHER GREGORY: That's a particular style of the
8 church.

9 CHAIRMAN MAMMINA: No, I understand. This is called
10 step and grove. It's not only it Portugal. It moves to the
11 southern side of the United States, you see it in Texas, you
12 see it where the Alamo is, you know, it's -- you see it in
13 Mexico and yes, it's a very standard type of, you know, of a
14 design that originally originated in Europe with this and then
15 it got changed around a little bit. But it's a lot of bulk.
16 It's a lot, a lot of bulk, you know, for a street and when we
17 ask the question is there any religious significant, you know,
18 to that and I will say as a catholic both, who has done many
19 churches for the diocese, there's no significance. I, you
20 know, I can't claim to, you know, to understand, you know, what
21 the differences might be between -- excuse me, it's catholic?

22 FATHER GREGORY: It's Orthodox. It's similar to Greek
23 Orthodox.

24 CHAIRMAN MAMMINA: It's Orthodox like Greek Orthodox
25 and I get that part.

26 FATHER GREGORY: And to answer your question, there's

Appeal Number 21413

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

no -- noting written in stone that a church has to be built like that. It's more -- it's very similar to the old churches in India. So that -- it has a -- it hits home for the residents in the community who have been living there for a number of years and that's an desire they have. But at the direction of the Board, we are ready to do, you know, what's necessary to help make everyone happy.

CHAIRMAN MAMMINA: What about the concrete walls?

FATHER GREGORY: The concrete walls, again, on the front, those were -- that's what's there currently on the front. So we would simply be just replacing them.

CHAIRMAN MAMMINA: Okay.

FATHER GREGORY: And -- but I spoke with one of the neighbors and, you know, she had requested a fence or something a little bit higher, and I already mentioned to her that our architect was working within -- and I'm not an architect, but he was working within whatever he was given through the town and what he could accommodate, and I told her we would be willing to do whatever she would want. If she wanted a six foot fence instead of a wall, then we would be willing to do that. Were happy to accommodate as much as we're able to at the direction of the Board.

CHAIRMAN MAMMINA: Yeah. And I -- I can see what -- what I thought I saw was, there are existing brick walls decoratively, you know, that are there. They're not original

Appeal Number 21413

1
2 to 20 years ago when it was a bar, you know, and also, you've
3 got a two foot wall with a fence on top of it and I'm not
4 saying that fence is a bad thing to happen. You know, it's --
5 many religious buildings are fencing themselves in,
6 unfortunately for obvious reasons.

7 FATHER GREGORY: One thing I'd note is, you know, we --
8 I think there was a comment from a neighbor that was concerned
9 about the church drawing people who are poor to the
10 neighborhood and who are taking things from the church, and the
11 churches being that of St. Gregorio's, he's a saint. I worked
12 among the poor in India. I'm named after the Saint and we do
13 not call -- unfortunately I don't call the police on people who
14 take things from the church, you know, and -- but we would do
15 as much as possible. The fencing is more to protect than try
16 to appease the neighbors and make sure the place is protected,
17 but we are not -- we don't really call the police.

18 CHAIRMAN MAMMINA: Poor boxes get stolen out of
19 catholic churches with regularity so.

20 FATHER GREGORY: Exactly. That's what's happening and
21 I've witnessed and I've -- if they need it, then take it.
22 That's it.

23 CHAIRMAN MAMMINA: Let me ask you another question
24 regarding -- regarding height. The building is pulled up out
25 of the ground about five feet or so. You have a large light
26 well, you know, on the one side. So just a question that I'm

Appeal Number 21413

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

putting out there is, why not do the same thing on the other side and push the building down so that you're taking that five feet and you're creating, you know, then I'll use the word friendlier. Someone might disagree with that as language. But I mean right there, nothing is lost and the building or the entire building is now five feet -- is now five feet shorter, you know, then, you know, then it would be and I'm not saying you have to build to 45.

FATHER GREGORY: No and I think when the architect, when building that, wanted to bring in as much natural light into the basement as possible and that was the intent, because we did not want to create that kind of closed feeling in the basement. So it was really -- it was really for that purpose. Children are down there so we wanted to make it more of a place that they can spend sometime if they had to. But again, if the Board -- if the Board is recommending something to us, I mean, we are happy to make the adjustments.

CHAIRMAN MAMMINA: No, I'm just trying to find ways -- our job is to help to mitigate some of that. We're not here to say no, we're not here to say yes, you know, we do -- it's a -- it's -- the word is quasi judicial, I'm not an attorney, you know, but it's a legal, you know, proceeding. So we ask all of the, you know, the questions and, you know, and say okay, what do we see and because I also see a that very large light well on the other side and the windows that are shown on this side,

Appeal Number 21413

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

based on the height of the door, they're not even three feet high. You know, they've got a little bit of length to them and they're right at grade where I guarantee you're gonna get leaks coming into the building. You know, so, you know, I'm not trying to kill the architecture, because we're not here for esthetics, but certainly adding to the bulk of the overall church are these very grand stairs that sweep around into their and do affect, you know, how tall the building is.

FATHER GREGORY: Yeah. I would have to -- if that's -- that's something that we would be happy to adjust, you know, but I'm -- the architect would have to look at that.

CHAIRMAN MAMMINA: I'm just asking questions. That's all.

FATHER GREGORY: Yeah. Again, the building is proposed as, like, this is what we had envisioned and what we would like, but if there's any adjustments that the Board would like to make, I mean, we're are happy to accommodate as much as we can.

MEMBER DONATELLI: We are appreciative of that, but we haven't heard from the public yet and I'm looking forward from hearing from the public. But as the Chairman just stated, we're concerned with bulk. A lot of what we do up here is concerned with bulk. So with that --

CHAIRMAN MAMMINA: I think before we --

VICE CHAIRMAN FRANCIS: I think before we hear from

Appeal Number 21413

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

them, I think we need to hear from Mr. Mulryan.

CHAIRMAN MAMMINA: Thank you so much, Father.

MR. MASTROIANNI: Mr. Chairman, so the last person I'd like to call is Mr. Sean Mulryan from Mulryan Engineering. He will discuss the parking variance that is being requested and in connection with that, I'd like to hand up a study that he's already performed.

MS. ALGIOS: That's part of the record.

MR. MASTROIANNI: Thank you.

MR. MULRYAN: Good afternoon, Mr. Chairman, Members of the Board. Sean Mulryan, 1225 Franklin Avenue in Garden City, New York.

We have had the pleasure of being before this Board, again, on numerous other religious uses and I think one of the things that's important to note here as we've mentioned earlier is that this existing church has been at this location for over 20 years. Prior to that they were in Bellrose, approximately two miles away. There are other similar churches within the area in Franklin Square and elsewhere. Si this is not a proposed use in the sense of it is new to the site. This is something that has existed for numerous years and membership has reached a certain level over the years. Again, they were practically two miles away from when they moved here. So there is some, I'll say status quo if you will in terms of the flow between people to and from the church.

To get to the bulk of my presentation, what we found is that there were approximately 50 to 80 parking spaces while the church was in service. Obviously any church will have high holy days or days of obligation where the church would bring in more members. This application, as we have stated, is an effort to accommodate the existing members of the church. Again, they've been at this facility for over 20 years. Membership essentially has grown to what it is and we don't believe that the increase in capacity of the building is necessarily going to drive a significant increase in the traffic to and from the facility. Again, we looked at the surrounding properties, we looked at the surrounding parking. There is an aerial photograph here to my left, to your right and you can see from the rooftops that there is industrial properties. So this is, I'll say somewhat of a transition as you leave Jericho Turnpike. There are more industrial uses and then it becomes more residential as you head towards Hillside

Appeal Number 21413

1
2 further to the north. So again, this is not a use that is new
3 to the property. This is a use that that has been there for
4 many, many years. The building that sits on the side is
5 approximately 95 years old. It's been utilized. They're
6 having capacity issues where people are eating outside after
7 mass, because they don't have room inside the building. We're
8 looking to accommodate that inside the building. Again, there
9 will be nonsimultaneous use, as there is many other religious
10 applications the main synagogue or the main sanctuary area
11 would be used and then afterwards the same that are already
12 there would go down and have something after mass. Some will
13 stay, some will leave, some will stay for Sunday school.

14 MEMBER GOODSSELL: So on the current site, they have a
15 parking lot. They can presently accommodate how many parking
16 spaces?

17 MR. MULRYAN: Approximately 25 to 30. So there will be
18 a reduction in the number of parking spaces provided on the
19 site. So there will be some additional parking in the streets.
20 Again, in totality, because they will be able to accommodate
21 people inside the building, there won't be cases of people in
22 the parking eating after mass. We believe that on balance,
23 it's a net positive to the area and again, the church, as you
24 have witnessed, is willing to work with the Board, work with
25 neighbors. I have instructed them to tell people to park
26 closer to the south where the industrial buildings will not

Appeal Number 21413

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

necessarily be fully occupied on Sundays.

MEMBER GOODSSELL: On a Sunday morning. Correct.

MR. MULRYAN: So again, I know that you are familiar with the area. There are other religious uses that have come online.

MEMBER GOODSSELL: I'm familiar with the area. I remember when it was a bar. Okay. And I remember the church being a step up from the bar. Yes, I -- 22 years doesn't seem all that long to me.

MR. MULRYAN: Right. And we're hoping that this be a continued step up to serve the community, serve the existing members. It is in keeping with the current use of the property. It's not a new use as we said and we are looking at a use that, again, is dormant, for the most part during the week. There might be some smaller sessions where 10 to 15 people might come, but the main activity, again, is Sunday morning where the industrial uses to the south are most quite.

So we believe that it's a good use, it fits into the character of the neighborhood, it will not have any detriment or impact to the surround properties.

If there's any questions, I'd be happy to try and answer them. Thank you.

MEMBER DONATELLI: So I do have some additional questions. You started your presentation by indicating that there are, I think you said 80 or 90 spots within walking

Appeal Number 21413

distance. How are you defining walking distance?

MR. MULRYAN: So what we typically do on applications is we'll go one to two blocks in either direction. So we look at parking along Cherry, on Grant, on First Street and Cherry. So we'll go up to approximately two to three blocks, depending on where the site is located. So we went to the south, we went to the north and we also went into the residential areas on either side and there's a total of 195 spaces in total. Not -- members of this church would tend to park on Cherry, as they do with a residential or retail store. You tend where the subject where the subject site is located, as oppose to walking around the block or other things like that. But we are looking at a small, you know, few hundred feet walking distance and again, we try to go no more than three blocks in either direction and three blocks is usually if something is sitting in the middle of the block. So this is not necessarily on the corner. It's near the corner, but some of these blocks are a little longer. So we don't look to go during a half block, we look to go down the entire Stretch and we detail the areas that we looked at in the tables in the back of our report. And again, we looked primarily on Cherry, three blocks. So the block that the site's on. One to the south, one to the north on Grant, on Whittier and on North First Street. Which North First Street is, again, around the corner basically and we find that most of the time, whether it's a retail use or a religious use, people

Appeal Number 21413

1
2 tend to park on the street in which the building is located and
3 again, unfortunately for this application, there are no
4 municipal lots in close proximity where people can park so.

5 MEMBER DONATELLI: Which means that the parishioners
6 will be parking in front of others peoples house.

7 MR. MULRYAN: Right. As they do today. I happen to
8 live close to this in Floral Park, there are three churches on
9 my block. There's one caddy corner from my house and on
10 Saturday, there are cars parked and they're there for the
11 duration of the morning. But otherwise, there's nothing going
12 on at that facility so.

13 MEMBER DONATELLI: Now, do you know, has the applicant
14 been able or has the applicant reach out to any other
15 commercial properties or any other properties in the area that
16 might have some additional parking available to see if they
17 could somehow doing some parking share agreements?

18 MR. MULRYAN: I will answer that in two ways. The
19 first one is no, I don't know the answer to the question. But
20 also the nature of uses in this area, as I understand them and
21 when I drive by are more warehouse type uses. So a lot of them
22 will have overhead doors. Whatever storage they have is
23 basically in front of their site. There's not a lot of large
24 parking lots in the area, but I don't know if the Father has
25 gone out looking or asking for other uses. Again, as you go to
26 the north, east and west, it's very residential. They only

Appeal Number 21413

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

properties that would really be available are to the south and as you can see, these are big warehouse type buildings that are basically on the roadway. So they don't have large parking facilities. There may be some, but they would be few and far between.

If there's any others questions, I'll be here to answer them.

MEMBER GOODSSELL: So basically what they're doing then, they're losing between --

MR. MULRYAN: Approximately 10.

MEMBER GOODSSELL: No. The difference between 35 and 40 spaces that your parking lot can take now down to 12, as shown on the diagram.

MR. MULRYAN: 25 to 30.

MEMBER GOODSSELL: I'm not seeing 25 to 30 on this diagram.

MR. MULRYAN: No, existing. Existing.

MEMBER GOODSSELL: Okay, I did ask you how many and you said 35 to 40 they can accommodate.

MR. MULRYAN: I believe I said 25 to 30.

MEMBER GOODSSELL: 25 to 30. I stand corrected.

MR. MULRYAN: So it would be approximately 10 additional cars parking on the street and we would instruct them to park to the south, to minimize the impact on the residential neighborhood.

1 Appeal Number 21413

2 CHAIRMAN MAMMINA: Okay. Thank you, Mulryan.

3 MR. MULRYAN: Thank you very much.

4 MR. MASTROIANNI: Mr. Chairman, I have two more
5 exhibits that I would like to submit. One is a petition of
6 those people that are in support that are residents of the Town
7 of North Hempstead and that will be number four.

8 SECRETARY WAGNER: I think it's number six.

9 MEMBER DONATELLI: Yeah. Number five is the
10 photograph.

11 MR. MASTROIANNI: Oh, okay.

12 MEMBER DONATELLI: Of the church in Merrick.

13 MR. MASTROIANNI: And then I have number seven would be
14 a letter that is from Reid Sakowich, the Chairman of the Board
15 of Fire Commissioners of New Hyde Park, which is in support of
16 the application and with your permission, I would like to read
17 that letter into the record, Mr. Chairman. May I?

