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TOWN OF NORTH HEMPSTEAD
BOARD OF ZONING APPEALS
PUBLIC HEARINGS

Wednesday
October 25, 2023
10:14 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 Proceedings

2 CHAIRMAN MAMMINA: If we are all set, then I'll ask
3 Vice Chairman Francis as we all rise, to lead us in the Pledge
4 of Allegiance.

5 (Whereupon, the Pledge of Allegiance was said.)

6 CHAIRMAN MAMMINA: Okay. Thank you all and welcome to
7 the Zoning Board, Town of North Hempstead and what we like to
8 do is, I will go through the way we do things here, you know,
9 in the Town in case you've appeared before another Zoning Board
10 in the town or a village or in case you've never appeared
11 before a Zoning Board before, which I will tell everybody is
12 absolutely fine. You know, you're just talking to us across
13 your kitchen table. That's all right. So what we will do is,
14 our secretary Ms. Wagner will call each one of the cases
15 individually and, you know, at -- at that point, I will then
16 call the case and I will ask if there is anyone who has
17 interest in the case. Interest just meaning you -- you would
18 like the opportunity to speak, you know, or just want to
19 register that you are for the case or against the case. Of
20 course the applicant is for the case so you needn't do that.
21 So at that point, the applicant will be coming forward and
22 everyone will give their name and address to -- to our
23 reporter. This is a quasi judicial hearing. So it is -- it is
24 recorded with a transcript. And at that point, then the podium
25 will belong to the applicant. The applicant will put their --
26 their case onto the record and the Board will ask whatever

Proceedings

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2 questions it feels it would like to ask. The applicant will
3 have the opportunity to respond to those of course and, you
4 know, then we will call up anyone at a time, you know, who
5 might be interested in speaking about the case. Again, either
6 for or it or against it. We'll ask the applicant to just have
7 a seat anyplace and when all of that is done, if that happens,
8 if there's no one then that's okay, the applicant would indeed
9 though have the opportunity to come to the podium again and --
10 to either refute or support what was said. If anyone wishes to
11 speak other than the applicant, we have a three minute time
12 limit, you know, and, you know, I always like to say we don't
13 bonk anybody over the head with a hammer or whatever, but, you
14 know, sometimes there's lots and lots of people that want to
15 speak and we have to try to, you know, keep it to -- to some --
16 some kind of -- of order or else, you know, we'll all be here
17 until midnight. Some of the hearings run very very long. So
18 but what will happen after the applicant has finished their
19 presentation, the Board has asked all of the questions, the
20 Board will do one of four things. We will either approve the
21 application, we'll deny the application, we may reserve the
22 application. So that -- that means that, you know, at that
23 point, any questions that the Board wants to ask have already
24 been asked, they've already been answered and the Board doesn't
25 need any further information or the fourth is we may continue
26 the application. So continuing it means that the record is

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2 still open. You will not have to come back. That happens
3 virtually never. I think in my 31 years here maybe three times
4 we had a case come back for a second hearing. So what continue
5 means is, the Board may be looking for a closing document on
6 the piece of property, we may offer some kind of a compromise,
7 you know, regarding the magnitude of the -- of the -- the
8 variance that's being requested. One of the five factors that
9 we have to consider, as I said it is a legal proceeding and,
10 you know, please don't get all caught up in that right now, but
11 is the variance the minimum variance. So we may want to try to
12 cut it back some. So, you know, there -- there could be any
13 number of reasons. The building department, we might want to
14 see a building department folder, you know, whatever that could
15 be and then you would just be in touch with Ms. Wagner about
16 what the status, you know, of that -- of that is. So if we
17 reserve or if we continue, we're not going to make that
18 decision generally today on the reserve and always on the
19 continued.

20 So with -- with all of that in place, I'm just going to
21 make a couple of other -- couple of other points. You know, as
22 you saw us all set up all of these things that we live and die
23 by now, these electronic things and you most probably have them
24 as well, you know, so take your phone out, you don't have to
25 shut it off, just put it on silent. If you have to make a
26 phone call or take a phone call at any point, just stand up and

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you can head out into the lobby area and that's absolutely fine. No issue, you know, with that -- with that at all. And then if anyone is coming here who is not here now to join you, we would just ask that -- that you ask them the same and it's just, you know, doing courtesy, you know, to -- to each other. So that the -- the Board can continue to hear what's going on, you know, our stenographer who has a very difficult job can -- can take her record accurately. We will ask if people are coming up together, you know, that after they put their name and address on the record, you know, one person speaks. If the other person wishes to speak, of course they can but then we ask that they try not to talk over each other, because she can only be taking one -- one record at a time.

So with that said, I will turn to my colleagues. Did I leave anything out? Deborah? Okay. We're all good.

MEMBER DONATELLI: All good.

CHAIRMAN MAMMINA: All right. Then, Ms. Wagner, do we have any modifications to the calendar this morning?

SECRETARY WAGNER: No, Chairman, we have no modifications.

CHAIRMAN MAMMINA: Okay. Then please call the first case.

SECRETARY WAGNER: Appeal Number 21448, Rakesh Malpani; 19 Johnstone Road in Great Neck, Section 2, Block 171, Lot 35 in the Residence-A Zoning District. Variances from 70-29 and

1 Appeal # 21448

2 70-30, to construct additions that are too close to the street
3 and make a home too big.

4 CHAIRMAN MAMMINA: You've heard Appeal Number 21448,
5 Rakesh Malpani.

6 Come on up. That's okay.

7 Is there anyone in the room who wishes to speak
8 regarding the application, other than the applicant? Okay.
9 Seeing no one.

10 Come on up, give your name and address.

11 MR. MALPANI: Sure. My name is Rakesh Malpani, the
12 address is 19 Johnstone Road, Great Neck. Thank you.

13 CHAIRMAN MAMMINA: Okay. Mr. Malpani, maybe pull that
14 microphone up a bit for you. Right. You're tall like I am.
15 So the podium is yours.

16 MR. MALPANI: Sure. So we currently have two and a
17 half bedroom property and it -- it was listed as four bedroom,
18 but the fourth one is, like, seven foot by 10 foot and we have
19 my mother living with us. So there's five of us in the house.
20 It's a little small so we are trying to add up vertically. One
21 of the concerns that my architect brought up was, we have a
22 parking garage, which was, you know, existing parking garage
23 which is 24 square feet about, like, the limit of 300 square
24 foot parking garage. So as a result, that's costing us to have
25 little -- it sounds like we are building over, but it's just
26 because the parking garage being slightly oversize. But that's

1 Appeal # 21448

2 the only thing that, you know, we would ask for a slight
3 increase in space that we're constructing for.

4 MEMBER GOODSSELL: So you're not making any changes to
5 the garage. The garage is an existing garage?

6 MR. MALPANI: It's an existing garage. We are just
7 going to build above and, like, four foot by six foot extension
8 on the outside to square out our property. Sorry.

9 MEMBER GOODSSELL: And your garage is a two car garage?

10 MR. MALPANI: It's a two car garage.

11 CHAIRMAN MAMMINA: But you're also building a two story
12 addition. So I think we'd like you to -- to speak to that and
13 you also may want to talk about the zoning change that happened
14 in this community, I don't know, maybe 15 years ago or so.

15 MR. MALPANI: I -- I don't know very well about the
16 zoning change. I do know one part, which was told to me was --
17 so my house is 100-year-old house the attic then was acceptable
18 to have the -- the height but now it's not. So that's also
19 counting against that space. But obviously we are not living
20 in the attic. We don't use it for living so that's also
21 counted against us. But we are not making any changes to that.
22 Also talking about the second level we are building. It's on
23 top of the existing level, with just a minor, I think it's like
24 five foot by 10 foot addition.

25 CHAIRMAN MAMMINA: Remember when you're adding that
26 entire second floor part, you know, that's all floor area.

1 Appeal # 21448

2 MR. MALPANI: Right. Yeah.

3 CHAIRMAN MAMMINA: Just because it lines up with below,
4 you know, doesn't mean that it's not floor area. And I'm not
5 saying that this would be the case, you know, for this
6 application. But a question, you know, might be well why can't
7 you just push it back and achieve the required floor area, but
8 I'm not asking you that question. I'm just trying to, you
9 know, help you to understand, you know, what it is that0, you
10 know, that we're doing, you know, here as, you know, as well.

11 All right. So you're not -- you're not familiar with
12 the zoning change. I mean, I also -- I also see that you
13 you've got some 11 foot ceilings, you know, in some -- in some
14 areas here as well.

15 MR. MALPANI: In the existing?

16 CHAIRMAN MAMMINA: In the addition.

17 MR. MALPANI: In the addition. It's -- in order to
18 avoid the -- so instead of making the roof out flat, it's just
19 go to be the ceiling that's going up straight. So it's not,
20 like, 11 foot tall ceiling. It's just the way the roof line is
21 going to be.

22 CHAIRMAN MAMMINA: You know what, I'm sorry. I didn't
23 mean to interrupt you, but I don't know about any of the other
24 Board Members, but you're entitled to make your own
25 presentation. But a, you know, a legal record, you know, has
26 to be made here in order to support whatever you're asking for,

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2 because whatever decisions we make here, would go to anybody
3 else in the entire Town of North Hempstead, because we've now
4 set that for someone who has the same situation as you and of
5 course we would still judge that. But I'm just concerned that
6 you -- and this is -- this is no -- making no reflection, you
7 know, on you. It's not what you do, you know, for, you know,
8 for a living. You know, if I'm buying a piece real estate, I'm
9 going to hire an attorney that's going to handle my closing.
10 I'm not going to do that, you know, myself. But I'm -- I'm
11 just concerned and again, I'll leave that to everybody else to,
12 you know --

13 VICE CHAIRMAN FRANCIS: I was going to say the same
14 thing.

15 CHAIRMAN MAMMINA: -- that we're -- that we're just not
16 getting enough of a record, you know, without -- without the
17 architect or anybody else. Doesn't have to be an architect.
18 It doesn't even have to be an attorney. It could be your
19 neighbor next door, you know, who is more familiar, you know,
20 with the five standards that have to be met and I don't want to
21 put you on the spot by saying, well, can you speak to the five
22 standards.

23 SECRETARY WAGNER: I'll point to this. These are the
24 five standards that he's referring to. So if you want --

25 CHAIRMAN MAMMINA: I just don't know, because if he --

26 MS. ALGIOS: Do you have questions for the architect.

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Do you have questions that would be more appropriately directed to the architect?

CHAIRMAN MAMMINA: Yeah. I mean just the -- the zone change, to me, is a major and I don't want to show my hand of cards, because I'm not against you.

MS. ALGIOS: So, sir, I think what the Chairman is saying is it's in your interest, your best interest to potentially adjourn this and come back with your architect or an attorney, but some -- but some -- but some representative.

MR. MALPANI: Understood. Okay. Is it okay for me just to mention the two things I was told? If it's a waste of time I won't but --

CHAIRMAN MAMMINA: If it's contributing to what the five factors are, because this is -- this is a legal proceeding. I'm the architect on the, you know, on the committee. I may think that something looks spectacular, but that has nothing to do with what we do here. Someone may come down to talk about your application and start talking about the school busses and the traffic congestion. That's not what you're here for, you know, either. So I -- I just don't know that there's any -- any benefit and look, you can come with your architect and you can -- you can testify still. I mean that's -- that would be up to you.

VICE CHAIRMAN FRANCIS: Yeah. I think you should hold off on any comment until you come back and you have a

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representative with you.

MR. MALPANI: Okay. Okay. All right. Fair enough.

CHAIRMAN MAMMINA: All right. So what we will do is calendar you as quickly as we possible can, you know, so you're not going to be standing around waiting for three months, you know, for, you know, to get back. You know, we're all taxpayers here, you know, as well and we want to try to put it in that kind of framework, you know, to whatever extent we can. You know, we're here to assist everybody and make them understand, you know, what is in their best interest in order for you to operate, you know, in your best interest.

MR. MALPANI: Okay. All right.

CHAIRMAN MAMMINA: Doesn't mean we like or don't like the application. There's no opinion.

SECRETARY WAGNER: Mr. Malpani, do you think you would be able to retain someone by November 15th?

MR. MALPANI: Yes.

SECRETARY WAGNER: You think that's sufficient time? If we adjourn this, you would have to re-notice by regular mail. So if we confirm that date, November 15th, you think you'd be able to do that?

MR. MALPANI: Yes. I'm good with it. I appreciate it.

SECRETARY WAGNER: All right. So we will adjourn this until November 15th.

CHAIRMAN MAMMINA: You know, just -- again, just so you

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understand, doesn't reflect on you, you know, in any way, doesn't reflect on the case in any way. You know, we just feel that you would be better served by someone who can make those points for you and in your best interest. If it is your architect, you know, just explain to him, you know, that -- that -- here's the five points and that he should be speaking to those five points, you know, and potentially the fact that there's a zoning change in this -- in this neighborhood.

MR. MALPANI: Got it. Can I take a picture of this or can I take a paper?

SECRETARY WAGNER: You can take one. Sure.

CHAIRMAN MAMMINA: Yeah. Okay. And if you do have any other questions, you know, call Ms. Wagner.

SECRETARY WAGNER: You can reach out too.

MR. MALPANI: Okay. Thank you.

CHAIRMAN MAMMINA: It's okay. Yeah. All right. Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

SECRETARY WAGNER: Next appeal is Appeal Number 21464, Gus and Helen Chimos; 49 Chapel Road, Manhasset; Section 3, Block 221, Lot 38 in the Residence-A Zoning District. Variances from 70-100.1(A) and 70-100.2(D), to install a new gas barbecue/outdoor kitchen in a side yard (not permitted) and too close to the side property line, and to install a pergola and a fireplace in a side yard (not permitted).

1 Appeal # 21464

2 CHAIRMAN MAMMINA: You've heard Appeal Number 21464,
3 Gus and Helen Chimos. Is there anyone in the room who would
4 like to speak regarding this application other than the
5 applicant? Seeing no one.

6 Please give your name and address.

7 MS. CHIMOS: Hi. Good morning. Helen Chimos, 49
8 Chapel Road, Manhasset, New York.

9 CHAIRMAN MAMMINA: Good morning.

10 MR. CHIMOS: Good morning. Gus Chimos, 49 Chapel Road,
11 Manhasset, New York.

12 MR. PIETROMONACO: Pete Pietromonaco, Peter Anthony
13 Landscaping.

14 SECRETARY WAGNER: Could you spell your name for the
15 court reporter?

16 MR. PIETROMONACO: Yeah. P-I-E-T-R-O-M-O-N-A-C-O.

17 SECRETARY WAGNER: Thank you.

18 VICE CHAIRMAN FRANCIS: And just your address, business
19 address.

20 MR. PIETROMONACO: 56 Morningside Avenue, Riverhead.

21 CHAIRMAN MAMMINA: What is your relationship to the
22 property just so we know for the record?

23 MR. PIETROMONACO: Me? I'm the designer and installer
24 of what they want.

25 MR. CHIMOS: Contractor.

26 CHAIRMAN MAMMINA: Okay. Got it. Please.

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MS. CHIMOS: Good morning. So second time we're here for a variance because of our unique side cul-de-sac/side yard, front yard. Hi, Mr. Hernandez.