18 CHAIRMAN MAMMINA: Yes, please.

19 MR. MASTROIANNI: Thank you. "To the Town of North
20 Hempstead. I am the Chairman of the Board of Directors of the
21 New York, New Hyde Park Fire District and I am writing with
22 regards to the St. Gregorio's Malankara Orthodox Church located
23 175 Cherry Lane in Floral Park, New York. As a long time
24 community member, I have had the chance to meet several members
25 of St. Gregorio's Malankara parish and have had the opportunity
26 to speak with their church. I have gained an excellent working

Appeal Number 21413

1
2 relationship with them. St. Gregorio's Malankara symbolizes
3 dedication, dependability and most of all generosity towards
4 others. They're very active in the community and proved much
5 needed assistance during the Covid-19 pandemic. St. Gregorio's
6 Malankara has a great sense of duty that has always been
7 demonstrated to its members, as well as her affiliates to the
8 Town of North Hempstead. They are an admirable contribution to
9 the community. Regards, Reid Sakowich, Chairman."

10 Thank you, Mr. Chairman.

11 CHAIRMAN MAMMINA: Thank you.

12 MR. MASTROIANNI: With that, I conclude my presentation
13 with a statement that the church has been there for several
14 decades plus, has had no incidents or any complaints from any
15 of the neighbors. At this point in time it needs the
16 additional room to accommodate its present congregation. I ask
17 that you please approve the application. Thank you very much
18 for allowing me to be here.

19 CHAIRMAN MAMMINA: Thank you, sir. And we will hear
20 from the public -- go ahead.

21 MEMBER HERNANDEZ: Just because of the statement you
22 just made. I wanted to clarify. Can you or perhaps the Father
23 can do it if you can't. Can you tell us the number of
24 congregates that you have now?

25 MR. MASTROIANNI: The Father will be able to address
26 that much better than I can. Father?

Appeal Number 21413

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

FATHER GREGORY: Yeah. Let me just note that we're a typical church. We have people that are on the record and many people that don't come. Right. So on the record we have 90 families.

MEMBER HERNANDEZ: Families.

FATHER GREGORY: So when you say families, the family could count as one person or four, right. And I would love for all 90 families to be there every Sunday on time.

MEMBER HERNANDEZ: Of course.

FATHER GREGORY: And be there every day, but we are a Sunday community and that's just the way we are. And on a typical Sunday, we could have anywhere, you know, from 100 to 175 people on a Sunday. When you have the high holy days, you know, all bets are off, right. But -- but we are, you know, that's the typical size and we do have, amongst our own community, we do have a lot of competition. So a lot of people go -- we have several churches within the vicinity. So we are not expecting things to balloon, you know, we are expecting things to be at this level and this is -- this is just --

MEMBER HERNANDEZ: One follow up question. Do you know the number of seating that you have in your existing church now?

FATHER GREGORY: I think it's about 90 seats. I think it's about 90 seats. And just the one thing to note is we are Orthodox. We love processions. We love all the regalia and

Appeal Number 21413

1
2 the church may not be full, but we like to go around the church
3 and do all our things that we like to. So a lot of the church
4 is for me to walk around and do things, which we don't have the
5 ability to do. So it affects the way we conduct a service now
6 and so we are really looking for room to kind of spread out a
7 little bit and, you know, for the congregation. And one other
8 thing to note, the Covid-19 pandemic was brought up. We are --
9 our church is built on the backs of women and nurses
10 specifically. 1965, United States opened immigration for
11 nurses. My mom is a nurse, her two sisters are nurses, my wife
12 is a nurse, they are activity -- they are intragel members of
13 the community and our church is built on the backs of strong
14 women and they are the ones who are supporting our church. So
15 thank you.

16 MEMBER HERNANDEZ: Thank you.

17 CHAIRMAN MAMMINA: Okay. Then I think we'll -- do we
18 have a sign in sheet. So if we can just go down the sign in
19 sheet, that would be great.

20 SECRETARY WAGNER: First person's last name is Sokol.

21 MR. SOKOL: Good afternoon. Good morning, whatever it
22 is.

23 CHAIRMAN MAMMINA: Good afternoon, Mr. Sokol.

24 MR. SOKOL: My name is Stanley Sokol. I reside at 162
25 Cherry Lane, Floral Park Center. Let me emphasize center.
26 Very small community. Three sheets. I reside there for over

Appeal Number 21413

1
2 80 years. I lived on every street. Barwick, McKee and Cherry
3 Lane. I presently live on Cherry Lane, approximately 100 feet
4 diagonal from the church.

5 I have no problem the with congregant's. The women are
6 all magnificently dressed. The gentlemen all appear in suits.
7 The young children are kids. When they grow a little bigger,
8 they play football in the parking lot. A little bit. Not
9 much. Doesn't bother me. I'm not at home. The big, big
10 problem in the community is going to be the parking problem.
11 My driveway is 60 feet long. I put my car in the driveway.
12 Sunday is a day that they have their services. I deliberately
13 put my car in the street at seven o'clock in the morning. I
14 have a full size van. Takes up the whole front of my house.
15 Nobody else can park, right. In the event I'm going somewhere
16 and most of the events, anything you attend to is on a Sunday.
17 I have my friends come over and the driveway is completely open
18 so they can pull right in and they can put three cars in the
19 driveway. I can put six or seven people in my van and I do
20 whatever I do, I come home, it's after one o'clock, there's
21 plenty of street parking, because the church services are over.
22 So that's how I solve my problem with the parking. It's an
23 issue. You know, what else was I going to tell you about that?
24 Okay. I'm gonna just touch on the little things I picked up as
25 they were speaking. The word dwelling, I thought the dwelling
26 was a residence. Am I correct or wrong?

Appeal Number 21413

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

CHAIRMAN MAMMINA: That would be correct. It could be an apartment, could be a house.

MR. SOKOL: When he's talking the eaves, he's talking about a shortage in the eaves. Now he says dwelling.

CHAIRMAN MAMMINA: His point was that when there's a restriction for a house, which is the part of the zoning that that comes from, a church is going to be vasally different because of course it's going to be higher, you know, as a church, you know, in every instance that I would expect. So that's all -- that's all that was meant by Mr. Nelson. So this is not a dwelling. It's a church.

MR. SOKOL: Okay. Okay. Second point is somebody made the issue that Cherry Lane is a secondary road. Now, one of the street sign says snow emergency and I don't think that's a secondary road by definition and I didn't make the dictionary. I don't know. All right. And it is a county -- town road or is it a state road? Because I was at another civic meeting and somebody said it's a state road. I don't know that to be true.

CHAIRMAN MAMMINA: It could be and I'm sure Mr. Mulryan can answer that.

MR. SOKOL: I don't think that has anything to do with the problem at hand, it's just that guess in my mind.

Now, I was over in the office for the BZA, ZBA, whatever it is. I reviewed the file and it said 20 years ago they had 22 families that attended. Now as they spoke, the

Appeal Number 21413

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

attorney spoke, he said it grew. Well it grew to 95. So that's four times the original congregation. So obviously the parking issue had to grow. Simple arithmetic. So obviously the parking grows, the parking problem grows and I think that pretty much concludes my visit here.

CHAIRMAN MAMMINA: Thank you so much, Mr. Sokol. And we do appreciate it.

MR. SOKOL: Oh, my neighbor may speak. She speaks English well, but she's not perfect and she gets a little mixed up.

CHAIRMAN MAMMINA: We'll go down the list and I'm sure if she wants to speak we will be very patient.

SECRETARY WAGNER: Elizabeth Palacios.

VICE CHAIRMAN FRANCIS: Don't be nervous. I was an English major and I still don't speak well so.

MS. PALACIOS: Thank you. I'm the next door to the parking spot. To the lot.

CHAIRMAN MAMMINA: Can you just give your address.

MS. PALACIOS: My name is Elizabeth Palacios, 912 Cherry Lane. I live next to the parking lot and my main concern is the fence.

MEMBER DONATELLI: Is -- I'm sorry, what?

VICE CHAIRMAN FRANCIS: The fence.

MS. PALACIOS: The fence. The fence. Because we need our privacy. I am -- years ago we got permit for a pool and we

Appeal Number 21413

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

got permit for six foot fence. I'm sorry. But from one side. We didn't need it for the other side, because they already had a fence, but I just want to take into consideration about the fence.

CHAIRMAN MAMMINA: Is your house to the left or to the right of the church?

MS. PALACIOS: The parking lot next to it. It should be the left.

FATHER GREGORY: No, to the right.

MS. PALACIOS: To the right.

CHAIRMAN MAMMINA: Because right now the church is on that property line there.

MS. PALACIOS: So I support him to give the permission for the high fence, because we have few incidents with kids and kids, they are kids. I five grandchildren. I had before five kids. So I know how they are and we need a solid fence. Right now there is not solid. It's something that the kids go and put stick into the holes.

CHAIRMAN MAMMINA: Slats. We know what you mean.

MS. PALACIOS: The slats. Yeah. They already damaged some parts. Because I have dogs, so they try to play. I understand. I don't have any complaints. I just support the fencing and the park spot is going to be an issue. We had before, like, a gate that we need to remove the door gate to put three cars. So parking spot is going to be an issue and

Appeal Number 21413

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

that's it.

CHAIRMAN MAMMINA: Okay.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER DONATELLI: Thank you.

MEMBER HERNANDEZ: Thank you.

CHAIRMAN MAMMINA: Thank you so much. Very well done.

SECRETARY WAGNER: James McHugh.

MR. MCHUGH: Good afternoon, Chairman Mammina. It's been a while.

CHAIRMAN MAMMINA: It's been a while. How are you, sir?

MR. MCHUGH: James McHuge, 15 White Avenue, New Hyde Park. I live, like, a block and a half. I'm on the corner of White and North First. I have a very pleasant history with this church. We were overjoyed when they came in to get rid of the bar. The history on that is, there was -- because I researched this at the time. The variance they had was from 1938 on that building. It was owned by the farmer that owned the land east. There were no houses east of Cherry Lane. Mine was one of the first built in 1940 before the war. Mine and my neighbors. All the construction stopped during the war. So nothing got built east of Cherry Lane. Everything is to the west Floral Park. So he used that building for a separate business. It was a stone cutting business. So the farmer had a separate -- so he needed to have a commercial property to run

Appeal Number 21413

his business. Now, the problem was, once the farm went away, the commercial variance stayed and subsequent owners just renewed that variance and kept it going. So as the houses grew around it in the 1950s, that property became a warehouse, it was inappropriate because it right in the middle of then what became a residential area. And then of course it got used for other purposes, bars and whatever, and we had all kinds of problems. So when the church came in in 2001, I was the civic president at the time. If you remember, Mr. McCarthy was on the Board at that time and we negotiated, which I don't think you can do on movement today. We negotiated 10, a condition when the church came in and they met all of them. And they have never violated any of them in the 21 years. They have been really excellent neighbors. Okay. And we -- when they have there precession every year, they go right by my house and my wife and I come out and the precession has grown. My wife and I said, you know, it was like half a block and now it's a block long. And they're wonderful people. It's really -- I work with some of them in my profession. They're nurses, I'm a pharmacist and they live in my neighborhood. I know a couple of them. I work with them. The two questions we have, of course, is on the parking. First off, I recall they had 22 spaces on the original property, because we counted them and that was part of the conditions. You couldn't have a big wedding there, you had to have a cathedral because of the

Appeal Number 21413

1 limited parking. And they met all those conditions and
2 everything has been pretty much under control. The one thing
3 that we are worried about now are the two houses that are being
4 knocked down. 911 and 915 behind them. One of the concerns
5 I'm getting from the neighbors on First is, is it going to be a
6 curb cut for the first time ever on First Street, because
7 everything came in and out of Cherry. So the neighbors are
8 concerned about that, because that's going to increase traffic
9 that never existed before on First. Also, the parking. And
10 the other concern they have is, again, my question is, what's
11 the magic number I call it. What's the occupancy, that maximum
12 occupancy, because the parking is a four to one ratio under
13 that zone and -- and that magic number is going to determine
14 what the minimum amount of parking they should have on the
15 site. Do we have that number?

16
17 CHAIRMAN MAMMINA: Yes. We can -- I know it's in here.

18 MR. MCHUGH: It's usually on the site plan. They stamp
19 it right on there.

20 SECRETARY WAGNER: The required number of occupancy?

21 MR. MCHUGH: No. It's the parking ratio for the
22 occupancy of the building. It's four to one on public use. So
23 if you have let's say 132 occupancy maximum, you would be
24 required to have 33 spaces.

25 CHAIRMAN MAMMINA: Right. This is calculated,
26 according to the denial, at 600 -- it says place of public

Appeal Number 21413

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

assembly, four seats, four persons to be accommodated so it says 172 is what it comes out to.

MR. MCHUGH: So if you divide that before four, you would come up with what would be under the code normally without a variance. What would be the minimum amount of parking that you would be expected to have for that use.

MEMBER GOODSSELL: Mr. McHugh, if I can ask you. You're a block and a half away. A good block and a half away. On a very busy Sunday, do Parishioners park -- does it extend to you?

MR. MCHUGH: No. Our problem is not that denomination.

MEMBER GOODSSELL: Okay.

MR. MCHUGH: Our problem is -- and they're also looking for an expansion. Our problem is the north of right and they are going for an expansion.

MEMBER GOODSSELL: A separate religious institution. Okay. So we are not discussing that one today. We're discussing this one.

MR. MCHUGH: Yeah. The problem is is there's going to be competition now as both of them grow for the parking in the area. That's why I asked about North First. Because if you open up a curb cut on North First, the competition is going to be between both of them and that's going to be a problem.

MEMBER DONATELLI: So I understand as I'm looking at the site plan right now, I'm seeing a curb cut on both streets.

1 Appeal Number 21413

2 MR. MCHUGH: Oh, boy that's going to be a problem.

3 MEMBER HERNANDEZ: That's the exit side.

4 MR. MCHUGH: Because that didn't exist before and
5 that's going to increase traffic on First.

6 I fought to get a double stop sign on First and I got
7 denied. So I petitioned the Board for the whole neighborhood
8 and then I got. But I had to fight for a double, because we
9 had so many accidents, fender benders on my corner on First and
10 White. Now you're going to increase traffic going on White,
11 you're going to increase traffic on First and Cherry, and
12 Bryant. Those surrounding streets. So that -- that is our
13 major concern. That we try not to open up another curb cut.
14 If we can keep the traffic coming in and out of Cherry, which
15 traditionally is what went on. Am I hearing that they're only
16 gonna have 14 spots?

17 CHAIRMAN MAMMINA: Yes. And I think what we should do,
18 just so we keep this moving is, you know, the traffic
19 consultant can answer, you know, any of those.