So we have an existing patio which is behind our house, which is considered our side yard based on our cul-de-sac. So it's actually behind our house and based on town -- the rules, you're -- the town is saying no we can't do it because it's our side yard and not our backyard and what's proposed is our backyard is a small little piece of property behind our garage that's our house. Sort of away from our living area. So we're here to request approval of the variances to replace the existing patio that's there, because it's falling apart and put in an outdoor barbecue and a fireplace that's enclosed on three sides in our, what we call our backyard but is actually our side yard.

VICE CHAIRMAN FRANCIS: But for the fact that you're using it as your backyard, I mean you wouldn't be able to use what's considered your backyard as a backyard so.

MS. CHIMOS: Correct. Correct. Correct.

CHAIRMAN MAMMINA: And I guess my -- my -- my concern, we do get a lot of applications that are just like this.

VICE CHAIRMAN FRANCIS: Yeah.

CHAIRMAN MAMMINA: You know, we get some where it was the last house that the builder built in communities where smaller houses are, you know, where they just absolutely meet

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what the setback was and they don't have any space at all.

But, you know, when I used the concerned, please take concern as I mean it. But the, you know, the -- the fact that your -- that your structure is three feet away from the property line, you know, and your -- and your barbecue is three feet away, and it's, for me, more the structure, you know that that's closer to the property line than it should be. You know, where the setback, you know, in there, you know, is, you know, is substantially, you know, different from, you know, from what's provided. So the question would be, why can't that be moved over to an area where you can get a compliant setback?

MEMBER GOODSSELL: In other words, is there a way to do what you want to do without coming for a variance?

MS. CHIMOS: I think the answer to that completely is that we would need an area variance regardless for the pergola and the barbecue because it is in considered what's the side yard.

CHAIRMAN MAMMINA: Two different points.

MS. CHIMOS: Two different points.

MEMBER HERNANDEZ: You're looking for two different types of variances. One is back you're in the side yard.

MS. CHIMOS: Yes.

MEMBER HERNANDEZ: And knowing the neighborhood, knowing the location of the house, I agree with you that is functioning backyard of your house. It just happens to be that

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the way your property is laid out, the front of your house is the one on the cul-de-sac.

MS. CHIMOS: Yes.

MEMBER HERNANDEZ: Although we all know your house faces the wider side. Okay.

MS. CHIMOS: Yes.

MEMBER HERNANDEZ: So yes, you need a variance because you're putting it on the side of your house. That's really not so much the question that, I think the Chairman was asking. It's more why are you so close to your neighbor. Is there any way you can keep it, give you a little more room to the side of where the neighbor is.

MR. PIETROMONACO: So what is the setback that you're saying would be okay?

SECRETARY WAGNER: 10 feet.

CHAIRMAN MAMMINA: Setback is 10 feet.

MS. CHIMOS: So we have 22 feet between us and our -- from our back door to our property line is approximately 22 feet or so. So I guess we were just having the -- the way that Pete had lined it out was actually kind of have a walkway so you can you actually sit and use the area, just not have a barbecue and nowhere else to sit in that area. I guess that's the way he outlined it.

CHAIRMAN MAMMINA: Can you take it, turn it 90 degrees, you know, and push it back against where you've got the -- the

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-- the -- the two pillars in there and let that frame it?

Again, our job is to ask the questions and see do you have an alternative that gets rid of the variance. I mean you get -- you could potentially get rid of both variances then.

MEMBER HERNANDEZ: You can't get rid of the one because it's the side yard.

CHAIRMAN MAMMINA: Oh, no. No. No. We won't get rid of the side yard. We recognize that and that one is no problem.

MR. CHIMOS: Right. Understood. Right.

MS. CHIMOS: Okay. Okay. Perfect.

MR. CHIMOS: So it would still need a variance, because to effectively put a barbecue 10 feet from the property line would put it smack in the middle of the walkway.

CHAIRMAN MAMMINA: No. No. No. That's not what I'm talking about it and I don't know if your --

MR. CHIMOS: I'm trying to visualize.

CHAIRMAN MAMMINA: I don't know if your designer understands, you know, what I'm talking about. But if it were turned -- maybe he should speak to it.

MR. CHIMOS: Okay. I got it.

MEMBER HERNANDEZ: Is it an L shape.

MR. CHIMOS: It's an L shape.

CHAIRMAN MAMMINA: In someways I think it improves your layout, but that's just my feeling.

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MEMBER DONATELLI: So the question is could it be opposite the fireplace on the other side.

CHAIRMAN MAMMINA: Right.

MEMBER DONATELLI: So in other words, facing each other as oppose to --

MR. PIETROMONACO: It could. We'd have to lessen the length of it.

MS. CHIMOS: That's okay.

CHAIRMAN MAMMINA: Well then we look at what's the variance that's required if you moved it over. If you turned it and pulled it further back and solved the issue of the barbecue and I do know that -- I mean a barbecue normally, but outdoor kitchens are extremely poplar and they're beautiful and, you know, they're -- it's certainly, you know, to be a trend that's -- that's nice. People living indoors, people living outdoors. But, you know, having the barbecue permanently three feet, you know, from the -- from the property line, you know, it's a bit close. I mean if you had a mobile barbecue you could put it wherever you want, you know.

MS. CHIMOS: Okay. Okay. So you're proposing if you rotate it?

CHAIRMAN MAMMINA: I'm saying to look at that and see just what -- see what that does and this is a very lovely layout and everybody's got their preference. But I do think, you know, as Member Donatelli had said, kind of having the

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fireplace on one end and the living space at the other end and then having, you know, that space in the middle, you know, could almost -- it steps up your kind of two different areas, you know, and then you're kind of coming out of the house in the center of that, you know. So that's design, you know, but.

MS. CHIMOS: So I have a question for you. Is the barbecue itself that it's a feature that turns on with fire the problem three feet from the property line or is the structure the -- the problem?

CHAIRMAN MAMMINA: Well I would --

SECRETARY WAGNER: I think it's the barbecue is the answer to your answer.

CHAIRMAN MAMMINA: I would have cited the structure as well.

SECRETARY WAGNER: Well, no. I think that the barbecue -- barbecues and fireplaces have to be 10 feet and I think the structure, accessory structure, I'm not sure if that would be --

CHAIRMAN MAMMINA: I don't know. I mean they've written up, you know, brick pillars that are --

SECRETARY WAGNER: So I think it's is the barbecue.

MS. CHIMOS: The barbecue itself.

SECRETARY WAGNER: They have to grant the minimum variance necessary.

MS. CHIMOS: Yup. Okay.

1 Appeal # 21464

2 SECRETARY WAGNER: So you're asking three feet when
3 it's a 10 foot. So if you can make it less than that to the
4 highest degree possible.

5 CHAIRMAN MAMMINA: Yeah. I'm not saying it's a for
6 sure, but if the 10 feet became nine feet, you know, and you
7 still got exactly what you wanted.

8 MS. CHIMOS: Okay.

9 CHAIRMAN MAMMINA: You know, and I like to say to
10 people and not that you're coming from that place, I'm creating
11 that, it's not let's make a deal.

12 MS. CHIMOS: No. Understood. Yes.

13 CHAIRMAN MAMMINA: But at the same time we would like
14 to grant you what we can't.

15 MS. CHIMOS: Yes.

16 CHAIRMAN MAMMINA: Without setting that precedent, you
17 know, for the next person.

18 MEMBER GOODSSELL: And understand there's a reason for
19 that.

20 MS. CHIMOS: Understood. Absolutely.

21 MEMBER GOODSSELL: If you had a four foot flame coming
22 out three feet from your house, I think that might cause a
23 concern. 10 feet is a safety issue.

24 MS. CHIMOS: Yup. Okay.

25 MEMBER GOODSSELL: And the Chairman is right. You know,
26 we would look at it say 10 feet, nine feet, nine a half feet.

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Okay. We're close. We're in the ballpark, they're making an effort. But even I kind of feel three feet is a safety issue. It's a little close for comfort.

MS. CHIMOS: Okay.

MR. CHIMOS: Right. Just to kind of clarify that. We agree. The positioning of the barbecue right not actually optimizes the distance between the home -- our home and our neighbor's home. By putting the -- potentially shifting the barbecue closer or closer to that 10 foot, it actually positions the barbecue closer to the home. So completely understand your concern about potential flair up. Today the mobile barbecue that we have today is actually up against the house, which is a problem. Hence the reason for us to remove it. The positioning where, you know, where Peter has actually placed it actually maximizes the distance between our home and the neighbor's home.

MEMBER GOODSSELL: Well, it's not quite shown on the survey how much and your front yard, your front of your house, your neighbor behind you faces a different street. It faces the cul-de-sac. If you place it in the back, how much distance is there between your property line and your neighbor's house?

MS. CHIMOS: Their actual house?

MR. CHIMOS: Yeah. Their house is setback. It's probably, I would think definitely more than 20.

MEMBER GOODSSELL: So by moving the barbecue, you're

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moving it closer but you're not moving it within five feet of the their house.

MR. CHIMOS: No. Definitely not. But we are moving it closer to our house as well because we're increasing that.

MEMBER DONATELLI: As one Board member, it creates a problem if your neighbor then were to build where he could build and I don't know exactly --

MR. CHIMOS: No, it's their driveway. It's their driveway. It's their driveway. It's the face of the driveway, which, again, is ideal with regards to the positioning of the potential for god for bid something like that to happen.

MEMBER DONATELLI: The neighbor has a right to build to his side yard lot line, his rear yard lot line or whatever that be. So I, as one Board member, would not want to see you taking action that might somehow then impinge on his right to build to his side yard lot line or rear yard lot line. But aside from that also, there is a lot of dead foliage. So as Member Goodsell said, if there were a flame up and if somehow that foliage were to catch fire, that would also present a problem. So my suggestion and what I think the Chairman's suggestion which you may be hearing from some of the Board members is if you were to make the barbecue perhaps center it, turn it and center it such that it might be, you know, minimize the distance to the -- to your lot line, as well as try and get a good distance from your house, put it perhaps opposite the

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2 fireplace on the other side, then it seems to me that -- that
3 would really satisfy some of our concerns, because if you take
4 a look at and I think it's on the podium, condition number two;
5 whether the benefit sought by the applicant can be achieved by
6 some method which would be feasible for the applicant to pursue
7 but which would not require a variance or to at least minimize
8 the variance.

9 MR. CHIMOS: Understood.

10 MEMBER DONATELLI: So that we grant the minimum
11 variance. And again, it's not just for your instance, but it's
12 for each person in the Town of North Hempstead that comes
13 before us. That's part of what we have to do is minimize the
14 variance request. So if there is some way to do this and
15 minimize the variance request, that that's really what we're
16 tasked and asking you to be tasked with.

17 MR. PIETROMONACO: Can the structure that houses the
18 barbecue, not the barbecue be 10 feet off the property line?
19 The structure that houses the barbecue, can that be three feet?
20 Can the end of that be three feet off the property line or does
21 it still have to be further?

22 CHAIRMAN MAMMINA: I would say the building department
23 didn't write that up which surprises me, because other things
24 that they've looked at as structures like play sets and, you
25 know, that sort of thing. But if they didn't write it up, the
26 only thing is I would make sure with the building department

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2 that they are not going to change their opinion. But if you
3 take the barbecue out of it, you know, to me still the pergola,
4 you know, should turn to, you know, to the side.

5 MR. CHIMOS: Yeah. Exactly. We'll make that
6 aesthetically custom on that front.

7 CHAIRMAN MAMMINA: So what you can do is create --
8 don't go crazy, just create something simple, submit that, you
9 know, over to Ms. Wagner. She can e-mail that, you know, to
10 us.

11 MR. CHIMOS: Perfect.

12 CHAIRMAN MAMMINA: So that we move you along, because I
13 know this is the season.

14 MR. CHIMOS: Yeah. It's now or next year, right.

15 CHAIRMAN MAMMINA: It's nice if you can get something
16 in the fall still.

17 MR. CHIMOS: Exactly. Okay. Appreciate it. We will
18 take that and we'll follow up with the office.

19 SECRETARY WAGNER: I know you've been speaking with
20 Doris, right. So I'll speak to her as well and make sure that,
21 you know, whatever you redesign will be closer to conforming so
22 we don't create another situation. So if you want to call the
23 office and we can coordinate that.

24 MS. CHIMOS: Okay.

25 MR. CHIMOS: Sure. Perfect. And the side yard
26 variance will be approved?

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2 CHAIRMAN MAMMINA: Yes. No issue. I think anyway.

3 MR. CHIMOS: Okay. I just want to get that on the
4 record just so that we are good.

5 MEMBER HERNANDEZ: There are two different things. You
6 can't change. It is what it is.

7 MR. CHIMOS: Right.

8 MEMBER HERNANDEZ: The other one you have some control
9 over.

10 MS. CHIMOS: Okay.

11 MR. CHIMOS: Agreed. Understood.

12 MR. PIETROMONACO: One final question. Sorry. When we
13 present that to, where the barbecues going to be, the layout,
14 what happens at that point?

15 VICE CHAIRMAN FRANCIS: You don't have to come back.
16 We'll make a decision.

17 MEMBER HERNANDEZ: You'll e-mail it, it'll get
18 distributed to all of us and we will review it, we'll discuss
19 it and vote.

20 MR. PIETROMONACO: Thank you.

21 MR. CHIMOS: Perfect.

22 SECRETARY WAGNER: We will have it uploaded on the
23 portal and Doris can take a look at it and, you know, we can
24 determine whether there's any issues so that when it goes to
25 the Board it will be clear.

26 CHAIRMAN MAMMINA: That's great, Ginny. I think that's

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terrific.

MS. CHIMOS: Thank you very much.

MR. CHIMOS: Thank you for your time this morning.

CHAIRMAN MAMMINA: Thank you all. We'll continue.

SECRETARY WAGNER: Next appeal, Appeal Number 21465,
Nicole Gaudio; 75 Fairfield Avenue, Port Washington; Section
4, Block 10, Lot 19 in the Residence-B Zoning District.
Variances from 70-41.A and 70-100.2(K), to construct a new
covered patio and additions that are too close to the side
property line and to install a generator too far away from the
dwelling.

CHAIRMAN MAMMINA: You heard Appeal Number 21465,
Nicole Gaudio. Is there anyone in the room interested in the
application other than the applicant? Well, we know you're
interested. Seeing no one.

Please give your name and address.

MR. HIGGINS: Good morning, Mr. Chairman, Members of
the Board. For the record, Timothy P. Higgins, 57 -- I'm
sorry, 76 Hillside Avenue, Manhasset, New York 11030. Attorney
for the applicant.

SECRETARY WAGNER: Are you in that building yet?

MR. HIGGINS: Not yet.

SECRETARY WAGNER: Not yet.

MR. HIGGINS: But we are still getting our mail there.
We're trying.

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Oh, before I forget the Green cards.

With respect to -- I'd like to take the variance for the minimum side yard setback from the proposed covered patio with the second story addition first, if I may.

CHAIRMAN MAMMINA: Sure.

MR. HIGGINS: And before I start, I'd like to introduce as Applicant's Exhibit 1. You guys have this in your packets, but it's just a copy of the survey. It's just more easily referenced if you have it right in front of you. So the applicant seeks a variance of the minimum side yard setback, which is under 70-41.A. required minimum of seven feet and what the applicant is proposing is six foot 10 inches and one eighth. Less than a two inch tolerance. Just by way of explanation, in looking at the survey, the south side of the existing structure is currently six foot, 10 and one eighth inch. The proposed covered patio with a second story addition is merely a continuation of that existing south side yard setback of six feet, 10 inches and one eighth feet and does not lessen the existing side yard in any way. Clearly the need for the variance of the minimum side yard setback is the result of the existing construction and not due to the proposed alteration. I submit the difference between the required side yard -- side yard setback of seven feet verses the preexisting side yard setback of six foot, 10 inches and an eighth is minimal and should be within the tolerance for such

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applications. As such, the insufficient minimum side yard setback of six feet, 10 inches and one eighth verses the required seven feet is preexisting nonconforming and should not prevent the proposed alteration.

CHAIRMAN MAMMINA: Okay. So let's move onto the generator.

MR. HIGGINS: Let's talk about the variance to install a generator more than five feet from the dwelling. That's under section 70-100.2(K). Required not less than five feet from the dwelling and the applicant proposed a generator more five from the rear of their dwelling. In fact, the applicant is seeking to put the generator, if you're looking at the survey, in the backyard where it abuts out. It would be along the north side. Applicant is going to put a shed there and wants to put the generator adjacent to that shed. In looking at this --

VICE CHAIRMAN FRANCIS: What is the thinking of putting it that far away from the house?

MR. HIGGINS: Okay. The thinking is, with the installation of this proposed addition which is the covered patio with the second story addition above. The remaining portion of the rear yard or the -- adjacent to the house really can't accommodate a generator for the reason that there's a picture window above what will be remaining of the back of the house and a gas fire barbecue in the rear of the space. If I

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2 may, a picture is worth a thousand words. I'd like to
3 introduce Applicant's Exhibits 2 through 7.

4 VICE CHAIRMAN FRANCIS: Mr. Higgins, before you get to
5 that, what is the fuel source for the generator?

6 MR. HIGGINS: Gas, I believe. Yes.

7 CHAIRMAN MAMMINA: So you're going to run a gas line
8 from where to where?

9 MS. GAUDIOSO: So the gas line --

10 CHAIRMAN MAMMINA: Ma'am, you gotta come up and you
11 have to put your name and address on the record. Go ahead.

12 MS. GAUDIOSO: Nicole Gaudioso, 75 Fairfield Avenue.

13 The gas line is actually within line of where the
14 generator is going so our gas for the barbecue is here and then
15 the generator will be diagonal if that makes sense and that's
16 where the gas line is.

17 VICE CHAIRMAN FRANCIS: So in terms of feet, how far is
18 that?

19 MS. GAUDIOSO: I think in one of the photos -- let me
20 see if --

21 MR. HIGGINS: I would say it's approximately 15 feet.

22 VICE CHAIRMAN FRANCIS: I'm sorry?

23 MEMBER GOODSSELL: I'm sorry, approximately?

24 MR. HIGGINS: Approximately 15.

25 MEMBER DONATELLI: Is there some reason why the
26 generator cannot be located in the notch that's being created

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with the addition, the proposed second story addition and the existing house, somewhere within that notch?

MS. GAUDIOSO: Yes. So within the enclosed area?

MEMBER DONATELLI: Yeah. Within the -- yeah. The L shaped.

MR. HIGGINS: Oh, on the L shaped.

MS. GAUDIOSO: In here is what he's suggesting.

MR. HIGGINS: Well, if I may take you through the pictures because that will show us exactly.

Okay. Looking at the first picture under Applicant's Exhibit 2, I had asked my client to give me pictures of the side yard, which would really be the north side yard right in front of the driveway and the first picture I give you shows -- you can see the one story addition on the survey, but there is no place to put the generator on that side before that fence and then the next picture is the area --

CHAIRMAN MAMMINA: Can you go back through that again?

MR. HIGGINS: Oh, sure. Looking at the survey --

CHAIRMAN MAMMINA: Can you look at the architect's plot plan instead? The survey is -- I can understand the survey. That may be difficult for my colleagues. But also the plot plan is going to show what is built and what's proposed to be built. The survey won't show us that.

Just if the record, my opinion is the gas line is 25 feet.

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MR. HIGGINS: I'll go with you. I'll go with you on that.

CHAIRMAN MAMMINA: No, that's okay. That is based on the 18 feet that the -- that the addition is coming out and then the diagonal, you know, going across. But it -- that's fine. That's almost neither here nor there. I'm just saying it for the record. Maybe it's 23 feet, maybe it's 22 feet, maybe it's 15. I don't know.

MR. HIGGINS: So if I may, Mr. Donatelli, respond to your question, I think what you're asking us is why can't we put it where the addition is projecting out the rear.

CHAIRMAN MAMMINA: Can you hold that up just a little bit more and for the record we are looking at drawing G-0.

MR. HIGGINS: If I understand correctly, you're suggesting why can't we put it there?

MEMBER DONATELLI: That's correct.

MR. HIGGINS: So if I may refer you to the third picture in that group of pictures. I would refer you to the third, fourth and fifth.

MEMBER DONATELLI: Those are the photographs marked rear yard north.

MR. HIGGINS: Rear yard north, rear patio north and rear yard patio north. The additions gonna -- if you look at that rear patio north, the addition will come almost just where that sprinkler box is. So it would be very close to the window

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and looking at the prior --

CHAIRMAN MAMMINA: When you say sprinkler box.

MS. GAUDIOSO: It's a hose box.

MR. HIGGINS: Hose box. I'm sorry. Caddy I guess
you'd call it.

CHAIRMAN MAMMINA: Oh, it's a hose bin. Yeah. It's a
hose bin. Yeah. That's okay. That's technically a jargon.

MR. HIGGINS: Right. Okay. So that addition is going
to come probably somewhat just past the hose caddy. So it
doesn't leave a lot of room for the generator right there.

CHAIRMAN MAMMINA: But isn't the addition across the
back of the house?

MR. HIGGINS: It is. And this is a picture of the rear
of the house.

CHAIRMAN MAMMINA: Right. But I'm saying that's the
rear of the house. So are you not aligning with that outside
wall of the house? You're not coming down that far. That's
the end of the house.

MS. GAUDIOSO: No. No. We're not. It's, like --

CHAIRMAN MAMMINA: So why not there?

MR. HIGGINS: Well, the rear of the house is 35 and the
proposed addition is 22.

CHAIRMAN MAMMINA: It's 22.

MS. GAUDIOSO: Correct.

MR. HIGGINS: Yeah. So I have 17 feet.

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CHAIRMAN MAMMINA: You've got 17 feet and that's about what it looks like.

MS. GAUDIOSO: Yes. So we have the enter door -- our exterior door to enter the boiler room where everything is. Then we have the hose is and then a little bit of space and an outlet.

CHAIRMAN MAMMINA: Yeah. But moving a hose bin is virtually a one hour job for a plumber.

MS. GAUDIOSO: The issue is I have two small children. So this is a walkway. That's essentially the walkway to then enter the new addition space underneath. So by doing that we're making them walk and then have to --

CHAIRMAN MAMMINA: You take the walkway and you move the walkway out.

MS. GAUDIOSO: But it's within, like, it's against the house.

CHAIRMAN MAMMINA: But that's where the zoning says it has to be.

MS. GAUDIOSO: Okay.

CHAIRMAN MAMMINA: So, you know, we have to look at if there are alternatives.

SECRETARY WAGNER: The barbecue, the existing barbecue, is that staying?

MR. HIGGINS: Yes.

MS. GAUDIOSO: Yes.

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SECRETARY WAGNER: I don't think it's on the site plan, because that's in the area where I think the Board is referring to.

MEMBER DONATELLI: Not to give you a hard time, Mr. Higgins.

MR. HIGGINS: Sure.

MEMBER DONATELLI: But if you heard the presentation of the case just before.

MR. HIGGINS: Yes.

MEMBER DONATELLI: You know that one of the factors that we're required to look at is whether or not there's the ability for us to achieve what the applicant is looking for without the need for a variance.

MR. HIGGINS: Understood. Alternatives.

MEMBER DONATELLI: Now, as you know, there may be sometimes some physical impediment. There may be some grade of land or there may be something particular to a certain property where the applicant will not be able to intal the generator according to code. But in this case, I personally see several opportunities where the generator could be installed without the need for a variance. And -- and so that is one of the real factors that we have to consider, because as you know, many people come before us and if we set precedent of allowing a generator 25 feet away when the Town code says that it 's not supposed to be more than five feet away, then that creates a

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problem for us.

MR. HIGGINS: Understood. Understood. The other point that the client had advanced to me is that she has the two young children and the patio where they play.

CHAIRMAN MAMMINA: I just don't -- I just don't understand that. I mean I'm looking at your photo and I'm saying, as the young lady said, this walkway. Okay. This walkway comes to here and it stops. So if the generator went hoar, I don't see any reason why you can't do that.

MR. HIGGINS: On the corner?

CHAIRMAN MAMMINA: Yeah. Where the hose bin is. You're closer to the gas source.

MEMBER DONATELLI: And I think the cost of installation will be substantially less because of where you want it.

MS. GAUDIOSO: So would we be able to put, like, how close to the house can we put the generator so that we can kind of make it look aesthetically pleasing instead of just being right on the walkway.

CHAIRMAN MAMMINA: It will depend on the size of the generator, but you can still plant around that. I mean I'm just not seeing any reason why you couldn't plant around it or -- because, you know, look, every generator that comes in, it's the same issues for everyone. You know, so I mean everybody's gotta solve that and that's why I do think most people put them in the side yard. And again, I'm just looking at your site

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2 plan. It's not my house, you know, not my application.

3 MR. HIGGINS: Exactly. Exactly.

4 CHAIRMAN MAMMINA: You've got plenty of space on the
5 other side yard.

6 MR. HIGGINS: Where the ACs are?

7 CHAIRMAN MAMMINA: Well, you could put them there.

8 VICE CHAIRMAN FRANCIS: That's my first inclination.

9 MEMBER DONATELLI: Perhaps what you should do is
10 consult with your generator installer and look for feasible
11 alternatives that would still be in keeping with the town code.

12 MS. GAUDIOSO: Yes. Okay.

13 MR. HIGGINS: Will the town code permit -- I see the AC
14 units on that, what is the south side. If they were to put the
15 generator either behind it -- well there's a fence there but
16 they could still put it behind there. But would that
17 encroach -- can we encroach --

18 CHAIRMAN MAMMINA: That would be up to the building
19 department.

20 MR. HIGGINS: Understood. That was the only concern.

21 CHAIRMAN MAMMINA: Or even the other, you know, because
22 I see the stoop that comes down and goes to both sides. I had
23 that, you know, in the house I grew up in Mineola where it went
24 both ways. But it appears that either that's been taken down
25 already because of the fence that I see in the photo.

26 MR. HIGGINS: Right.

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CHAIRMAN MAMMINA: You know, or potentially -- because I would think even if it's behind that fence, you're walking straight into the fence, that could be a little pocket where it fits right into there and it wouldn't both are you and --

MR. HIGGINS: We -- we will redesign based on your recommendations and bring it into compliance.

MEMBER HERNANDEZ: And check with the building department, because they have the ultimate say. But I would certainly look at the space behind the AC units across the backyard.

MR. HIGGINS: On the south side, right.

MEMBER HERNANDEZ: On the south side of the survey. Yes. That looks like they probably would approve it there.

MR. HIGGINS: Okay. Thank you. We appreciate that and we will withdraw the application on the generator.

VICE CHAIRMAN FRANCIS: Mr. Higgins, since we're doing all of that, I just want to point out one other thing that --

SECRETARY WAGNER: You're withdrawing the generator?

MR. HIGGINS: I'll withdraw it because we'll go back to the drawing board and make it work.

VICE CHAIRMAN FRANCIS: The other issue I'm seeing in the photograph and I'm surprised the building department didn't pick up on it is the fences that are facing the yard are way too high. Those are supposed to be four foot fences.

MR. HIGGINS: Okay. I'll have to check the code.

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2 VICE CHAIRMAN FRANCIS: I'm shocked that they didn't
3 pick that up, you know, knowing the way that they operate, they
4 may pick it up on the other end.

5 MR. HIGGINS: When they do their final inspection.

6 CHAIRMAN MAMMINA: In fairness to the building
7 department, they're not shown on the plot line.

8 SECRETARY WAGNER: But are they are on the survey?

9 MS. GAUDIOSO: Yes.

10 CHAIRMAN MAMMINA: They are not on the survey.

11 SECRETARY WAGNER: That's why they didn't pick it up.

12 VICE CHAIRMAN FRANCIS: That's why they didn't pick it
13 up. They are definitely going to pick it up when they inspect
14 it.

15 MR. HIGGINS: The fence is shown on the survey.

16 MEMBER HERNANDEZ: No. It shows the retaining walls,
17 but I don't see a return of the wall to the house, which is
18 what the Vice Chairman is talking about.

19 CHAIRMAN MAMMINA: And, ma'am, understand we're siting
20 that not to give you a hard time.

21 MEMBER HERNANDEZ: Not at all.

22 CHAIRMAN MAMMINA: But when the building department
23 comes out to look at it after the work is done, they are going
24 to cite you for the fence, you know, so.

25 MR. HIGGINS: I appreciate the heads up.

26 CHAIRMAN MAMMINA: It's really doing you a service.

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2 MR. HIGGINS: Yes.

3 MEMBER DONATELLI: So, Mr. Higgins, did I hear that you
4 withdrew the application for the generator.

5 MR. HIGGINS: For the generator more than five feet
6 away from the house. Yes.

7 MEMBER DONATELLI: And that the application then before
8 us right now, if I understand correctly is only for the covered
9 patio side yard setback, which is any addition which is two
10 inches or actually less.

11 MR. HIGGINS: Correct. And the continuation of the
12 existing house.

13 MEMBER DONATELLI: And the continuation of the existing
14 house.

15 Does anyone have any questions as to that issue? So I
16 make a motion that we grant the application as amended as to
17 that one side yard setback.

18 VICE CHAIRMAN FRANCIS: Second. I'll second that.

19 CHAIRMAN MAMMINA: Okay. We have a motion by Member
20 Donatelli second by Vice Chairman Francis. Please poll the
21 Board.

22 SECRETARY WAGNER: Member Goodsell?

23 MEMBER GOODSSELL: Aye.

24 SECRETARY WAGNER: Member Hernandez?

25 MEMBER HERNANDEZ: Aye.

26 SECRETARY WAGNER: Member Donatelli?

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2 MEMBER DONATELLI: Aye.

3 SECRETARY WAGNER: Vice Chairman Francis?

4 VICE CHAIRMAN FRANCIS: Aye.

5 SECRETARY WAGNER: Chairman Mammina?

6 CHAIRMAN MAMMINA: Aye.

7 So the application is granted for the side yard and the
8 other variances are withdrawn.

9 MR. HIGGINS: Mr. Chairman, Members of the Board, thank
10 you so much for your time and your advice.

11 CHAIRMAN MAMMINA: If I may go off the record.

12 (A discussion was held off the record.)