20 MR. MCHUGH: Yeah. Because 14 is going to be
21 insufficient for the amount of people they're gonna put in the
22 building.

23 CHAIRMAN MAMMINA: I think that it's 12. I think that
24 it's 12.

25 MR. MCHUGH: It's 12. That's even worse. That's
26 insufficient.

1 Appeal Number 21413

2 CHAIRMAN MAMMINA: I think they said one is going --

3 MR. MCHUGH: Because we're going 22 to 12, but we are
4 increasing the number of people that are going to be using the
5 building. So now we are going backwards.

6 CHAIRMAN MAMMINA: We here that and that's all apart of
7 what we'll take into account on our deliberation.

8 MR. MCHUGH: Yeah. And parking -- and the other thing
9 in the neighborhood is, people used to -- when I moved in, had
10 two cars. Now we're getting the Asian, Indian families are
11 larger. So what's happening is, you're going to have six cars
12 to a house now where you had two to four, because all the
13 children have their own cars. So that's increased the parking
14 demand in the neighborhood, because you can only put so many in
15 your driveway and then are gotta park what's ever left on the
16 street. So let's say you put three in your driveway, the other
17 three are going on the street.

18 VICE CHAIRMAN FRANCIS: Sir, I don't mean to interrupt
19 you, but you are way past your three minutes.

20 MR. MCHUGH: Okay. Well, I appreciate your time. I
21 have a history with this and it's a good history.

22 CHAIRMAN MAMMINA: Yes, you do.

23 MR. MCHUGH: And I'd like to keep the peace in the
24 neighborhood.

25 CHAIRMAN MAMMINA: And you've always come out as a good
26 neighbor and I appreciate that.

1 Appeal Number 21413

2 MR. MCHUGH: Thank you.

3 SECRETARY WAGNER: Matthew Martin?

4 MR. MARTIN: Yes. I'm here to support.

5 CHAIRMAN MAMMINA: Thank you.

6 Please put your name and address on the record.

7 VICE CHAIRMAN FRANCIS: Thank you.

8 No, come up here. You have to formally say it.

9 SECRETARY WAGNER: Do you want to come up and put your
10 support on the record or -- we just have to have the
11 stenographer record it.

12 CHAIRMAN MAMMINA: Wait. Say your name and address and
13 say that you're here in support.

14 SECRETARY WAGNER: Say your name and address.

15 MR. MARTIN: Mathew Martin, I live at 46 Ninth Street,
16 Hicksville and I support the project, because I am a member of
17 the parish.

18 CHAIRMAN MAMMINA: Thank you very much.

19 MR. MARTIN: Thank you.

20 VICE CHAIRMAN FRANCIS: Thank you.

21 SECRETARY WAGNER: Thank you.

22 CHAIRMAN MAMMINA: Thank you for coming.

23 SECRETARY WAGNER: Joann Johnson.

24 MS. JOHNSON: Hello. My name is Joann Johnson, I live
25 at 27 Garden Street, New Hyde Park.

26 CHAIRMAN MAMMINA: Am I going to guess you're an

Appeal Number 21413

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

architecture student?

MS. JOHNSON: Yes.

SECRETARY WAGNER: How can you tell that?

CHAIRMAN MAMMINA: How could I tell. Three-quarters of my office is staffed of all the kids.

MS. JOHNSON: And I support the application.

MEMBER GOODSELL: Thank you.

SECRETARY WAGNER: Thank you.

Bijoo Mathei.

MR. MATHEI: Good afternoon. My name is Bijoo Mathei. I live at 40 Ellen Place in Kings Park, New York. I go to this church and I support the project. Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

CHAIRMAN MAMMINA: Thank you so much.

SECRETARY WAGNER: Mr. John Thomas.

MR. THOMAS: My name is John Thomas, 4 Hillside Road, New Hyde Park, New York 11040.

Only thing I want to say is I was here 23 years ago, what a difference that this place makes. That time the hall was all full, nobody could even walk in. I think we have something doing right and going forward, and I support the application.

VICE CHAIRMAN FRANCIS: Very good.

MEMBER HERNANDEZ: Thank you.

CHAIRMAN MAMMINA: I was here 23 years ago and my hair

Appeal Number 21413

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

was black then.

MR. THOMAS: I had hair.

SECRETARY WAGNER: Jose Thomas.

MR. THOMAS: Hi. Good afternoon. My name is Jose Thomas, the founding member of this parish and we like to have a more expanded church, because families expanding. My son, 30 years old, he served his country as an air force and he lives in Phenix now. He want to come back to New York where he want to his raise his kids in this parish. So we like all of the Board to approve this project. Thank you.

CHAIRMAN MAMMINA: Thank you so much.

MEMBER HERNANDEZ: Thank you.

SECRETARY WAGNER: Lawrence Farnick.

MR. FARNIK: Good afternoon. My name is Lawrence Farnick, I live at 923 North First Street in New Hyde Park, which is the residence adjacent to the northeastern corner of the church property line. And I would like to start by saying I'm not here to speak in opposition to the church. I do have some concerns. The church, as the Reverend has said, have been excellent neighbors I think and I'd like to commend them on that. However, there are some concerns that I would like to bring forth. On drawing SP2 in A-03, which were revisions of other drawings. They show 13 parking spaces and the earlier drawings have shown 12. They apparently tried to increase the number of spaces to accommodate that extra 13th car, and in

Appeal Number 21413

1
2 doing so, what they seem to have done is eliminate the -- the
3 foliage and vegetation border in that northeast corner, which I
4 would really feel that that would be detrimental to their
5 eyelid, because we would be looking directly into the parking
6 lot. We would much prefer -- I would much prefer that it go
7 back to 12 spaces, the way it is shown in drawing A6 or A16 and
8 that the foliage barrier buffer remain. That would be one
9 area. And it's, according to drawing A-021, the number of
10 spaces required by the zoning code for cars would be 183. If
11 the Board is considering what is a 93 percent reduction to
12 accommodate 13 cars on the site, I don't think it's -- it would
13 be too much to ask that they reduce that to 12 and that it
14 would be too much to ask in weighing what it would -- how much
15 better it would be for the neighbors.

16 I also have some other concerns that I'd like to bring
17 up at this point. The exterior lighting for the parking lot,
18 for that parking lot on North First Street, we have some
19 concerns about that. That's really right next to my property.
20 I would hope that the lighting would be low level and would be
21 such that glare and excess lighting wouldn't go over or spill
22 over into our area. That was delineated in the drawings.

23 Also, the exterior light well is of concern to me. If
24 you look at the drawings of the cellar level, there is a large
25 parish area there. A parish hall. There is a warming kitchen
26 there. That is quite clear that that is used for recreation

Appeal Number 21413

1
2 and for various public gatherings. My concern is rather the
3 five large windows, in that I hope that they would be of a
4 soundproof type and probably the type that would not be
5 opening, that would only allow light to get into the area. If
6 there's any air circulation or ventilation, I would hope that
7 they would do that, accomplish that via mechanical means and
8 that those windows, as I said, would be soundproof and not
9 opening to prevent any spillage of noise into the surrounding
10 area.

11 Another concern that I have is the fencing right along
12 the property line on that northeastern side and that fence
13 would actually come right up very close to the edge of my
14 driveway.

15 Now, because of the parking situation that everyone has
16 talked about, there's likely to be a lot of parking on the
17 street. There already is few spaces available on the street as
18 it is now and a lot of us have to park in our driveways so on
19 days when the church is operations, for Sundays and holidays, I
20 and my guest, we would obviously have to park in our driveway.
21 I would hope that that fencing would be setback maybe two feet
22 so that we could open the door and safely leave the car from
23 the driver's side. That in that area of the driveway, the --
24 the fencing would be setback.

25 The last concern that I have would be the trash and
26 trash removal, and how they plan on doing that. Is -- are they

Appeal Number 21413

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

-- do they plan to put trash out in cans, in bags on North First Street the way residents do now on North First Street or are they planning to use dumpsters and a carting service, at which point carting big large trucks would have to be come into the area.

VICE CHAIRMAN FRANCIS: How is it done now?

MR. FARNICK: I don't think there's anybody to --

CHAIRMAN MAMMINA: We'll have somebody answer that after.

There is a trash enclosure that's shown there, which is kind of typical and I understand what you're saying, and this would just be my opinion, is that with that garage truck coming from the removal, assuming they're not getting there at six o'clock in the morning, they're in and they're out.

MR. FARNICK: Right. So assuming they don't come at six o'clock in the morning or on weekends. And the other thing is that the trash area would be protective so that there would be no rodents or vermin of other kind in that area.

And lastly, the drawings is not address the areas where they would be exhaust or other areas in the building and it did not address where any machinery outside, such as HVAC's. Or condensers, or generators might be placed outside. We would hope that those or I would hope that those would be placed in a way where they wouldn't make objectionable noises to our home and also that fumes and so forth would be properly contained in

Appeal Number 21413

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

that area.

CHAIRMAN MAMMINA: Okay. Very good points. Thank you.

MR. FARNICK: And again, I wish to thank the Reverend
for being a good neighbor. Thank you.

CHAIRMAN MAMMINA: Thank you.

Mr. Mastroianni, any closing statements?

MR. MASTROIANNI: I have nothing further, Mr. Chairman.

CHAIRMAN MAMMINA: Okay. Mr. Mulryan, did you want to
put anything on the record?

MR. MULRYAN: I just state in terms of the driveways
that were mentioned, there are parking spaces that are one way
design so to accommodate the one way parking spaces, we need a
driveway on the opposite side due to the limited size of the
parking lot and as mentioned, we're actually lowering it now
from 13 to 12. Number of vehicles that would be exiting that
driveway would be de minimus. Again, we will be adding some
additional traffic to the parking in the streets, but it is
very keen to what has happened to the site over the past 20
years. So we do not believe it's going to be a major impact to
the traffic based on the size of the parking lot and the
capacity therein.

Thank you very much.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER DONATELLI: So I do have some additional
questions if you don't mind, sir.

Appeal Number 21413

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

I'm not sure if you want Mr. Mulryan to address these or if you would like to. Going back to the parking and I understand, I think we heard from Mr. Mulryan, that you hadn't or he did not know of any efforts that you had made. Do you know of any efforts that the applicant has made to try and find other parking in the area that might be available for church vehicles?

MR. MASTROIANNI: I'm not aware of any efforts.

CHAIRMAN MAMMINA: Or would they be willing to try to --

MEMBER DONATELLI: Try to explore.

CHAIRMAN MAMMINA: We don't have Nassau County Planning Commission on this, right? So we can't decide this today, you know, any way.

MR. MASTROIANNI: I think they're having a meeting tomorrow on this application.

CHAIRMAN MAMMINA: I see the Pastor has his hand up.

MEMBER DONATELLI: And related to that question -- and if I might, just related to that question also -- no, same question and please, I do want to hear from you. But related to that question, is there any possibility of tandem parking or something to that affect to, again, try to mitigate the car issue?

FATHER GREGORY: I'm sorry, I didn't understand. What's tandem parking?

Appeal Number 21413

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

MEMBER GOODSSELL: Do you know what tandem parking is?

Tandem parking is where cars pull in and other cars pull in behind them. There's no space between them so the first cars have to go out first. It's what's called stacked.

FATHER GREGORY: Yeah. I've already said this, you know, a few times that we -- at the Board's direction, if there's something that you want us to consider and I haven't done this a lot, but we'd be more than happy to do that.

That first question about did we look for offsite parking; there is a municipal lot on Brooklyn Avenue that -- and we do have some parishioners that walk to church, right. We have a parishioner right across Grossman Avenue we could potentially use that, but it's a little bit of a walk. There is a lot that's open on an open building lot that's open right near the church. And I'm sorry, I forgot the gentleman's name. Jim? Yeah. You know, he came over and we were just talking about that. We've tried for years to acquire that lot. The owner, when we call him, you know, it's been tough, you know, to get any sort of response, you know, from someone and so it's been tough to get people to respond to us for these types of things. So if the Board -- and we will continue to look if there's any other options. We have looked at these options, but we haven't really had luck with that.

MEMBER DONATELLI: Of the 90 or so families that you said, members of your church, do you know what percentage walk

Appeal Number 21413

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

to your facility?

FATHER GREGORY: It depends on the weather, right. So in the winter, you see more people driving. You know, you would see some people walking. I don't know the percentage offhand. It just really depends, you know, and then we do have some folks that bike, you know, bring motorcycles, things like that. It really depends. And a lot of car pooling does happen. Drop offs, you know, elderly people get dropped off. So we do have an element of that where children drop off their parents. So some people don't park at all. But going back to that the offsite parking, we -- we would -- we have looked at in the past, we just have not -- people don't respond to us in a very nice way so.

MEMBER DONATELLI: Have you -- and I think it's wonderful that the community has come out and I think to a person, they've expressed their support and admiration, but they've still raised some concerns and it's good to hear. But again, dealing with the issue of the parking and the congestion and I guess my question is, have you, in your experience, and I think you've been there for seven years, if I'm not mistaken. Have you witnessed any instances where parking has been a problem of your parishioners, or have they blocked driveways, or are you personally familiar with any instances.

FATHER GREGORY: There are instance where they don't do it purposely. You know, there are elderly people who are

Appeal Number 21413

1
2 driving to the church and they don't realize that they park in
3 front of -- and if we get a note, even in the middle of the
4 service, we will actively go out and seek the people to go and
5 move theirs cars. So we try not to do that and then, you know,
6 one of the neighbors mentioned about people putting trash
7 underneath the fence, I, personally after the congregation
8 reprimanded the entire congregation for that and I said if my
9 three children are doing it, they are going to be in trouble.
10 So I've, you know, the church -- whenever we receive any sort
11 of complaint and they're not really complaints. Sometimes we
12 get the houses that we have behind the church, if the lawn
13 wasn't mowed, sometimes someone will tell us and we don't even
14 know, because it's behind the church, you know, and we hire all
15 that all, but we immediately go and we try to fix that. It's
16 not a matter of -- it's sometimes a matter of us not knowing
17 and we go out to the congregation and again, a lot of our
18 members live in that local area so they understand. They feel,
19 like, they wouldn't want someone blocking their driveway, you
20 know, so they don't want that. So we reprimand them, we tell
21 them to be as respectful as possible and by noon, a lot of
22 these cars clear out. So it's really from 8:30 to noon on a
23 Sunday that you see most of this activity and during the week,
24 as I mentioned, it's very empty other than major peace days,
25 holidays. They mentioned the street processions that takes
26 place. November, the first weekend in November, we have a

Appeal Number 21413

1
2 street procession. The Nassau County Police Department, they
3 are notified, they come, they block off traffic. We send
4 notices out to all the neighbors and we bless homes on the way
5 as we go around the neighborhood. If it was going to be a big
6 issue, we would stop the procession, but we've received a lot
7 of positive feedback about it so we don't want to stop it. But
8 if someone -- the police said hey, this is becoming an issue
9 for us, we don't want this, it's going to create a problem, we
10 would stop it. But it's not been that kind of issue. So we
11 are -- we're trying our best work -- work -- work with the
12 community as much as we can and we appreciate the -- the help
13 and the advice of the Board.