13 CHAIRMAN MAMMINA: Okay. Back on the record. Next
14 case, please.

15 SECRETARY WAGNER: Next appeal, Appeal Number 21466,
16 Terrence Skikishun (Herbert Avenue, LLC); 35 Herbert Avenue,
17 Port Washington; Section 5, Block G, Lot 51 in the Residence-C
18 Zoning District. Variances from 70-202.1(C) and 70-208(F) for
19 the expansion of a non-conforming retaining wall that is too
20 high.

21 CHAIRMAN MAMMINA: You've heard Appeal Number 21466,
22 Terrence Skikishun. Is there anyone in the room interested in
23 the application other than the applicant? You will have the
24 opportunity to speak after.

25 Please give your name and address.

26 MR. SKIKISHUN: Good morning, ladies and gentlemen.

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I'm Terrance Skikishun, 35 Herbert Avenue, Port Washington.

MEMBER DONATELLI: Yes, please continue.

MR. SKIKISHUN: I'm here today to ask the Board to examine this matter regarding a retaining wall. This retaining wall is in -- is -- is necessary to facilitate a driveway that this property didn't have existing before. I guess looking at the design of the architect, the majority of the -- of the retaining wall is on under five feet, which is the -- the maximum allowed height for the building department. If you look at the profile of the retaining wall, it is at the very back of this property. We're -- 35 Herbert Avenue is adjoining the other neighbors. The grades are close to similar and that is where the height of the retaining wall is asked to be as high as the grade so that we can retain the neighbors and also my property grade from erosion into the adjoining neighbor property. There is an existing retaining wall there. It's approximately 12 feet. It was built, I guess before I owned this property and it exists there now. The design of the driveway and retaining wall is asking for continuation of that wall, just for a portion of the driveway where the grade has to follow a slope heading out to the front of the property.

MEMBER GOODSSELL: Mr. Skikishun, as I look at the plan, are you moving the driveway on the house from one side of the house to the other side?

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MR. SKIKISHUN: No. It's -- it's a weird property.

Weird meaning --

MEMBER GOODSSELL: We've all looked at it so we kind of know what weird means.

MR. SKIKISHUN: Well, I would call -- I would say 90 percent or let's call it 80 percent of this property, the lot coverage is solid flat. But where the driveway was almost three and a half to four feet drop. So if you were coming out of your car, you have to climb up a slope to get to your side door or back door. So the whole thing didn't make sense. I'm trying to make sense of it. I guess that driveway was designed, I guess maybe over 100 years ago when they had buggies and carriages. You know, the driveway, water was puddling down there. The adjoining neighbor, the neighbor that's adjacent to me, his grade is flat. So my retaining wall is to retain my dirt from going into his property. With the -- with the design with the retaining wall and the driveway, it was complete this property. This property -- the property would have everything anybody needs. I guess everybody here most likely have a driveway. When you go home you drive into your driveway.

CHAIRMAN MAMMINA: But did that grade exist or did you create that grade?

MR. SKIKISHUN: Where? On the driveway portion?

CHAIRMAN MAMMINA: Yes. Yes or no.

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MR. SKIKISHUN: Yes. Yes.

CHAIRMAN MAMMINA: Yes, you created that grade?

MR. SKIKISHUN: Yes.

CHAIRMAN MAMMINA: So I mean first -- first you changed the grade along the whole side of that building. If you were building an addition, you know, the building department would certainly look at that. But you've created this condition for yourself.

MR. SKIKISHUN: Well, no. We are asking for -- I think when you asked the question did I create it, the -- the driveway I'm going to estimate the driveway.

CHAIRMAN MAMMINA: Not -- not the driveway. I -- I found pictures of a dump truck dumping dirt, you know, onto that -- onto that side. I mean you see it so now you're neighbor -- you're proposing that your neighbor should look at an elevation -- 116 to 110, 116, 78, a seven foot high wall or maybe even the denial said something about a nine foot high wall. I mean he's going to have a racquetball court, you know, on his side of the property.

MR. SKIKISHUN: So, sir, I don't know if I answered you incorrectly, but your question was did I create the grade of the property or where the driveway -- the property --

CHAIRMAN MAMMINA: No, where the driveway is. Where the driveway is.

VICE CHAIRMAN FRANCIS: The driveway.

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2 MR. SKIKISHUN: Right. Right.

3 CHAIRMAN MAMMINA: That was flat. I found photos that
4 showed it was flat and then it tapered up slightly. There was
5 a driveway there. A flat driveway.

6 MR. SKIKISHUN: Yes. Right. And I did say -- and I
7 did say when I was asked, I did say hey, my driveway was low.
8 It was about three and a half feet from the rest of the
9 property. I mentioned that earlier. So the -- the only -- the
10 only reason why we put --

11 CHAIRMAN MAMMINA: When you say you mentioned it, what
12 does that mean?

13 MR. SKIKISHUN: No. I said that -- I said -- I -- I
14 said before that the driveway, the existing driveway that was
15 there was much lower than the rest of the property and I said
16 80 percent of the property is flat but the driveway was low.

17 CHAIRMAN MAMMINA: Why couldn't you have put a wall on
18 your own property that would separate that lower part, I mean
19 because the photos that are online are clearly there. You
20 know, it comes out maybe about four and a half, five feet and
21 then there's a slope that comes down to the driveway that
22 existed. If you had put your wall there, it would have been a
23 substantially lower wall, you would've had full use of your
24 backyard still and you would've had a flat driveway going back
25 to the garage that existed. I mean if you wanted to rebuild
26 the garage, I mean that -- that's up to you.

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2 MR. SKIKISHUN: You would still have to get up to that
3 height. It was -- it was --

4 VICE CHAIRMAN FRANCIS: No you wouldn't.

5 CHAIRMAN MAMMINA: No you wouldn't.

6 MR. SKIKISHUN: Yeah. You would have to climb up.
7 There were stairs there before.

8 CHAIRMAN MAMMINA: Here. I'm holding up on a computer
9 your house.

10 MR. SKIKISHUN: Right.

11 CHAIRMAN MAMMINA: This is all flat up at the house.
12 Lines up with that doorway, because I had gone and looked
13 around it from the other side on, you know, on Google street
14 view and this is a completely flat driveway that's going in
15 here. You could have put the wall right here where this slopes
16 off on your property. You would have had a wider driveway, you
17 know, and there's -- why couldn't you do that?

18 MR. SKIKISHUN: But when you get of your car, how would
19 you get up to your property?

20 CHAIRMAN MAMMINA: You're gonna put some steps into
21 there.

22 MEMBER HERNANDEZ: You can put steps in the backyard or
23 the front yard.

24 CHAIRMAN MAMMINA: To the front yard or the back yard.

25 MR. SKIKISHUN: Right. So -- so one of the reasons why
26 I -- I -- I went through this project to try to get this

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facilitated, I didn't want to mention it yet, is that my wife is diagnosed with ALS a year now.

CHAIRMAN MAMMINA: Okay.

MR. SKIKISHUN: And I was trying to create a more convenient entrance into my first floor for her from the rear yard. So the rear yard, if you drove a car in and you came out, you can go around on the patio and you can get into the back door easily on a wheelchair. Now --

CHAIRMAN MAMMINA: I'm sorry, I don't mean to cut you off, but as the architect on the Board, I don't see any reason why that wall couldn't have gone in, you know, where, you know, where it is and you create a little ramp area there going up to that floor, you know, and, you know, she's in the house. You know, the thing is we have to look -- one of the things we have to look at is the benefit to you verses the impact on your neighbor. Your neighbor is now looking at a wall and I'm standing up and I'm five and a feet high on a good day, you know, so they are looking at a wall at least this that runs the entire length of their property when previously -- there was a flat area from their property onto your property and then has a very gradual slope up. So why did we have no permits, you know, for this ahead of all that filling and things going on?

MR. SKIKISHUN: Sir, I -- I -- I put in the -- I dropped the gavel there so that I can have my vehicle and my van go in and out without an issue. Because that driveway,

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where you saw the picture, when rain falls there's a bunch of water, there's a puddle.

CHAIRMAN MAMMINA: You put in a dry well. You should have a dry well anyway.

MR. SKIKISHUN: We are. Yes, we are.

CHAIRMAN MAMMINA: You're putting dry wells in. But no, you're not -- you're defending what you've already done and what you want to do. The Board takes a very hard look at retaining walls. The zoning says that you can build a retaining wall five feet high and then you step it back and then you build another wall so that you're -- so you're looking at something that goes up gradually. You know, not something that's --

MR. SKIKISHUN: So we -- we are -- so today, the reason why I'm here is based on our design. The -- the very end of the retaining wall is where we are asking the Board to grant, because that's where we need to go up a little higher than five feet in order to match the rear yard, the backyard grade. So all of what you just mentioned, the majority of this retaining wall is way under five feet. Some of it is zero to maybe six feet at the very back. So the very end eight feet. So and -- and -- and if you look at the old picture there or the drawing, survey, there's a portion of it about 12 feet that existed before at about eight or nine feet that's still there with the old retaining wall and the old garage we demolished because the

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2 garage is -- was in very poor condition and we don't want to
3 have a garage there. So I'm asking --

4 CHAIRMAN MAMMINA: These are all things, again, that
5 you've created. The garage could have stayed, you know, where
6 the garage was and rebuild it. You know, at the back part of
7 the property, you're nine and a half feet higher. You know,
8 would you want to look at that nine and a half foot wall if it
9 was on the other side of your property? What would you think
10 about it?

11 MR. SKIKISHUN: Well, it's -- it's about --

12 CHAIRMAN MAMMINA: Excuse me. What would you think
13 about it if your guy next door built a nine and a half foot
14 high wall. You know, that's up to the top of that molding, you
15 know, above the doors where the exit it sign is.

16 MR. SKIKISHUN: Yes. So -- so I'm asking that -- I
17 mean --

18 CHAIRMAN MAMMINA: What would you think about it?

19 MR. SKIKISHUN: I guess if there were -- if there were
20 bushes, or shrubbery, or trees built in front of it I wouldn't
21 mind as a neighbor. But the amount that we're asking for
22 doesn't seem to be that much.

23 MEMBER DONATELLI: But in the highest point --

24 MR. SKIKISHUN: Yeah.

25 MEMBER DONATELLI: -- your diagram shows that it's nine
26 and a half feet.

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MR. SKIKISHUN: Right.

MEMBER DONATELLI: Which is almost double the allowable
five feet.

MR. SKIKISHUN: Right.

MEMBER DONATELLI: So that as the Chairman said, we
would anticipate that that would then be stepped back. So in
other words, instead of having one nine and a half foot
retaining wall, you would have one at five feet and another one
at four and a half feet, but then you would have the horizontal
step back. Now, if -- if -- if you can do that, then you would
be building it according to code. And again, not to be
repetitive, but if you've been sitting here since this morning,
you hear that we don't just make things up. We are bound by
the -- we're -- we're -- we're empowered to grant certain
variances where there really is no other way of achieving
what's being sought. But here, as the Chairman said, somehow
you've filled in this area, because you thought that you could
perhaps make it better, but you've created a problem where one
didn't exist before.

MR. SKIKISHUN: So just -- just to -- my intention
wasn't to create a problem and then right now it's not a
problem, because I'm asking the Board to grant me something to
try to conform to the grade that's in the back. I didn't
intend to create a problem. Now I'm not asking you to how to
solve a problem. I fully intend to have a driveway built there

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with an retaining wall that's allowed. It's just that my architect and engineer presented the plan and the -- and the -- and the town code does not allow us to go that high in the back. So it was never -- it's mentioned here that I purposely did something. No, my full intention was to file plans to have a driveway.

MEMBER DONATELLI: I understand. I understand that it wasn't your intention, but in fact this what has happened.

MR. SKIKISHUN: Right.

MEMBER DONATELLI: And we -- as one Board member, I would have a real problem with a nine foot, nine and a half foot retaining wall. That -- that is -- that is almost double what is allowed. Now, I know under certain circumstances we've had to approve five and a half feet, I think once I think we you approved a six foot. But I know another application came before us in Port Washington and -- recently and we had to deny it, because it was something similar in this. So my point is, there are other ways to achieve a driveway with the garage that would not require a variance and -- and as I said before, that is actually condition number two of the five factors that we are required to consider by law. There is another way to achieve this driveway and -- and I understand your wife's condition and as the Chairman said, a ramp could be built that -- that -- that would achieve the same result without creating a nine and a half foot tall retaining wall. Because the whole

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2 point of the town wanting to limit retaining walls to five
3 feet, is that they don't want the neighbor to have to look at a
4 nine and a half foot tall retaining wall on their end. And
5 they don't want the engineering problems that might result. As
6 you said with the ponding and flooding, a retaining can be
7 undermined the taller it is. And so from an engineering point
8 of view and I'm not the engineer on the Board, I'm an attorney,
9 but I can see how that would be problematic building a nine and
10 a half foot retaining wall. So there is another way to achieve
11 what it is that you're going to achieve.

12 MR. SKIKISHUN: So, sir, even though my adjoining
13 neighbors grade are at that height and my backyard grade is
14 that height, and I've demolished an old garage there, I am
15 trying now to fill that in, no consideration will go towards
16 that? And there is an existing retaining wall there now
17 approximately 12 feet that is showing on the survey that is at
18 that height at nine feet, nine and a half feet. It's existing.
19 So it existed for a reason when it was built, because it had to
20 -- it had to facilitate the grade that's existing here. So
21 today I'm just --

22 CHAIRMAN MAMMINA: According to this -- I'll apologize
23 for being rude.

24 MR. SKIKISHUN: Yes.

25 CHAIRMAN MAMMINA: You're actually extending that wall
26 up higher to nine and a half feet. It doesn't exist at nine

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2 and a half feet. And this is just to keep the record clear.
3 I'm looking at your engineer's drawing and maybe your engineer
4 should have informed you better. I don't know. I mean I also
5 see in his plan, which I don't even see why, is that he's
6 showing steps going up into the doorway to your house, you
7 know, and I mean I don't know how -- how does your wife
8 handicap -- and I am, my wife is -- my wife can't go up steps,
9 you know, so I, you know, I know that and no one is more
10 sensitive to that than me. But just all of this --

11 MR. SKIKISHUN: The steps, sir, the steps wouldn't be
12 used for that. The idea was to provide the drive up to the
13 patio. You see there's a rear patio which is to grade and then
14 if you're in a car you can just come out and roll in -- onto
15 the patio and then if you look, the patio is also flat with a
16 back door so.

17 CHAIRMAN MAMMINA: But do you realize though that you
18 have a 25 percent slope on the back part of that ramp.

19 MR. SKIKISHUN: Yes.

20 CHAIRMAN MAMMINA: 25 percent. That's --

21 MR. SKIKISHUN: That's the very end. That's very close
22 to the -- to the rear yard. The back fence of the property.
23 It's not the entire slope of the driveway. If you look at the
24 profile, you'll see that. It's a profound drop at the back,
25 but even that area wouldn't be used. Wouldn't be asphalted,
26 because it's dirt now from the neighbors property line to my

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property line.

CHAIRMAN MAMMINA: Says asphalt on your drawing.

MR. SKIKISHUN: Yeah. Yeah. So we don't even want the asphalt there.

CHAIRMAN MAMMINA: I know.

MR. SKIKISHUN: The architect put asphalt but it's gonna be planting or whatever.

CHAIRMAN MAMMINA: I have to question and if the person were here, I would say the same thing, you know, and I don't judge anybody. You know, I'm an architect for 45 years and I'm not saying that I've never made a mistake. Whoever has said they never made a mistake is diluted. But I don't know that -- that your professional was informed, you know, I don't know that they checked the zoning. You know, I mean otherwise for you to go down the road as far as you went, you know, without any clear understanding of what were gonna be the limits of what you could do, you know, I don't -- I would see that, you know, that -- that, you know, he's got a reasonability to you for that. And I will just say two other things, you know, is first of all where you said no, I wouldn't mind that, you know, they could put landscaping in front of it. That means your neighbor would have to put landscaping, you know, in front of this wall. And then also, it has nothing to do with me but contractibility. How are you going to get that footing and things in there without disrupting the site? Are you going to

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2 sheet and sure that? Now, again, that's got nothing to do with
3 the Zoning Board, but I -- and not that it has anything to do
4 with the variance. I think its ill conceived.

5 MR. SKIKISHUN: The area where the footing is going is
6 open now.

7 CHAIRMAN MAMMINA: But you have to be four feet down.
8 Three feet down on Long Island with that footing.

9 MR. SKIKISHUN: Yeah. So it's going to be excavated.

10 CHAIRMAN MAMMINA: So you're going to be excavating
11 onto his property. You're six inches away and that's with the
12 toe, you know, of the footing. That's what your drawing show.

13 MR. SKIKISHUN: But we don't -- my neighbor property is
14 flat.

15 CHAIRMAN MAMMINA: You know what, I'm done from my
16 perspective.

17 SECRETARY WAGNER: We have someone here.

18 MEMBER HERNANDEZ: We need to have someone speak.

19 CHAIRMAN MAMMINA: Okay. There was somebody else who
20 wished to speak so you may have a seat.

21 MEMBER HERNANDEZ: Before we ask him, I just wanted to
22 point out that you have a -- by having a nine foot wall, which
23 is your driveway, that is a nine foot drop onto your neighbor's
24 property. That is a danger that would somehow need to be
25 mitigated.

26 MEMBER DONATELLI: Sir, name and address please.

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MR. WINSTON: Name is Donald Winston, address is 36A Herbert Avenue.

CHAIRMAN MAMMINA: And where is your house located?

MR. WINSTON: House is directly across the street.

Morning, Mr. Chairman and Members of the Board. My name is Donald Winston. I'm the owner and occupant of 36A Herbert Avenue, which is directly across the street from the property under consideration. I am a professional engineer registered in New York, but I'm here as a private citizen and neighbor to the property in question. The -- I think most of my comments are probably mute, given the apparent attitude of the Board toward the application, but I figured I reiterate and let the Board understand that there is some additional opposition to this. In review of the plans, I note that there is a 12 percent grade on the initial portion of the driveway. As this has been ongoing, as the applicant has built this up, the property was initially vacant. Property has been rented, I believe there are rental occupants in either one or both of the units and we began to have an issue with additional vehicles on the street. Herbert Avenue is a fairly tight, narrow street, old -- classic old Port Washington or old North Hempstead where the street also jogs directly in this -- in this vicinity. So it creates a situation that that's narrow and with vehicles parked on the street, it becomes extraordinarily difficult for myself and my neighbor at 38 to access our driveway. Our

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driveway is a double wide shared driveway and two vehicles barely pass side by side. So to be able to enter and exit that driveway, we can't have a vehicle parked on the street directly across from the driveway.

So the 12 percent grade or proposed 12 percent grade, which is actually grater than the grade that exists currently, is creating essentially un-usability of that driveway for the occupants of the house. They have since begun to park one vehicle in the driveway, but that was only after there was unfortunate incident where I struck one of those vehicles trying to get into my driveway. The -- I don't know, I guess I'm running low on time here. But the, you know, in the installation of this, the build up of this grade, the compaction called for in the plans did not appear to be done other than running the dump truck back and forth across the driveway multiple times. I didn't see any evidence of installation of the proposed dry well. I'm concerned for runoff and inclement weather and freezing weather where my experience with trench drains is that they don't function, they generally don't catch all the runoff, especially on a 12 percent grade. So I would ask that the Board deny this application on the basis.

MR. SKIKISHUN: May I interrupt you, sir.

MEMBER HERNANDEZ: No you cannot. You have to wait, please.

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2 CHAIRMAN MAMMINA: No you cannot. Everybody gets their
3 turn.

4 VICE CHAIRMAN FRANCIS: Sir.

5 MR. WINSTON: I've seen the plans, sir. On the basis
6 of the impact -- adverse impact for the neighborhood, the
7 environmental conditions of the neighborhood.

8 VICE CHAIRMAN FRANCIS: Thank you.

9 CHAIRMAN MAMMINA: All right. Thank you very much.
10 Anyone else? Seeing no one.

11 You have the opportunity to rebut what the gentleman
12 has said or support it.

13 MR. SKIKISHUN: The gentleman comments are basically, I
14 guess -- I guess it's irrelevant to what I'm doing, because he
15 lives across the street. He's a neighbor, yes. He's talking
16 about him driving his vehicle and hitting somebody else. I
17 don't know what that has to do with this hearing. The street
18 is legal, the property is a legal property. It's a legal
19 rental property. It conforms to every rule. It has no
20 violations on it. Permits are all new. I'm here today to ask
21 --

22 CHAIRMAN MAMMINA: You say permits, permits for what?

23 MR. SKIKISHUN: Rental permits, the property, the CFO.

24 CHAIRMAN MAMMINA: Not for the work you're doing
25 though, obviously because you're here.

26 MR. SKIKISHUN: I'm not doing any work right now.

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CHAIRMAN MAMMINA: When you say the word permits, you know, it puts an image in someone's head that everything is fine.

MR. SKIKISHUN: Well --

CHAIRMAN MAMMINA: Rental permit, yes, that's required.

MR. SKIKISHUN: He mentioned about tenants so I'm trying to --

CHAIRMAN MAMMINA: Okay. And we, you know, those, you know when you're watching the lawyer show on TV, you know, and somebody says to the judge and the judge says strike that from the record. Okay. So it's struck from my record. You know, I don't care about that. I care about I didn't see dry wells, I didn't see the trench drains, you know, in there. You have a 12 and a half percent slope, which from the commercial standard of anything is -- is way excessive. The water will move very quickly, you know, down there. Leaves gather, you know, in trench drains but we're not -- we're not here, you know, for, you know, for that. You know, we're here for the wall.

VICE CHAIRMAN FRANCIS: The retaining wall.

MR. SKIKISHUN: Yeah. Right. So the plans, because it's brought up all the time now about there's no dry well, there's no zipper drain. So the plan was submitted that have all of those things. But today we are asking about the retaining wall in order to complete the property.

CHAIRMAN MAMMINA: Right.

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MR. SKIKISHUN: So I guess based on all of your comments and everything is what I was asking at the very end was I mentioned, hey, the neighbors grades are all similar, my grade is higher at that point, will there be an exception at that point in the back to have the -- the -- a retaining wall that high so we can have a driveway. The other comment that was made was about the -- about -- about the steps and the handicap accessibility and I mentioned that the reason why the driveway would be more useful and the backyard not having any sort of, like, tearing would give you more room to get a car more to the rear so you can access the patio. If -- if we can design a retaining wall where you can conform to the five feet and clear the amount and then you can build up again, sure. But then you're going to take away from the backyard and the property a substantial amount. Especially since if you look at the rear yard in the corner, it already has a retained height and it has a profound slope. So that would be not be used as -- as -- to complete the driveway all the way to the end of the property line.

MEMBER DONATELLI: I've listened very carefully to your comments.

MR. SKIKISHUN: Okay.

MEMBER DONATELLI: Unfortunately or fortunately when the Town Board proposed the five foot height limit on retaining walls and then requiring a setback and then another retaining

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wall on top of that, that does in fact encompass losing some of your backyard. That is what each person has to deal with within the Town of North Hempstead.

MR. SKIKISHUN: Yeah.

MEMBER DONATELLI: It is regrettable that you would lose that area. But again, that is what the zoning code requires and -- and contemplates. That's the very point of it. Now, I understand why you may want to build a nine foot retaining nine and a half foot retaining wall so as to preserve that space, but everyone would want to do that.

MR. SKIKISHUN: Yeah.

MEMBER DONATELLI: That is not particular to your particular property and I don't mean to be argumentative.

MR. SKIKISHUN: Yeah.

MEMBER DONATELLI: However, we do have some standards that we're required to consider, if you've heard since this morning. There are five factors and as one Board member, I'm sorry, I'm just not convinced that you have met the five factors. I believe that there -- there are alternatives that are feasible for you to pursue that would not require a variance and so as one Board member, I'm afraid that I -- I am opposed to this application.

CHAIRMAN MAMMINA: So do with have a motion?

MEMBER DONATELLI: So therefore I make a motion that we deny the application.

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

4 MEMBER HERNANDEZ: Second.

5 CHAIRMAN MAMMINA: Seconded. Motion by Member
6 Donatelli, seconded by Member Hernandez. Please poll the
7 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 The application is denied.

19 MR. SKIKISHUN: Thank you.

20 CHAIRMAN MAMMINA: Thank you, sir.

21 SECRETARY WAGNER: Next appeal, Appeal Number 21420,
22 Angela Ferrante; 112 Huntington Road, Port Washington, Section
23 5, Block 60, Lot 31 in the Residence-A Zoning District.
24 Variances from 70-32.7, 70-26.A and 70-208.F, to legalize an
25 extension to a shed dormer which is too high and with an eave
26 height that is too high on a non-conforming building.

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2 CHAIRMAN MAMMINA: You've had Appeal Number 21240,
3 Angela Ferrante. Is there anyone in the room interested in the
4 application other than the applicant? Seeing no one.

5 Please give your name and address.

6 MS. FERRANTE: Good morning, Mr. Chairman, Members of
7 the Board. My name is Angela Ferrante, I am the owner -- part
8 owner of 112 Huntington Road, Port Washington. I'm joined by
9 my husband Steven Huges, he's the coowner.

10 CHAIRMAN MAMMINA: Good morning.

11 MS. FERRANTE: I have some materials that may be
12 helpful. Can I hand those over?

13 SECRETARY WAGNER: Yes you may.

14 MS. FERRANTE: It is actually a packet of information
15 which holds several exhibits. The first are my statements
16 followed by some supporting documentation and pictures.

17 Okay. You're ready, I'm ready to begin. Yes?

18 MEMBER GOODSSELL: We're just gonna take a quick look at
19 your pictures.

20 MEMBER HERNANDEZ: Continue.

21 MS. FERRANTE: Continue? Okay. Great. As you know --

22 CHAIRMAN MAMMINA: Apologize, ma'am.

23 MS. FERRANTE: No problem. As you know the purpose for
24 today's hearing is to legalize the already existing and
25 constructed dormer at the rear of the property. During the
26 construction, really in the middle of the winter, the prior

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2 existing dormer was found to have been rotted with black mold
3 and needed to be rebuilt. Rather than building it as it was,
4 which was really not contextual to the current design of the
5 property, which is much more modern rather than an old 1920s
6 colonial, we determined to build it in a way that is more
7 contextual to the property. In addition, there was a window
8 that we were taking out from a different side of the building,
9 which we wanted to reuse. Our goal during construction was to
10 utilize as many of the materials as possible and try to
11 minimize waste. We reutilized that window at the dormer. The
12 dormer is in the back of the building, it is not visible from
13 the street. The variance between the prior dormer height and
14 the current one is approximately 3.3 feet. The new dormer was
15 built by the contractor without the knowledge of the Town's
16 height limitation. Quite frankly, I directed the -- the -- the
17 -- the builder to do so.

18 CHAIRMAN MAMMINA: Were there permits from the Town for
19 doing this work? The replacement. In other words, when you
20 took it down, you know, and then the replacement was done, were
21 there approved plans from -- from the Town to do that work or
22 I'm saying the Town may have then or they would have, you know,
23 cited the -- the, you know, issue of -- of the height. So it's
24 a question for the record?

25 MS. FERRANTE: Yeah. Sure. There were plans that were
26 approved for the construction of the property. It was

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2 basically a complete gut renovation. There were many things
3 though that were happening during the construction that we were
4 going to revise during a secondary submission to the plans. It
5 was my understanding, in conjunction with the architect, that
6 with would resubmit at a later date to address some of the
7 changes that were being made. So it was redone differently
8 than the original plans. Our intention was to re-file, which
9 we did. There were several amendments and we were addressing
10 this change in that amendment, which is what ultimately
11 happened.

12 CHAIRMAN MAMMINA: Okay. So I guess the question that
13 -- that I have is, I guess in the judgment of the architect or
14 the builder, they decided that that had to be taken apart and
15 rebuilt?

16 MS. FERRANTE: Correct.

17 CHAIRMAN MAMMINA: So why wasn't built in kind or why
18 wasn't it verified, you know, that -- I'm saying by your
19 architect? And again, I'm an architect and I've made mistakes
20 but then I own them.

21 MS. FERRANTE: Yeah. Yeah. It was a question of
22 timing. Yeah. It was a question of timing.

23 CHAIRMAN MAMMINA: So but I understand and I'm sure you
24 understand where I'm going in just establishing a record that's
25 clear.

26 MS. FERRANTE: Yeah. Understood. It was a question of

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2 timing. We had many items that we wanted to address in the
3 resubmission and we did not include that submission prior to
4 when this work needed to be done. We did the work prior to
5 resubmitting. So there is a timing disconnect there and that
6 was something that we did not realize. We did not realize it
7 needed a variance quite frankly. We thought it was contextual,
8 about the same, we were just making it look nicer. It was sort
9 of a judgment call that we made obviously without knowledge.

10 CHAIRMAN MAMMINA: Okay.

11 MEMBER GOODSSELL: All right. Well, and also in the
12 packet that you've given us, your picture as Exhibit D is the
13 before picture it looks like.

14 MS. FERRANTE: Correct. Yup.

15 MEMBER GOODSSELL: And your picture as Exhibit E is the
16 after. Is that correct?

17 MS. FERRANTE: That's correct.

18 MEMBER GOODSSELL: And the after is clearly a little
19 larger than the before.

20 MS. FERRANTE: 3.3 feet higher. Correct.

21 From where I was sitting as a nonprofessional, we be --
22 didn't see like a material difference.

23 CHAIRMAN MAMMINA: No, we understand that.

24 MEMBER GOODSSELL: Just making a record.

25 MS. FERRANTE: Yeah. Absolutely.

26 All right. So as we've noted, the exhibits are D,

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original, E is the current, F is the side view and F is the front. It is not visible from the street. It does not exceed the requirements of a "building", which I understand is three feet and in terms of that analysis should it be relevant, it is approximately, you know, 8.4 inches higher.