14 MEMBER DONATELLI: Okay.

15 MEMBER HERNANDEZ: Before you sit, Father, only because
16 I want to address, because someone brought it up, the issue of
17 the trash.

18 FATHER GREGORY: Yeah. The trash. The architect --

19 MEMBER HERNANDEZ: We see it on the plans.

20 FATHER GREGORY: You saw it. So right now -- the
21 church, to be honest, does not generate a lot of trash on a
22 Sunday. Maybe about two or three bags of trash. But the
23 architect gave a note about the enclosure and if there's a
24 better -- if we can avoid the trucks, we have people that live
25 around the neighborhood that if they need to manually put it
26 out on the sidewalk, they can do that. So we could even say

Appeal Number 21413

1
2 that no trucks can come into the property. We can manually
3 pick it out. It's not a lit. I could pull it out with my two
4 hands. I can put it out at the curb. I don't live near the
5 church, but -- but there are members -- but there are members
6 that do live within very close walking distance. They have
7 keys to the church, they can go, they can drop the trash off.
8 So we would be willing to -- we don't want to bother any of the
9 neighbors with loud trucks and things like that. So if we
10 could avoid that, we'd be happy doing that.

11 CHAIRMAN MAMMINA: Mr. Mastroianni, did you do the five
12 factors?

13 MR. MASTROIANNI: I'm sorry?

14 CHAIRMAN MAMMINA: Did you present the five factors to
15 us?

16 MR. MASTROIANNI: I wasn't prepared to do that at this
17 point.

18 CHAIRMAN MAMMINA: For the area variance.

19 MR. MASTROIANNI: Well, for the area variance I think
20 that --

21 VICE CHAIRMAN FRANCIS: If you can go through the five
22 factors. We'll give you a copy of them.

23 MEMBER HERNANDEZ: Just read through it now.

24 MEMBER GOODSSELL: Come to the podium with the
25 microphone so that the reporter can hear you.

26 MR. MASTROIANNI: Whether an undesirable change would

Appeal Number 21413

1
2 be produced in the character of the neighborhood or a detriment
3 to nearby properties will be created by the granting of the
4 area variance. Well, the church has been operating for over
5 two decades without incident and without complaint from anyone.
6 So will it do anything other than what it's done up until done
7 now. I think you heard the neighbors, I think they were more
8 complimentary than complaining of the church and I think the
9 people of your own fire department consider them to be a good
10 neighbor. I think all you've heard is compliments at this
11 point in time. The church needs a larger facility, but that
12 didn't mean that they're going to be more sloppy in the future.
13 I think you see that they are attentive individuals that are
14 very respectful of their neighbors and very, very considerate
15 of the community that this serve in.

16 To whether the benefit sought by the applicant be
17 achieved by some method feasible for the applicant to pursue
18 other than an area variance. I don't see how they can get more
19 room other than by expanding the church itself at this point in
20 time.

21 And whether the requested area variance is substantial.
22 It is substantial. There is no doubt about it. The
23 congregation has grown and they need more room to accommodate
24 the congregation. That is something you can't get away from.
25 It happens to be a good church and people want to attend it. I
26 don't think you can blame them for that. I think they need to

Appeal Number 21413

1
2 be able to accommodate and that is what this Board is here to
3 balance. The religious value of the spiritual and fellowship
4 that they provide for the community, I think has to be tampered
5 with the rules of the town with respect to zoning and I believe
6 that this is what this Board will do.

7 Whether the proposed variance will have an advance
8 affect or impact on the physical or environmental conditions of
9 the neighborhood or district. I think that it's going to have
10 some impact with the parking. You've heard that there is an
11 issue about parking. I don't think you can avoid that, but
12 that's something that has been accommodated for the past 20
13 years. I think that that is going to be continuing to happen
14 and whenever it happens, I think that there will have to be
15 some adjustment on the part of the congregation perhaps to
16 either get rides.

17 I want to tell you one of the new zoning ideas is that
18 you don't own a car. Now you have these ride handling
19 services. Now all of a sudden you can just call on your phone
20 or tap your phone and somebody will pick you up and take you to
21 church, take you shopping, take you anywhere and I think that
22 that is probably going to be a relief point for the parking
23 situation that we're talking about right now. And perhaps the
24 Father can advise the congregant's that perhaps they should be
25 taking advantage of the ride handling services that you have on
26 your iPhone today. You have Uber, you have Lyft, you have

Appeal Number 21413

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

other individuals that are now in business doing that. You don't really have to have a car to go to church. You can actually have someone drive you there, drop you off as the Father said about the other people who are dropped off by their children. I think that that's something that can be accommodated.

And whether the alleged difficulty is self created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance. Yes, it is self created. There is absolutely no doubt about it. The congregation has gone. They need to accommodate the congregation that they have today. Not 20 years ago when they started out.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER HERNANDEZ: Thank you.

MEMBER DONATELLI: Sorry, just one other question. As you went through the five factors, factor number two is whether the benefit sought by the applicant can be achieved by some other method that would not require a variance. Did the -- did -- did the congregation ever consider any alternative, such as, for example, selling this property, purchasing another property elsewhere and moving to a larger site?

MR. MASTROIANNI: I'm not aware of that.

CHAIRMAN MAMMINA: I think the Pastor has his hand up.

MR. MASTROIANNI: The person that would be able to

Appeal Number 21413

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

answer that best would be Father Gregory.

FATHER GREGORY: We have considered it and, you know, we would not be able to get a property as conveniently located where our people live in that area and we would have to go out, like, east to do it. And we -- our people absolutely adore this current property. They -- there are people from, not just our church but all different faiths that make it a point to walk to this specific property just to sign and pray at this property. I have people that walk 20 miles that, you know, Greek Orthodox, other orthodox churches that walk and make it a point to come to this church, you know. So it has become almost like sacred ground for us. So we are very protective of the property. We want to improve it and as you saw with the design, we are trying to make it as beautiful as possible. So that's something we cherish about this property and I can't say that enough.

CHAIRMAN MAMMINA: Thank you, Father.

MEMBER DONATELLI: Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER HERNANDEZ: Thank you.

CHAIRMAN MAMMINA: All right. So we will reserve. We need Nassau County Planning Commission.

MR. MASTROIANNI: I think they're meeting tomorrow on this, Mr. Chairman.

CHAIRMAN MAMMINA: I'm not certain, but I think so and

Appeal Number 21416

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

we can't make any decisions without Nassau County Planning Commissions and every -- every application that comes before the Zoning Board of a certain magnitude goes to Nassau County and that's true for any municipality so.

Okay. So we will continue the application, because we don't have the county, you know, at this point. So thank you all. Thanks everyone who came down.

MR. MASTROIANNI: Is there going to be another meeting on this, Mr. Chairman?

VICE CHAIRMAN FRANCIS: No.

CHAIRMAN MAMMINA: No. No. No. And again, when we deliberate, you can certainly come back before that. It won't be today, because we can't, you know, today and you can stay in touch with Ms. Wagner and you can also watch us on TV if you would like to, because that's not a public meeting any way per se. Okay.

MR. MASTROIANNI: Very well then.

CHAIRMAN MAMMINA: Thank you very much.

VICE CHAIRMAN FRANCIS: Thank you very much.

MEMBER DONATELLI: Thank you all for coming.

SECRETARY WAGNER: Next appeal, Appeal Number 21416, Lake Success Shopping Center, Inc.; 1400-1572 Union Turnpike, New Hyde Park, Section 8, Block 235, Lots 56, 57A, and 57B and Section 8, Block 101, Lot 1 and Section 8, Block 104, Lot 13 in the Business-AA Zoning District. Variances from 70-103(A)(1)

1 Appeal Number 21416

2 and 70-103(B), to construct parking lot improvements that would
3 leave the site with not enough parking, and parking spaces that
4 are too small.

5 CHAIRMAN MAMMINA: You've heard Appeal Number 21416,
6 Lake Success Shopping Center, Inc. Is there anyone in the room
7 interested in the application other than the applicant?

8 Seeing no one.

9 Please give your name and address.

10 MS. PREVETE: Good afternoon, Mr. Chairman, Members of
11 the Board. My name is Diana Prevete. I'm an attorney with the
12 law firm of Albanese and Albanese, 1050 Franklin Avenue, Garden
13 City, New York 11530.

14 I'll try to move quickly through this, but, you know,
15 it will take a few minutes at least.

16 I represent the owner of the subject property who is
17 also the applicant, Lake Success Shopping Center, LLC. We are
18 seeking parking variances to permit repaving, restriping the
19 existing parking area, reducing the parking stall sizes and
20 installing some new lighting and landscaping in the parking
21 area within the Lake Success Shopping Center, which is --
22 address is 1400 to 1572 Union Turnpike, New Hyde Park, New
23 York.

24 With me today is Robert Peck, who is the management
25 agent of the owner Lake Success Shopping Center. Jaclyn
26 Peranteau, who is a professional engineer with Key Civil

Appeal Number 21416

1
2 Engineering who designed and realigned the parking spaces and
3 the parking area, and prepared a site plan. Also today we have
4 with us Wayne Muller, professional engineer or R&M Engineering
5 who prepared a parking analysis for the shopping center to
6 consider the proposed repaving, restriping, the number of
7 spaces and he can answer any questions about his analysis and
8 will give a short summary of that analysis. Also here is
9 Dennis Flynn of architects -- this is Lake Success architects
10 Rosenbaum Design Group who has been -- is very familiar with
11 the shopping center and has done several site plans for Lake
12 Success Shopping Center.

13 I did send out consent forms and I do have three
14 consent forms to submit to the Board. One of them is
15 notarized. The other two are not. But most of the people that
16 usually send these in are senior citizens and they don't often
17 get out to get things notarized, but for whatever it's worth, I
18 will hand those up to the Board and I will state for the record
19 the names of the people who signed consent forms and their
20 addresses.

21 SECRETARY WAGNER: This will be Exhibit 1.

22 MS. PREVETE: So Christine Jankie of 149 Patten
23 Boulevard. She signed a consent form.

24 Estelle O'Brien of 85 Joseph Street, New Hyde Park.
25 She signed a consent form.

26 And then 1596 Union Turnpike, which is owned by an LLC.

Appeal Number 21416

One Ring Road, they signed a conform.

I also just want to make the Board aware of the fact that I did send out a letter with the notices inviting people to call me if they had any questions about the application. I did speak with about a half a dozen neighbors who did call me and had questions, with the exception of maybe one neighbor, each of them didn't really indicate that they had any real objection. I told them if they did have any concerns or objections, they can appear today and put those on the record. But apparently there wasn't as much concern so they're not here today. The one neighbor who did have an issue was more an issue with the work that's going on at the proposed Target. She was complaining about the noise from the construction and why am I now going to have to deal with repaving, they just finished repaving and I said no, I don't think they repaved. They're still working on Target. This is something from when the construction was done, the entire lot is going to be repaved so for whatever it's worth.

Just a little history. I know the Board is familiar with the shopping center. It was constructed in approximately 1949, there have been numerous changes over the past almost 75 years. As the Board can probably see, if you've been there, the shopping center is in the process of recovering from Covid-19. They lost a number of retail tenants, including just recently Bed Bath. Vacant space now though is slowly beginning

Appeal Number 21416

1
2 to lease up and they are very happy about that and as you know,
3 Target has been going on for some period of time. They are
4 still in the process of doing their interior and exterior
5 alterations in preparation for their opening. We don't have a
6 definite date for their opening yet, because that's almost
7 always a question that we get. We're thinking the first
8 quarter of next year, you know, at best. It is progressing
9 fairly slowly, but we think that that's realistic.

10 Up to this point in time, the spaces at the center have
11 had -- have been the size of 10 by 20 as per code. When Robert
12 Peck began to consider the possibility of restriping and during
13 his consultations with this engineers, he did a little research
14 on the size of spaces, particularly in the Town of North
15 Hempstead. He did check out Wheatley Shopping Center in
16 Greenvale, which has predominantly nine by 18 spaces.
17 Americana also predominantly nine by 18 spaces and then there's
18 a small little center right on the corner of New Hyde Park Road
19 just east of Lake Success Shopping Center. It has a Verizon in
20 it and a Starbucks. That apparently, when it was redone, those
21 have nine by 18 spaces also. That's got two big vacancies in
22 it at this point in time also.

23 The shopping center is located just west of New Hyde
24 Park Road on the south side of Union Turnpike. Its got 2,118
25 linear feet along Union Turnpike. So it's a very long shopping
26 center. Not that deep. Property is known on the Nassau County

Appeal Number 21416

1
2 Land and Tax Map as Section 8, Block 235, Lots 56, 57A and 57B
3 and then there are two smaller lots. One located at Section 8,
4 Block 101, Lot 1 and one located at Section 8, Block 104, Lot
5 13. I have copies of those tax maps and at the same time I
6 will also give you a copy of the zoning map. This can be, I
7 guess two and three exhibit. The property is located in a
8 Business AA District of the Town. So I'll hand those two up
9 for the Board.

10 Subject property contains 794,970 square feet. It's
11 18.25 acres, including all of the parking areas. It's improved
12 with multiple attached buildings, which are subdivided for
13 multiple commercial tenants. The gross floor area for the
14 tenant of 355,284 square feet. The center is generally -- the
15 parking area is within the center is kind of divided up into
16 three sections. The easterly section by Macy's Backstage,
17 Shake Shack, HSBC Bank, that has kind of an end to the shopping
18 center and it goes all the way to the adjoining property line.
19 Then you have a large section that's located in front of the
20 buildings adjoining Union Turnpike and then the third area of
21 parking is down at the western end by the proposed new Target
22 store and that goes to the adjoining property line.