In closing, the dormer has been built and the construction has finished as you can see. It would be quite a hardship to revise it in any way. The dormer is in the back of the building, it is not visible from the street, the excess height is not material, the granting of the variance does not cause a nuisance, can only be seen by two or three houses directly behind the property, is not harmful nor is it dangerous. All other requirements of the code have been met. Although the difficulty was self created as I noted, it is not substantial and grant you the requested variance will not in any way create an undesirable effect to the neighborhood and the overall character thereof.

Do you have any questions I may answer for you?

MEMBER GOODSSELL: What -- what is in the dormer? What is just -- what -- is all open space, is it open to a room?

MS. FERRANTE: It's a stairwell. All it is is a stairwell.

MEMBER GOODSSELL: It's a stairwell.

MS. FERRANTE: Correct.

MEMBER GOODSSELL: And the reason for raising it three

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feet is aesthetics?

MS. FERRANTE: It was aesthetics and to have light, because -- to accommodate that big window that I wanted to reuse, it's just sort of very linear and to have it sort of contextual and centered, it needed to be higher. That's all. And it allows a lot of light to come through. So when you're going up the stairs, it's just aesthetics. It's just much more pleasing.

MEMBER HERNANDEZ: I guess -- I guess the old dormer had the existing stairs in it, right?

MS. FERRANTE: Yes. It's the same exact function. Same exact function in the same exact way. Exactly.

MEMBER HERNANDEZ: You just made it taller?

MS. FERRANTE: That's exactly right.

MEMBER DONATELLI: I guess I would note for the record that --

SECRETARY WAGNER: I'm just letting them -- having them read the e-mail.

MS. FERRANTE: Yes. Absolutely. I did review it. I'm happy to address it if you'd like.

MEMBER DONATELLI: I'm sorry, just give us a moment.

MS. FERRANTE: Absolutely.

SECRETARY WAGNER: You want to address the e-mail?

MEMBER DONATELLI: Have you had a chance to read this e-mail?

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MS. FERRANTE: I have had a chance to review. It begins by saying we support this. The concerns that are mentioned have nothing to do with this hearing whatsoever. However, I am happy to let you guys know what that's all about. We did file for permits, which have been approved by the Town of North Hempstead to regrade the property. They were -- we submitted those plans, those plans were approved. We had an engineer doing the drawings and they did the calculations based on the waste, you know, the water, you know, calculations as you do for the number of dry wells that we had to install. We installed -- so in during the construction of the dry wells, we were told that it was -- we needed three rings. However, when we were putting them in, we thought you know what, given the weather changes and what's going on and we have this giant hole in our backyard right now, let's put in four. So we did. We put in four rings. Our -- and we had already had the town inspector come, he had already approved the three rings. Same day we had him come back, because we're putting in four. He approved those as well. So again, what we put in far exceeds what was required in our original plans. Unfortunately there's another timing issue. That's construction, right. So as things were being put in, there's mud, it's a disaster, we had those torrential, you know, floods and I called the engineer and I'm, like, hey, it's spelling everywhere, you know, and he said listen, the calculations are correct, it's muddy. You

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2 have to put in grass. When the grass is there and it's all to
3 grade and everything -- it's a matter of timing and we said
4 okay. I have an e-mail from the engineer. He says it far
5 exceeds.

6 CHAIRMAN MAMMINA: I would agree with you it has
7 nothing to do with the application.

8 VICE CHAIRMAN FRANCIS: No.

9 CHAIRMAN MAMMINA: You know, but we -- we appreciate it
10 for the benefit of the record.

11 MS. FERRANTE: Sure.

12 CHAIRMAN MAMMINA: That, you know, that that is also --
13 that that is also answered.

14 MEMBER DONATELLI: And -- and as the Chairman said, it
15 really is not germane to your particular application. On the
16 other hand, we try to be mindful of the comments of neighbors.
17 We all want to be good neighbors and I understand that Port
18 Washington does have some issues within the Town of North
19 Hempstead as to elevation that other areas in the Town of North
20 Hempstead do not have. And so, you know, we want to be mindful
21 of the comments of your neighbors.

22 MS. FERRANTE: Sure. Absolutely and I welcome that.

23 CHAIRMAN MAMMINA: It sounds like you've dealt with
24 them properly.

25 MS. FERRANTE: I think so.

26 MEMBER DONATELLI: So does anyone else have any other

1 Appeal # 21467

2 questions? No? All right. So, Mr. Chairman, I make a motion
3 that we grant the application.

4 CHAIRMAN MAMMINA: Okay. We have a motion by Member
5 Donatelli to grant the application. Do we have a second?

6 VICE CHAIRMAN FRANCIS: Second.

7 CHAIRMAN MAMMINA: Seconded by Vice Chairman Francis.
8 Please poll the Board.

9 SECRETARY WAGNER: Member Goodsell?

10 MEMBER GOODSSELL: Aye.

11 SECRETARY WAGNER: Member Hernandez?

12 MEMBER HERNANDEZ: Aye.

13 SECRETARY WAGNER: Member Donatelli?

14 MEMBER DONATELLI: Aye.

15 SECRETARY WAGNER: Vice Chairman Francis?

16 VICE CHAIRMAN FRANCIS: Aye.

17 SECRETARY WAGNER: Chairman Mammina?

18 CHAIRMAN MAMMINA: Aye.

19 Application is granted.

20 MS. FERRANTE: Thank you so much for your time.

21 CHAIRMAN MAMMINA: Thank you. And I know that will
22 enjoy your lovely new home.

23 MS. FERRANTE: Thank you.

24 CHAIRMAN MAMMINA: And you did a very good job.

25 VICE CHAIRMAN FRANCIS: Very good.

26 SECRETARY WAGNER: Next appeal, Appeal Number 21467,

1 Appeal # 21467

2 Edgar Tiban; 29 Garfield Place, Roslyn Heights; Section 7,
3 Block 51, Lot 103 in the Residence-C Zoning District. Variance
4 from 70-50.B, to construct additions and a two story portico
5 too close to the street (secondary front yard).

6 CHAIRMAN MAMMINA: You've heard Appeal Number 21467,
7 Edgar Tiban. Is there anyone in the room interested in the
8 application other than the applicant? Seeing no one.

9 Come on down and give your name and address.

10 MR. BAPTISTE: Hi. Good afternoon. My name is
11 Nicholas Baptiste. My address 3036 50th Street, Woodside, New
12 York 11733.

13 VICE CHAIRMAN FRANCIS: Mr. Baptiste, what is your
14 relationship to this application?

15 MR. BAPTISTE: I am the architect.

16 VICE CHAIRMAN FRANCIS: Go ahead, sir.

17 MR. BAPTISTE: Okay. So the request for the variance
18 in this case is the request for the two story portico that's
19 being -- the addition, as well as the second story addition to
20 align to the nonconforming secondary front yard set -- existing
21 wall line, which is too close to the street. We're required to
22 be 20 feet from the secondary front yard and we are currently
23 at 14.2 existing and kind of using that existing condition to
24 align to the framing and utilize as much of that existing
25 footprint for the addition.

26 CHAIRMAN MAMMINA: From my perspective, you know, we've

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2 had -- we've had a number of these two story porticos, you
3 know, in -- in front yards and, you know, many times, you know,
4 people will bring us photos of other houses that have the two
5 story portico. I mean honestly, to the best of my recollection
6 anyway, the Board has never approved a two story portico, you
7 know, in the, you know, in the front yard, you know, and what
8 our response is, that person may have had a complaint setback.
9 Again, it's not about aesthetics, you know, for us. It's about
10 having this two story mass and roof within that front yard --
11 within that front yard setback. Design looks very nice, but
12 it's not what, you know, what we do. You know, and there's a
13 whole lot going on on the piece of property and everything else
14 complies. So cue dos, you know, that -- that you got that
15 figured out. But, you know, I'm just one Board member saying,
16 you know, I don't -- I think we would be setting precedent if
17 we -- if we approved, you know, this portico.

18 MR. BAPTISTE: Now, is the issue with the -- with the
19 primary front yard or with the secondary?

20 CHAIRMAN MAMMINA: No, the secondary.

21 MR. BAPTISTE: In regards to the two story portico?

22 CHAIRMAN MAMMINA: You're in the secondary. So I don't
23 know if anybody else has a -- I'm only one Board member.

24 VICE CHAIRMAN FRANCIS: No, I agree.

25 MEMBER HERNANDEZ: Well, we are here on two different
26 issues again, right. Because we have an expansion of the

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encroachment, because they are adding to the house and then in addition to that we have the two story portico, which are two different issues.

MEMBER GOODSELL: Could we just establish for the record that this is a rather large piece of property. Not particularly wide, but it's 50 by 128 or 129. So this is a substantiate ly unique property and our question is usually when you are adding to an existing property, is there a reason why, is there something about this property that you cannot conform to the building code. So there is a couple of issues that you might want to address, one being the two sorry portico. There is a set back issue with respect to a two story portico and again, we are not an aesthetic Board. So it's not that we're saying it looks terrible, we're not approving it. It's does it meet the setback.

MR. BAPTISTE: So I mean understood in regards to the portico. I mean existing right now, the second story is not a full second story. It's basically a glorified finished attic space. So in order to maximize the square footage -- the allowable square footage of the house or get close to it for that matter, we wanted to expand that second story.

MEMBER HERNANDEZ: But you're building directly above the footprint of the existing house?

MR. BAPTISTE: Correct. Exactly.

MEMBER HERNANDEZ: That's what we're trying to

1 Appeal # 21467

2 determine, that you're not increasing the encroachment.

3 MR. BAPTISTE: Not increasing it. Not increasing it
4 except for the portion at the entry. So just beyond the
5 portico entering that, you know, entry vestibule where the
6 stair begins and, you know, that's another reason. It's trying
7 to tuck the stair in a way that makes sense to the floor plan.

8 MEMBER HERNANDEZ: Right.

9 MR. BAPTISTE: So that -- that portion just as you
10 enter the house is a -- beyond the meats and bounds of that
11 existing floor plan, but everything else aligns.

12 MEMBER HERNANDEZ: With the existing property.

13 MR. BAPTISTE: Correct.

14 MEMBER HERNANDEZ: I'm just trying to see it in the
15 plans. And you are not exceeding the gross floor area of the
16 house?

17 MR. BAPTISTE: That's correct. I have -- I have the
18 zoning analysis attached in these -- in the drawings.

19 MEMBER HERNANDEZ: And the building department didn't
20 highlight it so that's why I'm just stating it.

21 MR. BAPTISTE: No. Yeah. Yeah. Yeah.

22 MEMBER HERNANDEZ: And generally speaking when you're
23 going straight up on a nonconforming house, we tend to look
24 favorably on that, because you're not encroaching anymore.
25 You're creating what you want, but you're not encroaching. We
26 do have a problem with a portico that is two stories

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encroaching.

MR. BAPTISTE: Yeah. Okay.

MEMBER HERNANDEZ: So you know why we're discussing it.

MEMBER DONATELLI: From a practical point of view --
from a practical point of view, we also found the whole point
of a portico is to protect somebody from the elements while
they're taking out their keys and trying to open the door.

MR. BAPTISTE: Right. Yeah.

MEMBER DONATELLI: Ringing the doorbell, whatever it
might be.

MR. BAPTISTE: Yeah.

MEMBER DONATELLI: A two story portico does not protect
you as well from the elements as well as a one story portico.
So while we understand that some applicants do come in and do
request a two story portico, as long as I've been on the Board
I can't recall such a portico. And I would also note that it's
5.8 feet, which is really fairly substantial variant for the
secondary front yard setback. And -- and my thoughts are that
it's visually very enclosing. So if it's 5.8 feet but then you
have such a massive enclosing portico that actually makes it
even more impactful from the street.

MR. BAPTISTE: From the Garfield Place side?

MEMBER DONATELLI: Absolutely. Would you consider a
one story portico in its place?

MR. BAPTISTE: Potentially. I mean that's -- that's --

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MEMBER DONATELLI: Would you consider also and again, we are no an architectural review Board. We are not concerned with aesthetics, but one of the things that makes it more palatable for us is if it were one story and if were open sided. So for example, you might find a portico that's -- that's held up by pillars or something like that to leave the illusion of open space in front.

MR. BAPTISTE: Right.

MEMBER DONATELLI: As one Board member, that's something that I would like to see that might make it more palatable and that we have looked favorably upon in prior applications.

MR. BAPTISTE: Okay.

CHAIRMAN MAMMINA: Yeah. So we're saying -- we're leaving the door open, I guess with no portico pun intended for you to come back, you know, with an alternate that -- that scales it down. You know, to the one storey where I think it, you know, it could still be an aesthetic element per se. But also as Mr. Francis said, you know, that truly becomes something that shelters you from the weather. And also I said, you got a whole lot into that site and I think you did it well.

MR. BAPTISTE: Thank you. I appreciate it.

SECRETARY WAGNER: So you want to continue for revised plans?

CHAIRMAN MAMMINA: Yes.

1 Appeal # 21469

2 SECRETARY WAGNER: You can upload those into the
3 portal.

4 MR. BAPTISTE: Okay. The revised plans?

5 SECRETARY WAGNER: And then BZA and the building
6 department can make sure there is no other issues.

7 MR. BAPTISTE: Okay.

8 MEMBER GOODSSELL: And obviously you're client will need
9 to know this too and would have to approve this.

10 MR. BAPTISTE: I'll relay everything.

11 MEMBER GOODSSELL: You're redesigning their house for
12 them.

13 MR. BAPTISTE: Yeah.

14 CHAIRMAN MAMMINA: Okay.

15 VICE CHAIRMAN FRANCIS: Okay.

16 CHAIRMAN MAMMINA: Thank you. The application then
17 will be continued.

18 MR. BAPTISTE: Thank you. Thank you for your time.

19 CHAIRMAN MAMMINA: In receipt of amended plans.

20 SECRETARY WAGNER: Next appeal, Appeal Number 21469,
21 Gail Kovack; 22 Nugent Street, New Hyde Park; Section 8, Block
22 112, Lot 29 in the Residence-C Zoning District. Variances from
23 70-51.A, 70-231.A(1) and 70-231.A(2), to construct an addition
24 for a mother daughter apartment that is too close to the side
25 property line, is too big, and has a kitchen that is too big
26 and to construct a roofed over front porch that is too close to

1 Appeal # 21469

2 the side property line.

3 CHAIRMAN MAMMINA: You heard Appeal Number 21469, Gail
4 Kovack. Is there anyone in the room interested in the
5 application other than the applicant? Seeing no one.

6 Please come on up and give your name and address.

7 MS. KOVACK: Hi. Gail Kovack, 22 Nugent Street, New
8 Hyde Park, New York 11040.

9 CHAIRMAN MAMMINA: Good afternoon. One minute after
10 12.

11 MS. KOVACK: Thank you. I'm here, I am the owner of my
12 property. Pretty simple as to the reason as to why I'm asking
13 for larger space than what the permit requires. I bought my
14 house 17 years ago, because my mother became disabled at 62 and
15 could not take care of herself, live by herself or support
16 herself. So I was the person who took the responsibility of
17 caring for her and so I had to buy a house for which that we
18 could, you know, live in and I'm looking for a larger space for
19 a verity of different reasons ones. I'll deal with the space
20 first. One, it has taken me 17 years to gather money to try
21 and make some type of renovations, because I am the sole income
22 for my family. It's myself and my mother. Two, I've been
23 living in a smaller space. My mother has the bottom living
24 quarters because she is immobile and cannot do stairs so she
25 has the bottom portion of the house for her living space.
26 Secondly, I would like a little bit more space and it's been

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2 taking some time for me to gather funds to attempt to get more
3 space. Thirdly, I am getting married at 53 years old and my
4 future husband will be moving into the house. I'm grateful
5 that he understands my responsibilities to take care of my
6 mother and to give the support, and we're trying to give some
7 continuity to my mother. You know, we love our neighborhood,
8 we love our house. You know, my older sister lives a couple of
9 blocks away and the grandchildren are there. My mother goes to
10 the local senior center and the stroke club so we thought this
11 was the best way to, you know, retain continuity for her and of
12 course for me, selfishly. You know, I like where I live and so
13 that we wouldn't have to relocate out of Nassau County for some
14 more space.

15 As to the porch, we do have a front porch. The house
16 came with a front porch. Being that we were, you know,
17 renovating the second floor, redoing the siding, there's a lot
18 of porches in our neighborhood that are a little more
19 aesthetically nicer and my mother loves the front porch. She
20 goes out there to read, it's a short walk for her. So as a
21 matter of just trying to give her something that she's never
22 asked me for anything, even though she's, you know, in a
23 situation where, you know, she doesn't want to be supported by
24 her child, but I figured if there's something that I could give
25 to her which would be a nicer porch.

26 So it's not anything technical. It's just about trying

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to have some more space as I, you know, move into another part of my life where I've had to live in a smaller space. I'm happy to do that, you know, she's my mother. That's what I'm, you know, times change when you get older and take care of them. So that's what I'm here for.

MEMBER GOODSSELL: Okay. Well, why don't we -- you're doing a good job representing yourself, which is fine. Why don't we just quickly run through all of the items and requirements that the town has for a two family or excuse me for a mother daughter apartment and you can tell me whether or not you're complaint and I already know the answers to some of them, but we're going to establish a record. Okay.

There's one entrance to the premises?

MS. KOVACK: That's correct.

MEMBER GOODSSELL: And there's no separate entrance for the mother or daughter apartment?

MS. KOVACK: That's correct.

MEMBER GOODSSELL: There's only one meter for the utilities?

MS. KOVACK: That's correct.

MEMBER GOODSSELL: And there is no exterior deck attached to any floor above the ground level?

MS. KOVACK: That's correct.

MEMBER GOODSSELL: The apartment is either for the parent or child of the owner?

1 Appeal # 21469

2 MS. KOVACK: That's correct.

3 MEMBER GOODSSELL: The owner resides on the premises?

4 MS. KOVACK: That's correct.

5 MEMBER GOODSSELL: The cooking facilities in the
6 apartment do not exceed 60 square feet?

7 MS. KOVACK: No, incorrect. That's what I'm asking
8 for, more space.

9 MEMBER GOODSSELL: What you're asking us for is double
10 that. You're asking us for 130 square feet. Could you explain
11 why?

12 MS. KOVACK: Just, you know, size of the kitchens these
13 days just to have, you know, space.

14 MEMBER GOODSSELL: Excuse me. I read it as 130. It's
15 103. So it's not double. I apologize.

16 MS. KOVACK: It's definitely more. I agree with you.
17 So I'm aware of all that. Just, you know, in the design, you
18 know, people use the kitchen as kind of the heart of the home.

19 CHAIRMAN MAMMINA: Who is going to live where?

20 MS. KOVACK: I'm sorry?

21 CHAIRMAN MAMMINA: Who is going to live where?

22 MS. KOVACK: I'm sorry, I thought I heard a question
23 from behind. So I live there and then my future husband will.

24 VICE CHAIRMAN FRANCIS: You're going to live on the
25 second floor?

26 CHAIRMAN MAMMINA: Which floor is that?

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2 MS. KOVACK: I will be on the second floor. I live on
3 the second floor now. My mother lives on the first floor.

4 CHAIRMAN MAMMINA: And it will be just your mother on
5 the first floor?

6 MS. KOVACK: My younger sister lives as well.

7 MEMBER GOODSSELL: So it's more of a this is what I
8 would like --

9 MS. KOVACK: Yeah. Sure.

10 MEMBER GOODSSELL: -- rather than I have a legal reason
11 for requesting?

12 MS. KOVACK: Yeah. I wouldn't say I have a legal
13 reason.

14 MEMBER GOODSSELL: And then the last requirement is that
15 the apartment, the upstairs is no more than 700 gross floor
16 feet. You're asking us for more than that.

17 MS. KOVACK: Right.

18 MEMBER GOODSSELL: Can you tell us why?

19 MS. KOVACK: So with another person living there
20 permanently, we just need some more space. I work for home,
21 I'd like to have an office, you know, spacing requirements just
22 to live a little bit more comfortably. It's a not a legal
23 issue. It's just about comfort and just having some more space
24 being that someone permanently will be there with me. Not now,
25 because we're not married yet but when that happens basically.

26 MEMBER GOODSSELL: And what -- what is the -- what's

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upstairs on the second floor now?

MS. KOVACK: There's a bathroom, there is two bedrooms. One which is not really used as a bedroom and then I have a small room that is very tiny that has a peak that just has, like, storage in it and there's some attic space. But that third -- it seems to be a room, it doesn't have any, like, it's not a livable room. So I really only have two rooms and a bathroom. So kitchen wise, I have to use the kitchen downstairs any time I need to cook, you know, that type of thing. So it's just trying to create a full living environment.

MEMBER GOODSSELL: And is the proposed apartment, is it going to overhang the house or is it built on the existing house now?

MS. KOVACK: I believe it is on the existing, but might be slightly out to the back.

MEMBER GOODSSELL: In other words cantilevered out to give you a little more space?

MS. KOVACK: Yeah. A little bit. Yeah.

CHAIRMAN MAMMINA: Just, you know, I had said earlier, you know, when I first came on the Board, my hair was jet black, really thick and longer than it is now. So I was a member of the Board when the Town Board went through a lot of research and I think thought process. Again, we are not the Town Board regarding mother daughter houses --

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MS. KOVACK: I understand.

CHAIRMAN MAMMINA: -- because they -- they understood exactly, you know, what you're -- what you're saying. That it's difficult financially, you know, for people. This was designed for a younger couple. It doesn't make any difference. It's the same thing. You saved for years, you know, and, you know, we get that. So it was to give, you know, a couple a place to live while they saved their money or say okay, mom and dad are gonna go upstairs to what I think was projected as a one bedroom apartment at 700 square feet, you know, with a small kitchen and then living room, dining room because it's a mother daughter, you know. So, you know, can go on downstairs and the family, you know, would, you know, mix, you know, together. I grew up in a house like that. A little bit crazier, because I shared beds with my cousins, my aunt and uncle, were my second set of parents and, you know, we were all in that one house together. There was no separation at all, but, you know, there was -- there was certainly something very nice about that. You know, I mean my cousins were my brothers and sisters as well and, you know, visa versa. But this is the Village of Mineola, it was a different time in history. But, you know, so I think that the thing is is that the Town Board worked long and hard, you know, on that in an effort to make this accommodation and, you know, the Board is very hesitant to give anything more than the 700 square feet. I mean, if you

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2 were looking for 710, you know, 20 that would be de minimus.
3 But the question is, are there alternatives. You know, and
4 there -- there are -- when you're building something new of
5 this -- of this, I'll use the word magnitude not that this is
6 big, but the ability to make it comply. You know, I -- I
7 think, you know, it falls on the applicant to do this, you
8 know, recognizing the fact that until this was put into place,
9 you weren't allowed to do it. You know, so for me and I don't
10 want to put words into your mouth, but, you know, I certainly
11 see ways that this can be cutback to 700 square feet and the
12 kitchen reduced and, you know, and still, you know, have that
13 work. The Town Board looked at it assuming that this would be
14 a one bedroom apartment. They were very concerned that, you
15 know, that when you win the lottery and you decide to move to
16 Old Brickville, you know, that -- that this doesn't become, you
17 know, a two family house at that point and that's the reason
18 for the registration and, you know, all of that. You know, I'm
19 only one Board member, you know. But I think, you know, from
20 700 feet to 822, you know, is, you know, is a lot. I mean you
21 could easily take 103 foot kitchen area and chop it back. But
22 that's not really answering what I see as the intent, you know,
23 of the mother daughter under the zoning.

24 MEMBER GOODSSELL: No, but there might be another
25 consideration here. Does your mother or sister do much
26 cooking?

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MS. KOVACK: Yes.

MEMBER GOODSELL: They definitely want to keep the kitchen on the first floor?

MS. KOVACK: Yeah. My mother can't get to the second floor. It's very difficult.

MEMBER GOODSELL: She can't. Okay. Because we could actually do a little bit different of a consideration if this house only had one kitchen.

MS. KOVACK: No, I understand. I understand.

MEMBER GOODSELL: There is a necessity for two kitchens.

MS. KOVACK: Yeah. So if we pulled back on the dimensions, even though it's still more than what it permits, I would still need a variance, correct?

MEMBER GOODSELL: Yes. But you would be doing is showing us that you are paying key to what the Board says and you are carefully considering the requirements of the Town of North Hempstead and we would like at that as the spirit of compromise.

So the buzz that is going on up here is the architect, whose brains works differently than myself as an attorney, is, in his mind, looking to see if there's something that he could suggest.

CHAIRMAN MAMMINA: I mean the mother daughter and I'm repeating myself, I believe my opinion was designed for one

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2 bedroom, you know, and, you know, a reasonable sized apartment
3 at 700 square feet as a one bedroom with a reasonable sized
4 kitchen, reasonable sized living, dining area and it wasn't,
5 you know, an accommodation. I hate to use the word
6 accommodation. It was a realization by the Town Board that
7 this was necessary. So my feeling, you know, is that you
8 should go back to your architect, you know, and, you know, ask
9 him how, you know, he makes that, you know, into a complaint
10 700 square feet, you know, and chops that kitchen back. And I
11 know it's not feasible to look at, you know, flipping it the
12 other way and I'm not suggesting that you start knocking down
13 parts of the existing house on the first floor. But, you know,
14 one of our tests that we have to do is, you know, is there
15 another solution, you know, and there is another solution in
16 order to comply. And you've been here for the day so you've
17 heard, you know, when we grant you 822 square feet or whatever
18 it is, then, you know, what real extenuating circumstance do
19 you have that we could say okay, well we granted that to Ms.
20 Jacobs, but, you know, you're -- not Ms. Jacobs, that's your
21 architect. I'm sorry. You know, to Ms. Kovack but we can't
22 grant it to you because yours is so different in X way, you
23 know. And I mean I don't see where there are -- cape codes are
24 probably one of the per dominant types of houses, you know, in
25 a lo of neighborhoods and the house I was talking about was a
26 cape code, you know, so there -- so the intent was that yes, to

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2 some extent you could build over, you know, the existing and --
3 and conform, you know, at the same time. So I think you can
4 hear that the Board is not adverse to -- to your -- your mother
5 daughter, you know, you trim the kitchen down, you find the
6 square footage and again, I'm only one Board member but I don't
7 think anybody would say anything different. You know, we're
8 fine with it and it's a great thing what you're doing for your
9 mom. You know, so I -- and we can put -- say the same thing
10 that we said to several other people. I mean first of all, you
11 don't have to back again, you know, and you can speak with your
12 architect and ask him can he cut that back, where can he cut it
13 back. That's for -- that's for you and him to decide and, you
14 know, you could, at that point, then just submit back via
15 e-mail to -- to Ms. Wagner and she will distribute it to the
16 Board. You know, not my business to be the architect, but in
17 this day and age with developers that I work for, we create two
18 bedrooms in 700 square feet, but, you know, they get a little
19 bit slim. But, you know, just --

20 MEMBER GOODSSELL: The other issue I think we can
21 address is the replacement of the awning over the porch.

22 CHAIRMAN MAMMINA: Yes, thank you.

23 MEMBER GOODSSELL: I'm familiar with your neighborhood
24 and there's a lot of houses that have, not necessarily on your
25 street, I think I saw only one other. There were a lot of
26 houses that were built there that have that little patio

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terrace porch and a roof over does, when it's sweltering in the sun or even when it's raining, it does create a lovely little alcove and I, Mr. Chairman, would have no problem with the applicant replacing the porch.

CHAIRMAN MAMMINA: Again, as one Board member, I have no issue. I almost think that a lot of those houses were built with that like it was a little extra you could buy, you know, from the builder. They are part of the charter of the -- of the neighborhood so no there's no issue with that.

MEMBER GOODSELL: Your mother should continue to enjoy using that as should you on a beautiful fall evening.

CHAIRMAN MAMMINA: So I think that's, you know, we would -- we would -- we would continue the application, you know, because as I said, sometimes we would offer a compromise. So, you know, that's where -- that's where the Board is coming from. We will reserve decision and you can submit other plans. If you have any other questions, you know, please --

MS. KOVACK: I mean, my only question is if we were to revise the plans to conform to the requirements, I wouldn't have the variance, correct? The 700 square feet.

CHAIRMAN MAMMINA: Well, you would have to change the kitchen. I think you have to come to the Zoning Board. I believe you have to come to the Zoning Board any way for a mother daughter.

MS. KOVACK: Okay. So we would have to go back through

1 Appeal # 21462

2 it. I'm saying to conform to the 700?

3 MEMBER HERNANDEZ: You don't need to physically come.

4 Just present the paper work.

5 CHAIRMAN MAMMINA: Just the application.

6 MS. KOVACK: I'm just saying just to go back to 700 and

7 the kitchen requirements and the spacing requirements.

8 MEMBER GOODSSELL: As close as you can. When I read you

9 the requirements, there were only two that you don't meet and

10 one is the 700 square feet for the gross area and one is for

11 the 60 square feet for the cooking facilities. See how close

12 to those numbers your architect can actually come.

13 MS. KOVACK: Right. I understand.

14 CHAIRMAN MAMMINA: There are standard conditions for

15 the mother daughter and I believe it gets filed with the town

16 attorney, you know, and you've already put on the record, you

17 know, who are the related people and I believe you had that in

18 your application as well and that's all satisfactory.

19 MS. KOVACK: Okay. Thank you.

20 CHAIRMAN MAMMINA: Thank you so much.

21 MS. KOVACK: I appreciate it.

22 CHAIRMAN MAMMINA: Good job.

23 We're just going to take a few minutes.

24 (A recess was taken.)

25 SECRETARY WAGNER: Appeal Number 21462, KMO 361 Realty

26 Associates (Natuzzi Italia Signs); 1950 Northern Boulevard,

Appeal # 21462

Manhasset; Section 3, Block 219, Lot 9 in the Business-A and Parking District. Variance from 70-196(J)(1)(f), to erect wall signs that are too high above the ground.

CHAIRMAN MAMMINA: You've heard Appeal Number 21462, KMO 361 Realty Associates (Natuzzi Italia Signs).

MS. JIMENEZ: Good morning. I don't know if's good morning or good evening.

CHAIRMAN MAMMINA: Is there anyone interested in the application?