23 MEMBER GOODSSELL: And if I can interrupt you, that
24 section has already been repaved, restriped and those parking
25 spaces, are those nine by 18?

26 MS. PREVETE: It has not been done. The lady who was

Appeal Number 21416

1
2 complaining thought it had been done. But there is so much
3 construction going on, the property owner is not going to
4 repave it until it's done.

5 MEMBER GOODSSELL: I thought it had been done too.

6 MS. PREVETE: No. No. I mean, they were doing some
7 work on the foundation of the building, because they had to
8 make some structural repairs. So there was some giggling and
9 they did disturb some of the asphalt, but it has not been
10 repaved and restriped yet.

11 So if you look at the building department disapproval,
12 they've decided that the code requires 1,392 parking spaces for
13 the current tenant mix and there's a list of tenants and uses.
14 Okay. The building department disapproval states that what's
15 located on the site plan are 1,262 spaces. The 1,262 spaces
16 takes into account that we lost some spaces over by Target,
17 because 22 spaces are being reserved for Target cart corrals
18 when they open. A place to put the carts and also for some
19 customer pick up spaces. When they order online, they can just
20 park in the customer pick up spaces, they run in and pick up
21 their order. So that reduced the number of spaces. But the
22 total amount that's available, excludes the Target pick up and
23 cart corrals is 1,262 spaces. Just -- I know the Board is
24 familiar. Some of the tenants within the center, as I
25 mentioned, HSBC Bank, Shake Shack, Macy's Backstage, Ace
26 Hardware, Bath and Body Works, Carters, Mattress Firm,

Appeal Number 21416

1
2 Victoria's Secret, Wild Fig, Barnes and Noble, FedEx. That's
3 not everybody, but those are major tenants. I have some photos
4 of the shopping center under current conditions and there are
5 vacancies. But just so the Board can get a flavor for what it
6 looks like now before the changes. So I guess this will be
7 four.

8 Okay. Building department lists two variances related
9 to the site plan that were submitted. There's an insufficient
10 number of spaces. Required 1,392 spaces. Provided 1,262
11 spaces and then we have been disapproved for the size of the
12 spaces. The required size of spaces are 10 by 20, except that
13 20 percent of the spaces can be nine by 18. We're providing
14 1,195 spaces, which is most of the spaces to be nine by 18 with
15 67 spaces which are going to be 10 by 23.

16 At this point, I would like to have Jaclyn Peranteau of
17 Key Engineering just step up to summarize some of the basic
18 features of the site plan which is shown there and just give
19 you a little bit of background of how we came to this site
20 plan.

21 MS. PERANTEAU: Good afternoon, Chairman, Members of
22 the Board. Jaclyn Peranteau, principal at Key Civil
23 Engineering, 664 Blue Point Road, Holtsville, New York
24 representing the applicant as a site engineer.

25 So as indicated, the project will consist of parking
26 lot improvements, inclusive of new LED site lighting and new

Appeal Number 21416

1
2 landscape islands that will be located throughout the parking
3 field. There will be a total of about 25 new islands within
4 the field and in the end island, some of which are currently
5 just concrete will become landscaped islands. The intent would
6 be to add shade trees throughout the parking lot, as well as
7 shrubs and flowering plants just to bring a bit of color and
8 break up that asphalt. In part of our improvements and in our
9 effort to increase some of the landscaping, obviously that
10 takes away some of our pavement area to provide parking. So we
11 are looking to try to balance that. As indicated, our parking
12 calculations are based on our current tenant roster and as
13 noted, we are seeking the variance. However, even with -- even
14 if we were -- we're requesting a variance of the nine foot
15 wide. If we were to provide the 10 foot wide, our variance that
16 we're seeking would be a higher grant. So there's been some
17 code changes and some of the -- the building departments
18 position is to base the parking on the current code and that's
19 why you're seeing the need for the variance at this time. We
20 are not introducing new tenants right now, but we are just
21 updating the parking calculation to mimic the current town code
22 per requirement.

23 So when we restriped the parking lot, our intent to
24 provide nine foot wide parking stall that's 18 foot in length
25 and provide 24 foot drive aisle. As you know, the Town of
26 North Hempstead's requirement is 10 foot wide, 20 foot deep but

Appeal Number 21416

1
2 a 20 foot drive aisle. And so by providing the 24 foot drive
3 aisle, we're giving a little bit more width and maneuverability
4 for a vehicle to make that turn into a slightly narrower
5 parking stall of nine feet. I just want to also state and I
6 know this is North Hempstead, but the surrounding towns, Oyster
7 Bay, Hempstead, many towns even in Suffolk County, a nine by 18
8 parking stall with a 24 foot drive is very common. You know,
9 we've even went so far as looking up various vehicle sizes.
10 Large, you know, trucks, standard sedan is no more six and a
11 half foot wide with mirrors. Some of the larger SUVs can go to
12 about seven and a half and then the big pick up trucks, you
13 know, can get to about eight and a half depending on some of
14 the real big ones.

15 MEMBER GOODSSELL: Ms. Peranteau, my car may only be six
16 and a half feet wide, but I have to swing my door open next to
17 that gigantic vehicle that's parked. I'm not a big fan of the
18 smaller parking spaces, but I acknowledge that they have become
19 the new norm.

20 MS. PERANTEAU: Understood.

21 So I just, you know, again, just to summarize, you
22 know, we feel that the improvements would be a great
23 improvement to the center. It would be providing an additional
24 -- about an additional 150 parking stalls, as well as
25 additional landscaping throughout. Somewhere in the order of
26 about 26,000 square feet of additional landscaping that would

Appeal Number 21416

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

be added and then the new site lighting.

I'm happy to answer any questions that the Board may have.

MEMBER DONATELLI: Will the lighting be directed downward?

MS. PERANTEAU: Yes. It would be in compliance with the code. 20 foot max height, dark sky complaint, black lens, LED.

MEMBER DONATELLI: And are you contemplating any lighting behind the buildings abutting the residential area to the -- just below it?

MS. PERANTEAU: There is a large retaining wall along that back perimeter, which provides nice buffering to those neighbors currently. We would provide lighting back there for safety purposes, of course for any employees that are working back there. But we would be very conscious making sure there was no spill onto those neighbors property so. The ones in the back, might be slightly lower for that purpose. So we'll be preparing a full metric plan and making that part of the submission to the planning department.

CHAIRMAN MAMMINA: Any questions?

VICE CHAIRMAN FRANCIS: Thank you.

CHAIRMAN MAMMINA: Thank you.

MS. PREVETE: All right. Moving right along. Since we're requesting a parking variance, I'd like to have Wayne

Appeal Number 21416

Muller step up and give a summary of his findings and opinions as an expert. And I know that the Board is familiar with Wayne and I ask you to accept his qualifications.

CHAIRMAN MAMMINA: Mr. Muller is well known to the Board.

MR. MULLER: Good afternoon. Wayne Muller of Robinson and Muller Engineering. Offices at 50 Elm Street, Huntington, New York.

As part of this application we actually prepared two documents. The first one is May 22, 2022 and the second one dated June -- excuse me -- 2023 and June 22, 2023. The June 22nd document essentially reflects the building department's change in the number of provided parking spaces, given the cart corrals and the six waiting spaces for Target.

Ms. Peranteau indicated that the property or the project requires 1,392 parking spaces. We are providing 1,262 parking spaces on the property giving the deficiency of 130 parking spaces as it relates to the town ordinance.

As indicated in my May 22, 2023 report, we observed the parking activity on the subject property two days. First day is Friday, April 28th, 2023 from 10 a.m. to seven p.m., which would encompass all the peak activity associated with the center and again on Saturday, May 13, 2023 from 10 a.m. to seven p.m. I would like to point out and as indicated by Ms. Peranteau, there's a significant number of vacant spaces on the

Appeal Number 21416

property. Currently we estimate there's 143,000 roughly occupied square feet and roughly 212,000 vacant square feet. That includes the Target, which I believe is the former Sears way back in the day. As indicated in my report, by factoring in what we observed and the vacant spaces, we would anticipate that the shopping center in the peak condition would be no more than 80 percent occupied, which leaves a buffer in there for some holiday activity and the like that could be accommodated within that 20 percent. But we do not believe that it would be occupied. As indicated by Ms. Peranteau, we are seeking relief from the town ordinance as it relates to the parking stall width and depth. As she indicated and based on our research, the nine by 18 stalls are not uncommon throughout the country with a 24 foot back up aisle. And what the does is provide more room for the car to swing in making up for the loss of width. As she indicated and as I agree, the Town of Oyster Bay and the Town of Hempstead, which are the two adjacent towns Nassau County, both have that nine by 18 by 24 foot requirement. In addition, the Urban Land Institute publishes a document called the Dimensions of Parking. I can submit a copy just for the record if you would like it. The last addition is the fifth addition in 2010 and what that does is, it provides a summary of their recommendations for parking stall width and the dimensions. And essentially based on their recommendation for moderate to height turnover uses, such as community retail

Appeal Number 21416

1
2 medical facilities accepts an eight foot to nine inch stalls
3 width would be acceptable. So I believe nine by 18 request by
4 the applicant is well within the industry standards as far as
5 our case is concerned. I'd like to submit a copy of this for
6 you.

7 SECRETARY WAGNER: This will be Exhibit Number 5.

8 MR. MULLER: So therefore, based on the analysis that
9 we performed as contained in the two documents conducted by my
10 firm, the granting of the relief would not have any significant
11 changes of the operation of the facility, the provided parking
12 on the property that will accommodate the use and any possible
13 spikes in activity around the holidays or such. Thank you.

14 MEMBER DONATELLI: So at the expense of asking the
15 obvious, but just for completion of the record. If -- if the
16 spaces instead of being nine by 18 were 10 by 20, are you able
17 to approximate how many spaces you might lose as a result of
18 these spaces being regulation size?

19 MR. MULLER: Yeah. Somewhere in the neighborhood -- we
20 took a quick stab at it and I talked to Ms. Peranteau and she
21 actually did the same thing. We'd roughly indicate that about
22 150 spaces would be lost.

23 MEMBER DONATELLI: An additional 150?

24 MR. MULLER: An additional 150 and that would bring the
25 occupancy obviously a lot higher.

26 MEMBER GOODSSELL: The current spacing though is 10 by

Appeal Number 21416

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

20?

MR. MULLER: It's kind of a Hodge podge because of the -- what happens overtime is the shopping centers get restriped. Companies that restriped them don't always put them back to the dimensional requirements that they should, but yes there's a lot more spaces. So yeah, some of them nine, some of them are nine a half, some are 10. So they kind of vary based on the company that you hire to restriped them after you seal coat the parking lot. It's not an uncommon scenario.

CHAIRMAN MAMMINA: Also, I guess in hearing Ms. Peranteau's testimony. The fact that Town of North Hempstead requires only a 20 foot drive aisle and we have 24s. Those 18 foot spaces essentially become 20 feet deep by default.

MR. MULLER: That's correct. Yeah. The module is the same. You know, the depth from stall to stall.

MEMBER DONATELLI: And the applicant proposes to put in traffic islands, right? At the end of -- at the end of each lane, which would also, I think, add to traffic flow benefit and even though that might serve to reduce some space, it actually adds some order to what otherwise what be a chaotic situation.

CHAIRMAN MAMMINA: Order and esthetic.

MR. MULLER: That is absolutely correct. Yeah. This represents a significant upgrade to the center.

In other portions of the town, I was involved in that

Appeal Number 21416

one center on Hillside between Marcus and I can't think of the name of it. Garden City Park Plaza.

CHAIRMAN MAMMINA: Garden City Park Plaza. Yes. Right. That was recently.

MR. MULLER: Yeah. Recently within the last few years. We essentially did the same thing there. That was probably built in and around the same time this was and, you know, based on the population of growth on the western portion of Long Island. Yeah. I mean, we've -- a lot of those stalls were restriped again nine by 18 to retain mall stalls and in there they actually had a significant upgrade to the esthetics by new landscaping and the like. These centers are a little tired, you know. It's been 75 years old. I mean, that's pretty old. Yeah. It's definitely time.

CHAIRMAN MAMMINA: Even I'm not that old.

MR. MULLER: Yeah. Me either. Not yet.

Thank you.

CHAIRMAN MAMMINA: Thank you.

MS. PREVETE: Okay. So now we get into the standards for an area variance, which two variances in this case are area variances.

We believe that no desirable change will be produced in the character of the neighborhood or detriment to nearby properties. The shopping center and the subject property is located in the Business AA District. The areas to the east,

Appeal Number 21416

1 the west and the north are developed with commercial uses.
2 Including gas stations, retail food uses, retail commercial
3 space and office uses. The only area that is developed with
4 residences is to the south and, you know, it's been that way
5 for close to 75 years now. Lake Success Shopping Center has
6 existed this way with the parking areas developed as you can
7 see today for over 75 years and the owner is attempting now to
8 provide an excess of parking spaces, which have a size we
9 believe and based upon the testimony, is sufficient based upon
10 the testimony of Jaclyn Peranteau and Mr. Muller. There is no
11 evidence that there's any undesirable change in the character
12 of the neighborhood or detriment to nearby properties. We're
13 providing more spaces, not less.

14 The benefit sought by the applicant cannot be achieved
15 by some other feasible method. There is no other available
16 land for the applicant to acquire or to use as additional
17 parking spaces.

18 The requested variances we believe, although can at
19 some -- under some conditions be considered substantial. We
20 don't believe they are in this case. There are only two
21 variances requested. The deficiency in the number of spaces is
22 130, which is less than 10 percent and yes, the size of the
23 spaces that are going to be become nine by 18 are much more
24 than what the code permits. However, if you consider the
25 totality of relevant facts and common sense appraisal of the
26

Appeal Number 21416

1
2 circumstances, we don't believe that the variance, at least for
3 the space size is substantial or for the number of spaces.

4 The requested variances will not have an adverse affect
5 on physical or environmental conditions. There may be
6 insufficient spaces as per code, but the mix of uses results in
7 availability of spaces even during peak periods, as Mr. Muller
8 has testified. There's still going to be about 20 percent of
9 the spaces that are not used, even when the center is fully
10 occupied. Even if a customer unable to located a parking space
11 within the shopping center, let's say during, like, a Christmas
12 season or something of that nature, there isn't going to be
13 spillover to the residential area to the south, because it's
14 just not accessible to the shopping center. If someone can't
15 find a space after they drive around a while, they're gonna
16 come back another time.

17 MEMBER GOODSSELL: They're going to park on Union
18 Turnpike.

19 MS. PREVETE: Or park on Union Turnpike and cross the
20 street.

21 MEMBER GOODSSELL: And they do at Christmas and they do
22 and that accommodates a lot of cars.

23 MS. PREVETE: And it's not going to have an adverse
24 affect on the residential area.

25 We don't believe that in this case the difficulty can
26 be considered fully self created. The shopping center was

Appeal Number 21416

1 constructed a long time ago in approximately 1949. There has
2 been no change in the footprint of the building or the
3 locations of the parking area. The center has always been a
4 mix of commercial uses and a number of spaces on this site
5 actually has been sufficient at most times, except for maybe
6 Christmas time or some other holiday. Reducing the size of
7 most of the spaces from 10 by 20 to nine by 18 will result in
8 more spaces being available to the center customers.
9

10 If we weigh the benefit to the applicant if the
11 variance is granted against the detriment to the health, safety
12 and welfare of the neighborhood and the community if the
13 variance is granted. We believe that the balance is in favor
14 of the applicant, because there really is no articulated
15 detriment to the community in this case.

16 I just want to state for the record that it's my
17 understanding the Nassau County Planning Commissioner has
18 recommended a local determination in this case. So this Board
19 is to free to do whatever it feels is justified under the
20 circumstances.

21 That concludes the applicants direct case. If the
22 Board has any questions, we'd be happy to answer them.

23 MEMBER GOODSSELL: I have no objection, Mr. Chairman,
24 and I think the it would be much of a face lift to the parking
25 lot and I'm just gonna have to buy a smaller car or an electric
26 car, and I'm sure that someday we will have electric charging

Appeal Number 21416

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

stations in the corners.

MEMBER DONATELLI: Or a flying car.

MEMBER GOODSSELL: Or a flying car.

So I will make a motion that we grant the application.

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

MEMBER DONATELLI: Second.

CHAIRMAN MAMMINA: Second by Member Donatelli.

Please poll the Board.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Before I vote, I would just
correct you on one thing you said. Almost everything is self
created, you know, and if you buy the property, you have
created the condition.

So with that said, I vote aye.

MS. PREVETE: Thank you.

CHAIRMAN MAMMINA: I vote Aye also.

MS. PREVETE: Okay. Very good. Thank you for your
patience.

1 Appeal Number 21417

2 CHAIRMAN MAMMINA: Application is granted.

3 VICE CHAIRMAN FRANCIS: Thank you for spending the day
4 with us.

5 MS. PREVETE: It's a pleasure.

6 CHAIRMAN MAMMINA: It's a pleasure as always, right?

7 SECRETARY WAGNER: Next appeal, Appeal Number 21417,
8 Rahmat Yousefzadeh (AutoZone); 565 Old Country Road, Westbury;
9 Section 10, Block 60, Lot 220 in the Business-A Zoning
10 District. Variances from 70-103(B), 70-103(0), 70-134,
11 70-196.J(2)(b), 70-196.J(2)(c), and 70-203.G, to construct a
12 new retail store with parking spaces that are too small, access
13 aisles that are too narrow, a garbage enclosure that is too
14 close to the rear property line, landscape buffers that are too
15 narrow and lack sufficient trees and shrubs, and to erect a
16 ground sign that is too large and too close to the street.

17 CHAIRMAN MAMMINA: You've heard Appeal Number 21417,
18 Rahmat Yousefzadeh, AutoZone. Is there anyone in the room
19 interested in the application other than the applicant?

20 So we've got a few hands up and you will all have the
21 opportunity to speak after the presentation. Thank you for
22 coming.

23 MR. MIGATZ: Bruce W. Migatz, Albanese and Albanese,
24 1050 Franklin Avenue, Garden City, New York for the applicant.

25 Let me hand in four additional -- there was three
26 return receipts -- two return receipt cards, one that came back

Appeal Number 21417

and one regular mail that came back.

We have mounted a color rendering of the proposed AutoZone. I have given a copy to the people in the audience and I have copies for the Board members.

SECRETARY WAGNER: That will be Exhibit 1.

MR. MIGATZ: I have exhibits premarked. So make that six, if you would. And I have premarked five exhibits and I have put them in a binder, and one for the record and one for each Board member.

AutoZone is the proposed tenant of the subject property. You might be familiar with AutoZone. It's an auto parts. It's throughout the United States, Mexico and Brazil. They have over 6,200 stores and last count they had 32 stores on Long Island, hopefully this will be the first one in North Hempstead.

Present with me this afternoon is Ryan Pimheiro, P-I-M-H-E-I-R-O. He is the AutoZone District Manager. Sean Daughtery engineer with Bolla Engineering. He's the project engineer. And Ethan Schukoske, S-C-H-U-K-O-S-K-E.

Subject premises is 565 Old Country Road in Westbury. It is Lot 220 on the current tax map. It is presently improved with a retail store. Exhibit 1 are three photographs of the store. The subject property also includes what is on the tax map currently lot -- part of Lot 210, which is 20 Longfellow Avenue and I say currently, because those tax maps will be

Appeal Number 21417

changed shortly. Exhibit 1, like I said, are the three photographs of the subject retail store, Fortune Dinette and Exhibit 2 is the single family residence on 20 Longfellow Avenue.

The retail store and storage shed has a size -- well, the building itself has a size on 6,412 square feet. That's the existing building. It was built in 1952 pursuant to a variance granted in 1951 and that variance is Exhibit 3. Not really relevant, but part of the history of the property. The variances permitted the retail store operation to expand onto the residence lot 20 Longfellow. Existing building did not comply with parking. 19 parking spaces will be required for that existing retail store and it only has nine striped parking spaces that do not meet code.

Now, there was a prior change of code application for this property as I explained in my application. That was August 13, 2020. Prior to that change of zone granted by this Town Board, not this Town Board, I mean this Town Board of North Hempstead. Lot 220 that fronts on Old Country Road was Zoned Business-A for the first 100 feet and then Residence-C for the balance and Lot 210 in residence lot with cross Residence-C. Resolution 3152020, Exhibit 4 in my handout. The Town Board changed the northerly portion of Lot 220 and the southerly 50 feet of Lot 210 from Residence-C to Business-A and past month, June 15th, the Nassau County Plan Commissioner

Appeal Number 21417

1
2 approved the lot line adjustment and that's why I say a new tax
3 lot will be created so the retail -- the proposed AutoZone will
4 be on a new tax lot, that is zoned entirely Business-A and the
5 residents will be on the new tax lot zoned Residence-C. Now,
6 during the change of zoned application, the applicant,
7 consultants and I met numerous times with Councilwoman Russel,
8 who, at that time, was the councilwomen for Westbury, Planning
9 Commissioner Levine and the community. And we had numerous
10 meetings and as result of those meeting, the original plans
11 AutoZone had were scaled done and what we are -- what you see
12 before you with one minor exception, is the plan -- the concept
13 plan that was shown to the Town Board as part of change of
14 zone. They always wanted to see what we will build. And what
15 you have before you is what we showed with Town Board, but with
16 one slight exception and it was explained that at the meetings
17 with the community and with the Town Board, that we would need
18 some variances and you would have to come back to the Town
19 Board for site plan review.

20 Now, the variances that we require; size of parking
21 spaces. AutoZone only has to provide 22 parking spaces to meet
22 code. It is their practice to provide more than code
23 requirements. So they provided nine additional parking spaces
24 on the northerly site -- northerly part of the site and they
25 are 10 by 18 instead of 10 by 20. So that's one variance. The
26 second variance is for the parking aisle width. Some plans

Appeal Number 21417

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

examiner may differ from the last application, but on this application, the plan examiner said that a 18 foot deep parking space requires a 24 foot access aisle and not a 20 foot access aisle. And we -- we have a 20 foot access aisle. So that is a variance that this plan examiner said we need.

The rear yard setback; 20 feet is required. The proposed building is setback more than 20 feet. So we have a garbage dumpster encloser that's setback five feet.

All of those variances that we require are based upon the site plan we showed the Town Board. So the Town Board was aware of that.

There's insufficient landscape buffer on the north, which adjoins the single family home. Code requires 15 feet, we proposed four and a half feet. That's the one difference from the change of zone application. We have shown six inches more, five feet. But when the engineers did the final engineering, we needed six more inches to get our 20 foot back up aisle. That's the only difference from what you saw and what the Town Board saw when they approved the change of zoning.

The other variances -- there's one more landscape buffer zone on the east that abuts the Westbury Fire Department property. 15 feet is required, two feet is proposed. That's actually one more than we show the Town Board. We showed the Town Board one foot and were able to get another foot on that

Appeal Number 21417

landscape buffer zone.

There's an application for a variance for a ground sign that was not part of the change of zone. That was not shown to them. We are -- we have a disapproval notice for a ground sign -- pylon sign that is more than 24 square feet and which is setback six feet instead of 10 feet. We are withdrawing the application for the area variance of that sign. That sign will be made two feet by 10 feet by 20 feet, which is less than the code allowed. We're reducing the setback variance to six feet instead of 10 feet.

We submit to you that the granting of the variances will not have an adverse impact on the community, undesirable change in the neighborhood. As I said with respect to parking, we are -- we can eliminate as of right those nine spaces that are 10 by 18. We don't need them pursuant to code.

VICE CHAIRMAN FRANCIS: I'm so glad you said that.

MR. MIGATZ: We are providing those, because it is AutoZone's practice that they -- they have found that the codes don't always have sufficient parking for peak demand days. So they always like to provide more. So we've added nine more spaces. The original plan shown to the Town Board took up more than the residential lot. We had 10 by 20 foot spaces and a 24 foot access aisle, but when we reduced the amount property that changed in the zone law, we had to reduce those parking spaces to 18 feet. And we also had to reduce the buffer zone. The

Appeal Number 21417

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

original plan did have a 15 foot buffer zone but -- bless you.

MS. ALGIOS: Thank you.

MR. MIGATZ: Was that a cough or a sneeze?

MS. ALGIOS: It was a cough.

MR. MIGATZ: To give more context, the original change of zone application was going to rezone the entire resident lot to business and would have 15 foot landscape buffer zone to the next house and the additional parking would be 10 by 20 by 24. The community and the Town Board did not want to lose that residential lot. So we modified the change of zone application to maintain that existing house on the residence lot and reduce the property that AutoZone is leasing. The residence lot and the AutoZone lot are in common ownership. So that's how we were able to do that. So the buffer zone is less than 15 feet to accommodate the community's desires to maintain that house and the Town Board to maintain that house. The property owner consents to that obviously, having a four by five foot landscape. The other parking spaces are code compliant. We've acquired 22 park spaces that are code complaint. 10 by 20 with 24 foot backup. We have submitted a traffic report from Atlantic Traffic and Design. Evan is here to answer questions you have, but I explained in that traffic report that those 10 by 18 parking spaces are sufficient. And as a matter of fact, you really have an additional 10 foot back up, because as explained in the traffic report, there is a loading zone

Appeal Number 21417

1
2 between the building and that 20 foot backup aisle. That
3 loading zone is 10 feet wide. AutoZone typically gets a
4 shipment only once a week and never during peak hours. So
5 except for the one day where their truck is there for 15 to 30
6 minutes tops, you have an additional 10 feet of aisle. So you
7 really have a 30 foot backup aisle for those spaces. Like I
8 said, Ethan is here to answer questions if you have questions
9 about that rear yard setback. Only the garbage dumpster is in
10 that setback. The adjacent property owner is the common owner
11 of both properties and they have, of course, consented to the
12 setback variance for the garbage dumpster and they have
13 consented, like I said to the setback variance for the buffer
14 zone between the northerly parking spaces.

15 MEMBER DONATELLI: I'd be concerned if he had opposed
16 the application.

17 MR. MIGATZ: I've been surprised before, Mr. Donatelli,
18 at hearings.

19 He's here by the way so I'm keeping my fingers crossed.

20 The landscape buffer zone on the east. Exhibit 5 is
21 two photographs of the east -- that property to the east is the
22 Westbury Firehouse and --

23 MEMBER GOODSSELL: Right now it's not much of a buffer
24 zone. It's grass.

25 MR. MIGATZ: It's not much of a buffer zone there now.

26 MEMBER GOODSSELL: Right.

Appeal Number 21417

1
2 MR. MIGATZ: They -- most of that grass is the fire
3 department grass and that's roughly seven feet wide, according
4 to my -- my measurement and we can add another two feet to
5 that. So it's actually nine feet between our parking spaces
6 and their parking spaces. And those buffer zones between
7 parking spaces and the residences, that's probably zoned
8 residential.

9 MEMBER GOODSSELL: The fire department property is zoned
10 residential?

11 MR. MIGATZ: It's only the northern section of that.
12 Most of it -- most of it is business. There's a small northern
13 section of it that is zoned residence that requires that buffer
14 zone. So if I didn't tell you that, you would never know it.
15 It's very -- it's a minor portion of that property that's zoned
16 Residence-C.

17 So I submit to you that neither buffer zone is going to
18 have an adverse impact on the adjacent neighbors, since the
19 northerly adjacent neighbor has consented to it and it was
20 reduced at the request of the modification of the Town Board
21 and the community last month. And buffer zone to the east by
22 the fire department clearly has no adverse impact on the fire
23 department.

24 Are these variances substantial? Mathematically you
25 can say yes, but case law says the percentage deviation is not
26 the key. The key is the totality of the circumstances and

Appeal Number 21417

1
2 considering the totality of the circumstances, these variances
3 are not substantial and they will not have an adverse impact.

4 Can the benefit sought by the applicant be achieved by
5 some other means other than the variance. No. The benefit the
6 applicant seeks is to build an AutoZone store on this property.
7 Not to build it on some other property. So to say well, did he
8 consider building it elsewhere, that's not -- that's not a
9 proper inquiry and I've cited a Court of Appeals case on that
10 point where a zoning board denied the property owner a setback
11 variance for a porch overlooking the water, and the zoning
12 board said well, you can build your porch on a different
13 portion of your property not overlooking the water and you
14 don't need a variance. The Court of Appeals said the benefit
15 sought is a porch overlooking the water. So it's improper to
16 say you can build it elsewhere. So there is no other means
17 available to achieve this benefit.

18 As an unlisted action, I submit to you that it's going
19 to improve the conditions of this property by providing the
20 required off street parking spaces and then some, which is a
21 benefit to -- to the community and will not have an adverse
22 impact on the environment.