MS. JIMENEZ: Good afternoon. My name is Lydia Jimenez, 71 Hanrahan Avenue, Farmingville, New York 11738. Good afternoon, Chairperson and Members of the Board. I'm here representing KMO Realty 361 LLC and Natuzzi Italia. Today we are proposing two illuminated wall signs at 1950 Northern Boulevard, Suite B1B. The wall signs are proposed for the Northern Boulevard elevation and the Village Road parking lot elevation. Both signs are proposed to be placed in the middle of the newly constructed sign band at 18 foot, six inches overall height. We respectfully request consideration for granting a variance height request of six inches. In granting approval of this request, there will be no undesirable change to the character of the neighborhood or nearby properties. There is no substantial variance due to the size of the property and the wall area. And the proposed variance will not create an adverse effect or impact on the physical or

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environmental conditions in the neighborhood or district.
Thank you.

CHAIRMAN MAMMINA: Thank you.

MEMBER GOODSSELL: Now, you must forgive my ignorance.
What type of store is Natuzzi Italia?

MS. JIMENEZ: I believe it's a fashion show -- fashion
store. Italian goods.

CHAIRMAN MAMMINA: You haven't shopped there yourself.

MS. JIMENEZ: Not yet.

MEMBER GOODSSELL: And neither have I.
Have you observed in the -- the American shopping
plaza, is it not?

MS. JIMENEZ: Yes.

MEMBER GOODSSELL: Have you observed other signs on the
other stores to be approximately the same height?

MS. JIMENEZ: Yes.

MEMBER GOODSSELL: Is this any higher than the other
signs?

MS. JIMENEZ: No. It would be approximately at the
same height.

CHAIRMAN MAMMINA: Is it on the sign band?

MS. JIMENEZ: There's a newly constructed sign band
power pit sort of structure and it is being placed in the
middle of it so it's centered nicely.

MEMBER HERNANDEZ: And the glass will still be exposed

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above, because the power pit has a glass section at the top.

MS. JIMENEZ: The newly constructed power pit is not glass. It's in front of the glass. I do have a photo.

SECRETARY WAGNER: These will be Exhibit 1. These are temporary?

MS. JIMENEZ: That's a temporary that's there now. Those are temporary non illuminated signs up right now. We are proposing illuminated halo lit signs.

MEMBER HERNANDEZ: To replace in the same location as these?

MS. JIMENEZ: Yes.

MEMBER HERNANDEZ: So then the actual sign will be above the band slightly?

MS. JIMENEZ: The actual sign will be where the temporary is placed right now.

MEMBER GOODSSELL: And the sign -- the -- the store is a through store meaning it faces Northern Boulevard and it also has an entrance from the parking lot in the rear, correct?

MS. JIMENEZ: Correct. Yes.

MEMBER GOODSSELL: And you are asking us for one sign on each side of the building is that correct?

MS. JIMENEZ: Yes. One sign for each facade, yes.

MEMBER HERNANDEZ: Well, we certainly know this shopping, the Manhasset Fifth Avenue so to speak where all the fashion stores are and both of them have east and west of the

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gate, they both have sign bands where you pretty much have to put them. That's why I was asking you where you were putting them. It is going or more less over the sign band.

MS. JIMENEZ: Yes.

MEMBER HERNANDEZ: You really can't put them anyplace else. There is no other sign at street level, is there? That is the only sign.

MS. JIMENEZ: There is a sign on Northern Boulevard and one sign on the parking lot.

MEMBER HERNANDEZ: But nothing lower?

MS. JIMENEZ: No. No ground signs. Not on the windows, not a ground sign. Correct.

MEMBER HERNANDEZ: All right. Mr. Chairman, given that this is the only place that it can go, I move that we grant the application as requested.

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

MEMBER GOODSSELL: I'll second that.

CHAIRMAN MAMMINA: Okay. We have a motion my Member Hernandez, seconded by Member Goodsell. Please poll the Board.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

1 Appeal # 21471

2 MEMBER HERNANDEZ: Aye.

3 SECRETARY WAGNER: Vice Chairman Francis?

4 VICE CHAIRMAN FRANCIS: Aye.

5 SECRETARY WAGNER: Chairman Mammina?

6 CHAIRMAN MAMMINA: Aye.

7 The application is granted. Thank you.

8 MS. JIMENEZ: Thank you.

9 SECRETARY WAGNER: Appeal Number 21471, KMO-361 Realty
10 Associates (Arc'Teryx Sign); 1950 Northern Boulevard,
11 Manhasset; Section 3, Block 219, Lot 9 in the Business-A
12 Parking District. Variance from 70-196.J(1)(f), to erect wall
13 signs that are too high above the ground.

14 CHAIRMAN MAMMINA: You've heard Appeal Number 21471,
15 KMO-361 Realty Associates. This one I'm not even sure how to
16 pronounce it. Arc'Teryx.

17 MS. JIMENEZ: Arc'Teryx.

18 CHAIRMAN MAMMINA: Okay. Got it.

19 MS. JIMENEZ: For the record, my name is Lydia Jimenez,
20 71 Hanrahan Avenue, Farmingville, New York 11738. This -- this
21 project is similar to the one beforehand. It's at 950 Northern
22 Boulevard, Suite B1A, which is right next door to Natuzzi
23 Italia. We are proposing, again, two illuminated signs, one on
24 Northern Boulevard and one in the parking lot elevation. These
25 signs are slightly higher at 18 foot, 10 inches and the other
26 one is at 19 foot, eight inches. We are requesting a variance

Appeal # 21471

height of 10 inches and one foot, eight inches. The proposed signage will be erected inline with the neighboring tenant, which is Lulu Lemon. Signs will be replacing the White House Black Market. I do have photos.

SECRETARY WAGNER: This will be Exhibit 1.

VICE CHAIRMAN FRANCIS: What kind of store is this?

MS. JIMENEZ: This is an outdoor gear store, like, sports. Outdoor skiing, snowboarding.

MEMBER GOODSSELL: Completely different than White House Black Market, which I morn that they've left.

MS. JIMENEZ: Yes.

MEMBER DONATELLI: Can I just say for the record that the fossil that is part of the logo is terrifying to me.

CHAIRMAN MAMMINA: It looks like it's doing a pushup on mountains.

MS. JIMENEZ: I didn't create that logo.

VICE CHAIRMAN FRANCIS: I like it.

MEMBER DONATELLI: It reminds me of Jurassic Park.

VICE CHAIRMAN FRANCIS: It does.

MEMBER GOODSSELL: So there will be both a sign and a logo in the window on the side that faces Northern Boulevard.

MS. JIMENEZ: Northern Boulevard.

MEMBER HERNANDEZ: Mr. Chairman, for the same reasons that I said in the previous case, this is the band where the signs have to go. So although it is lightly higher, there is a

1 Appeal # 21471

2 change in grade at that point. There are, like, three steps --
3 there are, like, three steps on the sidewalk there changing the
4 grade so I can understand why there would be a few inches
5 difference. So I move that we grant the application.

6 MS. JIMENEZ: Thank you.

7 CHAIRMAN MAMMINA: Okay. So we have a motion from
8 Member Hernandez to grant the application. Do we have a
9 second?

10 MEMBER DONATELLI: Second.

11 CHAIRMAN MAMMINA: Seconded from Member Donatelli.
12 Please poll the Board.

13 SECRETARY WAGNER: Member Goodsell?

14 MEMBER GOODSSELL: Aye.

15 SECRETARY WAGNER: Member Donatelli?

16 MEMBER DONATELLI: Aye.

17 SECRETARY WAGNER: Member Hernandez?

18 MEMBER HERNANDEZ: Aye.

19 SECRETARY WAGNER: Vice Chairman Francis?

20 VICE CHAIRMAN FRANCIS: Aye.

21 SECRETARY WAGNER: Chairman Mammina?

22 CHAIRMAN MAMMINA: Aye.

23 Application is granted.

24 MS. JIMENEZ: Thank you. Have a good day.

25 CHAIRMAN MAMMINA: It's your lucky day. Go buy a
26 lottery ticket.

1 Appeal # 21472

2 SECRETARY WAGNER: And last but not least, we have
3 Appeal Number 21472, Park East, LLC (Liberty Acupuncture and
4 Wellness, P.C.); 225 Old Country Road, Carle Place; Section 10,
5 Block N, Lot 274 in the Industrial-B Zoning District. Variance
6 from 70-103.A(1), to convert a retail space to an acupuncture
7 office with not enough parking on site.

8 CHAIRMAN MAMMINA: You heard Appeal Number 21472, Park
9 East, LLC (Liberty Acupuncture and Wellness, P.C.). is there
10 anyone in the room who wishes to speak regarding the
11 application? Seeing no one. The applicant ran away.

12 MR. BUTT: Be right there. Good afternoon,
13 Mr. Chairman, Members of the Board. My name is Edward Butt
14 from the firm Edward Paul Butt Architect, 499 Jericho Turnpike,
15 Mineola, New York. I'm here this afternoon to -- actually, let
16 me just take care of some paperwork first. These are all the
17 mailings.

18 SECRETARY WAGNER: Thank you.

19 MR. BUTT: Also, by mistake I sent over the wrong
20 traffic study paperwork. I sent over a proposal for a traffic
21 study not the traffic study. We clarified that this morning.
22 I did put it in the portal, but I figured I would give you all
23 copies.

24 SECRETARY WAGNER: Thank you. So this will be Exhibit
25 1.

26 MR. BUTT: That would be Exhibit 1, I guess.

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So my client is proposing a put in an acupuncture office/medical use, which is as defined by the -- by the Town of North Hempstead Building Department. Based on that, it requires us to have -- we have an insufficient parking count of approximately five cars. Ironically, the reason why I'm being asked to present this case today is because we did the Mexican restaurant to the -- to the left of this location about six months ago. If you haven't been there, just putting a plug in for them, they have some of the greatest chips I've ever had in my life just so you know. But because there was a recent traffic study done and we were able to sort of piggy back onto that and with the -- the use that was here, I felt it was sort of appropriate to make the presentation with regard to this. If you do have the traffic study before you and you go to the second page as I describe this. This is a very small use. It's -- it's a two -- two doctor office that has -- that's in the mist of several different restaurants on this particular location. To the left is the Red Lobster, the Cafe Katrina and then to the right is an Italian restaurant as well. So there's, like, sort of a restaurant row going on at this location and this is the only use of this is particular type on that -- on that -- that wing of the -- of the shopping center. If you do look at the -- at the traffic study, you'll see that -- and also, just to keep in mind, this operation occurs during the daytime between the hours of about 11 to about five. They

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2 don't have -- they very rarely have weekend hours, but it's a
3 relatively low impact. It's by appointment only. There are
4 five -- five examination rooms so at any give moment in time
5 they might have about seven or eight people in the place. If
6 you do refer to the traffic study though and you look at
7 anything between the hours of noon and 5:30, I approximately
8 have about 200 available spaces in this location. The place,
9 again, is -- it's a little bit rocking at night, but during the
10 day the place is a barren waste land. So that being said, I
11 think that it's appropriate that the use that's being proposed
12 here would be not any kind of traffic or volume impact
13 whatsoever and I certainly don't think it would have any
14 adverse effect on the community, because it's within the center
15 itself. And yes, it is self created but based on the -- the
16 instructions from the building department we are respectfully
17 coming before you to seek relief for those five cars.

18 CHAIRMAN MAMMINA: I will -- I will say that we've seen
19 many many many applications in this -- in this shopping center
20 and I'm also speaking as someone almost born and raised in
21 Carle Place and this shopping center is an interesting one, you
22 know, in that it has basically become restaurant row, you know,
23 in there and I'll use the pun feeding off of Roosevelt Field
24 and other store ins the -- in the area. You know, I've gone to
25 different restaurants there at different times and, you know,
26 yes, sometimes I gotta park, you know, way back or whatever,

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but, you know, I've never -- I've always found a parking space. But be that -- be that as it may and this is, you know, a test for this -- for this shopping center not necessarily any place else, but it is self limiting. There's absolutely no place else you're gonna go.

MR. BUTT: Right.

CHAIRMAN MAMMINA: You know, you can't -- you can't park in front of somebody's house. You know, you're even hard pressed to park in the adjacent shopping center and that's become there's problem then.

MR. BUTT: Right. Good luck crossing the street too.

CHAIRMAN MAMMINA: You don't want to cross the street there. I mean so I don't -- I don't see any issue, you know, with the, you know, with the application and that parking ratio is always influx at this specific center, you know.

MEMBER GOODSSELL: I don't have an issue with this either. I think the biggest issue here your client is gonna have is how somebody is going to make a left hand turn from Old Country Road coming down Glen Cove Road and into, across six lanes of traffic get into this particular parking area.

MR. BUTT: You know, it's funny and I go frequent the Mexican restaurant, because my wife like Mexican food so we go there a lot. But coming up from the north, the shortcut to that place is actually to get on the Meadowbrook Parkway and then get off right there and then you make the right right in.

Appeal # 21472

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It's a great way to go incase you want to go coming from the north, because you're right in. It's a right and a right. But you're right, to make a left into that space, you know, the timing has to be real good.

MEMBER HERNANDEZ: Better to be coming westbound.

MR. BUTT: Yeah. And I can't ever imagine them attempting to put a light there or anything like that so.

CHAIRMAN MAMMINA: And I think one other thing just that I'd like to add, which I think is important is that this business, I accept the testimony that it really doesn't compete based on the hours of its operation with any of the issues, you know, that are in there. So just as further clarification of my position.

MEMBER DONATELLI: I would also note for the record that a chiropractic -- acupuncture -- sorry -- practice probably would have repeat clients that would know the best way to access the site and who wouldn't try to make a left turn half way down Old Country Road. So all of those reasons, if nobody else has any questions or comments, I make a motion that we grant the application.

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

VICE CHAIRMAN FRANCIS: Second.

CHAIRMAN MAMMINA: Seconded by Vice Chairman Francis. Please poll the Board.

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Proceedings

SECRETARY WAGNER: Member Hernandez?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye.

The application is granted.

MR. BUTT: Thank you very much.

VICE CHAIRMAN FRANCIS: I move to adopt SEQRA. I'm
reading your mind.

SECRETARY WAGNER: Seconded.

MEMBER HERNANDEZ: Second.

SECRETARY WAGNER: All in favor?

MEMBER GOODSSELL: Aye.

MEMBER DONATELLI: Aye.

MEMBER HERNANDEZ: Aye.

VICE CHAIRMAN FRANCIS: Aye.

CHAIRMAN MAMMINA: Aye.

(TIME NOTED: 12:45 p.m.)

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C E R T I F I C A T E

I, NICOLE L. BASILE, a Notary Public
within and for the State of New York do hereby
certify that the foregoing proceeding was taken
before me on the 25th day of October, 2023.
The said testimony was taken stenographically by
myself and then transcribed. The within transcript
is a true record of the said testimony.

I am not connected by blood or marriage
with any of the said parties, nor interested directly
or indirectly in the matter in controversy, nor am I
in the employ of any of the counsel.

IN WITNESS WHEREOF I have hereunto set my
hand this 14th day of November, 2023.

A handwritten signature in black ink that reads "Nicole L. Basile". The signature is written in a cursive, flowing style.

NICOLE L. BASILE