23 The difficulty is self created, because as of -- as
24 Member Hernandez says or Member Francis said, unless you bought
25 the property before the zone was adopted it's all self created.
26 But that's not -- that's only one factor for the Board to

Appeal Number 21417

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

consider.

The sign variance. We withdraw the area variance for that -- for that sign. That sign looking at your rendering, is in the southeast corner of the property. It will now be two by 10. 20 feet in area. Less than 24 feet that's allowed. Code requires a 10 foot setback. We have six feet. The reason being if we set it back 10 feet, that sign -- half of that sign is going to right on top of that parking space and, you know, the project engineers do not think that's a really good thing to have a sign right on top of that parking space. So that's the basis for seeking a four foot variance to have it six feet back. This is Old Country Road. The other side of Old Country Road is the Town of Hempstead and as the Chairman said on a prior application, anything goes basically -- I'm paraphrasing -- in Hempstead.

CHAIRMAN MAMMINA: Within reason.

MR. MIGATZ: So, you know, there's a proliferation --

CHAIRMAN MAMMINA: I should reflect that I don't work in the Town of Hempstead.

MR. MIGATZ: There's a proliferation of signs, certainly on the Hempstead side on Old Country Road and this 20 foot sign that is setback six is not going to have any impact, in my opinion, on this route.

MEMBER DONATELLI: I'm sorry, the size of the sign is now going to be compliant?

Appeal Number 21417

MR. MIGATZ: Yes. Two feet by 10 feet, which is 20 square feet. The code allows 24 square feet.

I do have two consent forms marked as Exhibit 7. The shopping center to the east, 595 Old Country Road and the residents across the street, which is on the corner of Old Country Road and Clouster, C-L-O-U-S-T-E-R.

Now, at the change -- at the change of zone application that has a condition that the curb cut on Longfellow Avenue be channelized to deter -- actually, the condition says to preclude right turn egress. You can never preclude right turn egress, but you can encourage left turn egress. The site engineers did not want to channelize it in -- in -- to the extent that you turn that curb cut, because it's going to interfere with the truck traffic that comes and goes, even though it's not that often. But they are showing a left hand arrow and it's showing no right turn. This has to go back to the Town Board for site plan review. So we would -- we would, you know, we would like to discuss that with the Town Board for site plan review as to whether or not our -- our markings and curving of the left side of the curb cut is satisfactory to them. If it's not, they will make us channelize that on our site plan review.

I spoke with the residents who are here. They were talking about landscaping. We did not file a landscape plan, because in my experience, this Board will defer to the Town

Appeal Number 21417

1
2 Board on site plan review for the landscaping. We have a
3 landscaping package I could file with the -- with the planning
4 department. We have landscape, we have site light, site
5 drainage, you know, the whole nine yards and that would be, you
6 know, the subject of site planning review. So I -- I believe
7 this Board, in the past, would defer the type of landscaping to
8 the Town Board.

9 We did make representations to the community and to the
10 town, as part of the change of zone process. The Town Board
11 did not make it part of the condition though we are going to
12 fulfill those representations. The community had concerns
13 about repairs being done in the parking lot. AutoZone does not
14 permit that. They did explain that if a customer comes in with
15 a taillight that is out, which is dangerous, they will help
16 that person put the taillight bulb in and if they come in a
17 rainstorm with a windshield wiper that's defective, they will
18 put that windshield wiper on for them. But they don't do
19 repairs. They don't allow customers to do repairs and they
20 will post signs in the parking lot prohibiting repairs, and
21 they agree to install monitors. Cameras to monitor the parking
22 lot with a monitoring station at the cash registers so the
23 AutoZone employee can monitor the parking lot and enforce the
24 no repairs in the parking lot. So we -- we live up to those
25 representations, even though it is not a condition of a change
26 of zone.

Appeal Number 21417

Does the Board have any questions of me, or the engineers, or the traffic engineers?

VICE CHAIRMAN FRANCIS: I have some concerns. My concern is really is about the undersize landscape buffer between the residential property and this property, and I'll tell you why. Even though this owner, present owner is consenting to the undersized landscape buffer, you know as well as I know that variances run with the property. So this variance is going to be apart of this property until the world ends. Any subsequent owner of that property is going to be stuck with that undersized landscape buffer. I would, as one Board Member, would prefer to see an elimination of those nine spaces and the increase of the landscape buffer between that residential property and AutoZone.

MR. MIGATZ: So, Mr. Francis, anybody that buys this house is buying it subject to that existing condition. It's like people come before this Board and complain that there's too much noise coming from a shopping center. Well, you bought you house next to the shopping center. So anybody that buys this house at 20 Longfellow is accepting the fact that there's a 4.5 foot buffer zone.

VICE CHAIRMAN FRANCIS: That's what I'm trying to eliminate.

MR. MIGATZ: I'm not sure why that's your concern, if it's -- if it's not the concern of the person buying the house,

Appeal Number 21417

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

I don't -- I don't quite understand why you would want to eliminate that. And this Board has granted numerous waivers of buffer zones in order to get more parking and you have reduced the buffer zone to five feet in order to provide more parking.

VICE CHAIRMAN FRANCIS: I don't think we've done a buffer zone that's adjacent to a residential property.

MR. MIGATZ: That's the only time you require buffer zones.

VICE CHAIRMAN FRANCIS: I don't know. I don't know. Five feet? I'm not sure I remember.

MR. MIGATZ: Oh, yes. Oh, yes. Oh, yes.

VICE CHAIRMAN FRANCIS: Okay. The other issue is that you already have ample parking. You don't need the nine spaces by your very own statement.

MR. MIGATZ: And my very own statement, AutoZone wants to be a good neighbor. They don't want traffic overflowing onto residential streets. Every -- every business has, you know, has peak hours. So to AutoZone, peak hours Saturday. Very little traffic other than on Saturdays. But they want to make sure that they don't have overflow of parking. This is not, like, on your last application, H Shopping Center, there is no place to overflow. Here you can overflow onto residential streets. So to prevent that, you know, and the community was very happy about that. And they're here now and I told them they can speak for themselves, but they are very

Appeal Number 21417

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

happy that we are providing extra spaces.

MEMBER GOODSSELL: I almost thought the same thing. By increasing the buffer zone a few feet and doing some four or five spaces -- not parallel parking -- yeah. Parallel parking. Parallel with the curb. It can be done. But I'd like to hear what the neighbors have to say.

MEMBER HERNANDEZ: That residential property, is that home there now?

MR. MIGATZ: Yes.

MEMBER HERNANDEZ: When I drove by I didn't go behind when I drove by.

MR. MIGATZ: It's very hard to see. It is there. It needs to be renovated, but it is there. It is occupied.

VICE CHAIRMAN FRANCIS: Is that property rented you said?

MR. MIGATZ: Yes.

MEMBER HERNANDEZ: So then the owner of that property is the one that agreed to a reduced buffer zone?

MR. MIGATZ: Yes. That is -- I can't pronounce it myself. Okay.

MEMBER HERNANDEZ: Yeah. That's all right. You don't have to.

VICE CHAIRMAN FRANCIS: He also owns the land where the AutoZone is going?

MR. MIGATZ: Yes. He is leasing that to AutoZone.

Appeal Number 21417

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

VICE CHAIRMAN FRANCIS: So he has an incentive to agree to an undersized buffer zone.

MR. MIGATZ: Of course.

VICE CHAIRMAN FRANCIS: Yeah.

MR. MIGATZ: But he's also consenting to it.

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

MR. MIGATZ: Sure.

SECRETARY WAGNER: Who would like to come up first?

CHAIRMAN MAMMINA: One at a time.

VICE CHAIRMAN FRANCIS: Name and address.

MS. WASHINGTON: Hi. Good afternoon, Mr. Chairman, Members of the Board. Thank you so much. My name is Laverne Washington. My address is 41 Emerson Court.

And just for the record, yes, initially as a community, the neighbors and the homeowners in that community, we were not excited about AutoZone. But after the meeting with the lawyers and planing, and everything, they showed us this beautiful landscaping that they would do around the building that would just kind of beautify that area, that intersection, we agreed and we was happy to move forward with it.

SECRETARY WAGNER: Is that this plan here?

MS. WASHINGTON: That's the landscaping -- yes. Along here and here, because right now it's not a beautiful intersection.

Appeal Number 21417

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

SECRETARY WAGNER: But I'm saying was is it different than what's here?

MS. WASHINGTON: This is the plan that we understood is moving in.

MEMBER DONATELLI: May I ask you something?

MS. WASHINGTON: I'm sorry.

MEMBER DONATELLI: Sorry. Where do you live in relation to this?

MS. WASHINGTON: I'm in this street here. Emerson Court. I'm right on the court.

As far as -- so here today, once we received the letters in the mail and it talked about, you know, reducing landscaping and the buffers, and we did have concern as to what that would mean to what we initially believed that we would be getting what, you know, the esthetics of this property. So hearing what he said today, I mean, I -- I personally don't have concerns about the back part of that. The only part that -- that really brings concern to me is the excessive parking spaces, because here's my concern, if -- if 22 parking spaces is what's regulated and accepted, and we're adding nine additional and now we're creating parking spaces that are not of proper size, that can possibly cause backflow of traffic come into Longfellow Avenue. Because I've been at establishments at times where parking lots are not large enough. So you have cars maneuvering in and out of the spaces

Appeal Number 21417

1
2 trying to either leave -- exit or enter into the establishment
3 and then it causes the other traffic to wait on the side of the
4 street. The intersection of Longfellow is not that large. We
5 have a gas station on the other side. So my concerns would be,
6 if we create a parking lot where the spaces aren't large enough
7 and it creates the -- a difficult time -- a difficult way for
8 the customers to maneuver in that space, how does that affect
9 the traffic on Longfellow and will that cause spillover into
10 Longfellow Avenue. That would be a real concern for me and I'm
11 sure for some of the other neighbors in our neighborhood. So I
12 think that is what, you know, comes up for me and that I would
13 like to -- wanted to share.

14 VICE CHAIRMAN FRANCIS: Thank you.

15 MEMBER HERNANDEZ: Thank you.

16 CHAIRMAN MAMMINA: Thank you.

17 MR. MIGATZ: Otherwise, Richard is a wonderful man and
18 we would love to see him retire, but we want to make sure that
19 we creat a win-win.

20 CHAIRMAN MAMMINA: Thank you.

21 MEMBER HERNANDEZ: You dropped your pen.

22 MR. GUEVERA: Good afternoon. My name is George
23 Guevera. I live at 39 Emerson Court and I've been coming here
24 since 2020 when this was originally proposed. And so when it
25 was originally proposed, the proposal was to convert that
26 entire property, rezone it to make it commercial. To make this

Appeal Number 21417

1
2 a commercial property double the size. So with much
3 involvement of the community and coming to meetings here,
4 several of them, the Board rejected that request and sent them
5 back to the drawing board where they came back with a new
6 drawing giving them half of the residential property. Again,
7 with so much commercial property on Old Country Road that the
8 attorney indicated that this is really more applicable to them.
9 So after all that work, we received a notice to come to a
10 hearing and in the notice, it required us to look at the
11 drawings. So I read through them where it indicated there's
12 going to be lack of landscaping, which is one of the primary
13 agreements that they are going to beautify this just like that.
14 However, in these drawings, it didn't show that. The drawings
15 on the website that we were asked to look at before arriving
16 here. However, earlier today, very rudely and
17 unprofessionally, the attorney gave us the correct drawing.
18 This one. And so it calmed us down a bit, because at least we
19 got some of the stuff that was promised to us. But now I
20 understand it hasn't even been approved yet. And so we're
21 already encroaching into our little residential area, which is
22 okay because we know Richard and we're neighbors, and we want
23 to work with the neighbors. We found that to be extremely
24 encroaching into our area. This is the cul-de-sac and so, you
25 know, we were concerned here. We're all concerned and it may
26 be a small minority, a small community, but we still feel we

Appeal Number 21417

1
2 want to protect our properties. And so when we see the new
3 drawing, it made sense. But this is as a result of us coming,
4 debating and again, the zone board again rejecting the original
5 and not the way it was explained earlier. The other way
6 around. We debated and then it was reduced, requiring them to
7 redo the zoning. So we don't understand what was agreed for
8 earlier, why are changes happening again when it was already
9 agreed to the 20 something parking and all of that. I didn't
10 take notes, but I know what we had agreed and we do have
11 drawings and stuff like that from our initial meetings. So
12 again, we want to be supportive, because we would like AutoZone
13 to beautify that area and welcome them to community, but we
14 also have to consider our properties and the impact it's going
15 to have on us. Over here it says they're going to encourage
16 left turns and they're going to be putting a sign there.
17 However, they're going to put a sign there that says no
18 commercial traffic into this area. These are small streets
19 with cars parked and you can't have tractor trailers making
20 U-turns and that's why we -- this was originally going to be
21 here. Now the pushed it here moving it closer to the corner.
22 So in addition to that left -- encourage that left turn sign
23 that they're going to put the sign that says that there's no
24 commercial except for local deliveries, and what's going to
25 assure us, because again, I went by the drawings on the site,
26 which were different than this. How are they going to show us

Appeal Number 21417

1
2 that we're going to get what we agreed to back in 2020. This
3 is going to change. I'm sick, but I'll keep coming. I want to
4 live in peace. I don't want problems with people doing oil
5 changes and fixes things on our block. So I just want to be
6 understanding that what they agreed to what they agreed to back
7 in 2020. If it wasn't approved, I can understand that. But
8 this like this, that's for additional properties. This is our
9 fire department. Why can't they move this back to make sure
10 people can see that fire department. I don't understand that.
11 But again, how can we assure that what we agreed to in 2020, it
12 may be slightly different, but we continued to be informed and
13 come to these meetings, and have our voices heard and our
14 concerns. Again, we want to be supportive of AutoZone, but we
15 also want to be treated with respect and inform on what's
16 happening in our community. Basically that's all I have to say
17 and I thank you guys for your times. It's been a long day so
18 we're a little tired, but thank you again.

19 CHAIRMAN MAMMINA: Now you're an official Board Member.

20 MR. GUEVERA: I'm sorry, sir?

21 CHAIRMAN MAMMINA: You're an official Board Member.

22 MR. GUEVERA: You guys have a good evening.

23 CHAIRMAN MAMMINA: Thank you, you too. Thank you for
24 coming.

25 MS. DESOUSA: Last but not least. My name is Rosalie
26 Desousa and I'm no stranger to this court.

Appeal Number 21417

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

My concern --

MEMBER HERNANDEZ: Your address, please.

MEMBER GOODSSELL: Your address.

MS. DESOUSA: 569 Whittier Street, Westbury. It's on the other side. Over here. That way. Going north -- east.

Yeah. I was here at the first meeting. I have been managing this area for over 30 years as the neighborhood watch. And when this was proposed to us, we thought about it and we came to the meetings and we spoke. As the young man -- the other gentleman said, we agreed on certain things which was not presented to us this time. So that's why we are here to, you know, deal with this.

My concern is really about the buffer. The buffer. I'm not really sold on having these additional parking spaces, because from what I know of AutoZone, it's not usually a crowded environment. Except maybe one day, like, a Saturday or Sunday. It's really -- I'm not -- I'm not sold on the additional parking spaces. And as she said -- as he said, the turning of the trucks, right now they have congestion there sometimes and it spills over into Longfellow and that's what they're really talking about. The neighborhood. Because we have alternate parking in that neighborhood and it becomes a problem sometimes when the trucks and the cars are -- we have people that have to go into -- into the gas station at the end of the road there so. Here. So -- so it becomes a problem

Appeal Number 21417

1 when -- but as the owner said, this only happens once a week.
2 Once a week. So we're not sure about -- because things have
3 come up that we did not agree on now. So we don't know what's
4 gonna really, you know, happen. So that's why we are here to
5 -- to find out really what is going to be happening and there
6 are certain things that we don't agree on. We haven't got any
7 word on the landscaping, what its all about here, because we
8 believe that maybe that will be reduced. And the buffer at the
9 back there, what happens if somebody wants to buy that property
10 in the back? The buffer is going to be a problem. So that is
11 my concern. But as we said before, Richard has been in our
12 community for a long time and we respect him and we love him.
13 He wants to retire. We have no objection to that. But at the
14 same time, we have to -- we have to preserve our neighborhood,
15 because we are going to be there when he's gone. You know, so
16 we don't want this discrepancies. We want everything to be
17 done properly and in order so that we can go on our with
18 business. But at the, you know, we're just concerned about
19 these things.
20

21 Thank you very much.

22 MEMBER DONATELLI: Thank you.

23 MEMBER GOODSSELL: Okay. Thank you for speaking.

24 MEMBER HERNANDEZ: Thank you.

25 CHAIRMAN MAMMINA: Anyone else?

26 MR. MIGATZ: I was not unprofessional. I did get

Appeal Number 21417

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

frustrated, because, again, Mr. Guevera said the drawings we're showing are different than what's on the website, and I kept explaining to him the drawings on the website are not code. This is the code drawing. This is the same plan that was shown to the Town Board and he kept repeating why are you here, why is this different, we don't know what we're getting and I did get a little frustrated after a half a dozen times trying to answer the questions and I did apologize to him later. I also said to him my letter with the notice says if you have questions -- bless you -- call me. Why didn't you call me, I could have answered these questions.

 This is the first time in all the years I've been doing zoning where I've heard people say we don't want more -- extra parking spaces. I've never heard of that. You know, what Ms. Washington said is a non sequitur that by having a 10 by 18 spot instead of a 10 to 20 sport, you're going to add to back up on Longfellow. That one thing doesn't follow the other. If we eliminate those parking spaces, now you're going to have people circling around looking for a place to park. So having a parking space that's two feet shorter, when this Board has granted that variance many times, as our traffic report says that's acceptable. That meets standards. You've hard that from the last traffic engineer. 18 feet deep parking spaces meet standards and many towns and villages have that, and you've granted that variance many times. So, you know, from

Appeal Number 21417

1
2 what I -- I've been involved with this since 2019 and I went to
3 these meetings with the Civic with my arm in a sling after my
4 surgery and we tried to -- we tried to, you know, accommodate
5 them and yeah, the Town Board pushed us also. But, you know,
6 we accommodated them. I don't think AutoZone will proceed with
7 this project if they don't have extra parking spaces. That's
8 their model. They don't want difficulties with residential
9 neighbors and if they don't have those extra parking spaces, I
10 highly, highly doubt they will -- they are not going to go
11 forward with this application. And extra parking spaces is
12 only a benefit -- only a benefit to the neighborhood. It will
13 keep -- it will reduce any overflow of traffic that would
14 potentially cause congestion.

15 Based upon that, we request that the Board approve the
16 application. The Planning Commission did not act on this.
17 However, their 30 days to act on this have expired. So this
18 Board is able to act upon it. If you chose to wait, the
19 Planning Commission decision should not be part of the record
20 because their time has expired.

21 CHAIRMAN MAMMINA: I think what might be helpful would
22 be to have a landscape plan of that area. I mean, we
23 frequently require landscape plans, you know, we defer to a
24 Town Board if they want to change it, I mean they can change it
25 however they'd like.

26 MR. MIGATZ: Well -- I'm sorry.

1 Appeal Number 21417

2 CHAIRMAN MAMMINA: No. No. That's okay.

3 MR. MIGATZ: We'll be able to show you a landscape plan
4 that we filed with the -- we filed it unofficially with the
5 planning department.

6 VICE CHAIRMAN FRANCIS: That's actually, Mr. Migatz, I
7 was going to say the same thing you just said so.

8 CHAIRMAN MAMMINA: You know, in terms of the landscape
9 plan, we're talking about these many arborvitae at this on
10 center and --

11 VICE CHAIRMAN FRANCIS: Irrigation system.

12 MR. MIGATZ: We do have -- we do have that.

13 CHAIRMAN MAMMINA: I believe that it exists, you just
14 didn't bring it today. I get -- I get that. I do a lot of
15 these so I get it.

16 MR. MIGATZ: Normally that's a Town Board site plan
17 review.

18 CHAIRMAN MAMMINA: In my office -- and look, if it
19 happened to me, but I tell everybody you give me every single
20 thing. I don't care what the client says, throw it into my bag
21 of tricks.

22 VICE CHAIRMAN FRANCIS: Mr. Migatz, we can continue for
23 you to submit the landscape plan and we will make it part of an
24 exhibit.

25 MR. MIGATZ: I think I might have it.

26 I'm sorry. I don't have it with me it. It is on

Appeal Number 21417

citizen serve, the website, but I will send it to you.

Mr. Daugherty can explain the landscape plan. We have all that information. And to clarify something just from my speaking with your counsel, I'm not sure if the residents -- although I explained it many times, I want to put it on the record that the change of zone application was to change the zone based upon a concept plan and the plan we have before you is that same plan, except for six inches on that buffer. I explained to them we are here, because as we've told the Town Board, we need certain variances and that's what this Board is for. And I explained to them that if this Board approves the application, it then goes back to the Town Board for site plan review and they will, in detail, the town planning department, in detail, will go through that with a fine tooth comb and will have hearings, and they will address the landscaping, the size, the species, the lighting, the drainage there will be another public hearing and they'll get notice of that public hearing. I've explained that to them several times.

But we can -- we can -- Sean can explain what we're posing to do.

MEMBER DONATELLI: In response to your comments and I appreciate your comments. But I think that non-attorneys may not understand the intricacies of the process. So while I appreciate your efforts at explaining it yet again, it still remains something of a mystery to non-attorneys. And so as

Appeal Number 21417

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

they go through the various stages of review, it's good for them to see or to hear what the -- what the site plan will be, what the planting will be.

CHAIRMAN MAMMINA: And that they understand while it's conceptual shown there that is actually -- that it's going to full landscaping on there.

MR. MIGATZ: Well, it was conceptual before the change of zone application. Now this is what it is.

CHAIRMAN MAMMINA: Right. Exactly. That's my point.

MR. MIGATZ: And it is the same as the change of zone.

MS. DAUGHERTY: Good afternoon, Mr. Chairman, Members of the Board. Sean Daughtery, Bohler Engineering located at 275 Broad Hollow Road, Melville, New York.

Regarding the planting that is shown here today, it is a direct representation of what we are proposing regarding landscaping. The amount of plantings and trees, and shrubs shown in this plan is identical to what is shown on our landscaping plan that will be submitted to the Town Board. This is just colorized for enhancement purposes. But I know the concerns of the residents in the area, we are proposing on the western side of the building and the southern side of the building which is on the corner of Longfellow and Old Country Road, a mixtures if shrubs, perennials, trees, ground cover, shade trees. So a lot of -- beautifying the area compared to what it is now.

1 Appeal Number 21417

2 VICE CHAIRMAN FRANCIS: I'm sorry, where is this
3 planting? Is it at the rear?

4 MR. DAUGHTERY: Yeah. Along the western side of the
5 building and this portion here.

6 CHAIRMAN MAMMINA: And the islands at the corner.

7 MR. DAUGHERTY: Yup. And we also have -- we're also
8 proposing a shade tree up here along the entire northern
9 property line where that four and a half foot buffer. Is we
10 are proposing emerald green arborvitae. Installed they will be
11 five to six feet tall. They can -- once they grow to mature
12 height, those will be 10 to 15 feet in height and width. So it
13 will be a significant substantial buffer to that residential
14 home to the north. We are also proposing a six foot high PVC
15 fence on the property line to create that separation from that
16 home to this commercial use. Trash enclosure being setback
17 five feet as well. We are surrounding that entire enclosure
18 with the same plantings that will be grow to that 10 to 15 foot
19 height.

20 MEMBER GOODSSELL: And the buffer zone between AutoZone
21 and the fire department, that remains to be grass?

22 MS. DAUGHERTY: That will remain in to be grass for
23 now.

24 I live in this area. Previously there were the -- the
25 fire house had trees over here, they've since been removed
26 because they were sick. Most of that grass there is the fire

Appeal Number 21417

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

department's property and will have that nine feet between their drive aisle and our parking area there.

MEMBER GOODSSELL: You just don't want your customers driving across their property.

MR. DAUGHERTY: Right. Exactly. We don't want that to be destroyed.

We are proposing the same thing. Plants, shrubs, grasses around the pylon sign and the southeast side of the corner as well.

Is there any other questions?

VICE CHAIRMAN FRANCIS: This is all drip irrigation.

MR. DAUGHERTY: Yes. All drip. Everything is going to be irrigated.

Any further questions?

VICE CHAIRMAN FRANCIS: No. Thank you.

MR. DAUGHERTY: Thank you.

MR. MIGATZ: The concern I have is if this Board incorporates a landscape plan as a condition of your decision and we get to the Town Board and site plan reviews, and they disagree, then we have to come back to you to amend your decision. So it really should be left to the Town Board on site plan.

CHAIRMAN MAMMINA: Okay. And we're gonna continue this application and take a look at it again, and we'll take it from there.

1 Appeal Number 21417

2 MR. MIGATZ: Okay. Thank you.

3 MEMBER HERNANDEZ: Thank you.

4 VICE CHAIRMAN FRANCIS: Thank you.

5 MEMBER DONATELLI: Thank you all for coming down.

6 SECRETARY WAGNER: So they're not make a decision
7 today. Possibly a decision will be made at the next hearing
8 which is August 16th so everybody can know what date the
9 decision is. You can either watch it on the live stream.

10 It's August 16th. There won't be another hearing, but
11 you could watch them deliberate.

12 You want to come up?

13 MR. GUEVERA: I think what she had proposed earlier
14 made a lot of sense and will make everyone happy, because if
15 they were to reduce those nine spots and make it parallel so
16 you still got parking spots and you can increase that buffer as
17 well.

18 MEMBER GOODSSELL: What I'm going to do and what some of
19 the Board Members are going to do. When we looked at this
20 property, we were focussing on that dinette building. We're
21 going to do back now and look at your neighborhood, because I
22 didn't drive your neighborhood and I did not look at what was
23 back there, and how far back the property goes. So I'm going
24 to take a look at it.

25 MR. GUEVERA: Thank you so much. Thank you again. We
26 wanted the whole residential and for our involvement, they gave

Appeal Number 21417

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

half up. So it was a 50, like, a 50/50, right. So I thank you guys for all your time and your consideration. Okay. Thank you.

MEMBER HERNANDEZ: Thank you for coming.

MR. MIGATZ: Parallel parking. Make sure you look at that. That would only give three parking spaces. We are losing six parking spaces. I don't understand why anybody other than the immediate adjacent neighbor has a concern about a reduced buffer zone. It doesn't affect Mr. Guevera, it doesn't affect anybody other than that immediate property and I'm telling you, it's not -- I'm not threatening you, please. But I don't think AutoZone will proceed with this if they don't get that -- those nine extra parking spaces.

Thank you.

MEMBER DONATELLI: Thank you.

SECRETARY WAGNER: Like I said, you can contact the Board of Zoning Appeals to find out what the decision is, or you can watch the live stream, or you can come and sit all day if you want.

MS. ALGIOS: And also, if you have any questions as to the process, because I know that it's confusing. There's a number of steps that a plan like this has to go through. Feel free, you can reach out to the zoning office, you can reach out to the Town Attorney's Office, you can reach out to my directly, I'm happy to explain the process to you if you have

Proceedings

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

any questions.

MEMBER DONATELLI: Thank you all for coming down.

SECRETARY WAGNER: So as the attorney explained, it also is going to go back to the Town Board. So even though -- once we make a decision, it's still gonna go back to the Town Board and the site planner and at that time, as he also explained, that's when they'll be doing a very detailed review of all of the design aspects of the site, including landscaping and lighting, and all of that.

MS. WASHINGTON: Okay. Thank you so much. We really appreciate your time.

MEMBER DONATELLI: Take care.

(A discussion was held off the record.)

SECRETARY WAGNER:

MEMBER DONATELLI: I will move that we adopt SEQRA.

MEMBER GOODSSELL: And I will second that.

CHAIRMAN MAMMINA: All in favor.

MEMBER HERNANDEZ: Aye.

MEMBER GOODSSELL: Aye.

MEMBER DONATELLI: Aye.

VICE CHAIRMAN FRANCIS: Aye.

CHAIRMAN MAMMINA: Aye.

(TIME NOTED: 4:29 p.m.)

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

C E R T I F I C A T E

I, NICOLE L. BASILE, do hereby certify
that the within transcript is a true, accurate and
complete transcript of the proceedings which took
place in the above matter.

A handwritten signature in black ink that reads "Nicole L. Basile". The signature is written in a cursive, flowing style.

NICOLE L. BASILE