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Town of North Hempstead

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Board of Zoning Appeal

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PUBLIC HEARINGS

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7

Wednesday, December 20, 2023

8

10:16 a.m.

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BOARD MEMBERS PRESENT:

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David L. Mammina, Chairman

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Leslie Francis, Vice Chairman

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Patricia A. Goodsell, Member

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Jay Hernandez, Member

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ALSO PRESENT:

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Deborah Algios, Town Attorney

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Virginia Wagner, Secretary

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Steven Perrotta, Planner

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Mariesel Berrios, Stenographer

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1 Proceedings

2 CHAIRMAN MAMMINA: Everyone, please rise and join Vice
3 Chairman Francis in the Pledge of Allegiance.

4 (Whereupon, the Pledge of Allegiance was recited.)

5 CHAIRMAN MAMMINA: Good morning, ladies and gentlemen.
6 What I like to do before we get started is just give a little
7 bit of information regarding the way we do things in the Town
8 of North Hempstead, in case you've been to another municipality,
9 whether it be a village or a town, Nassau County, Suffolk
10 County, because it might differ a little bit.

11 What we will do is as each case on the calendar is
12 called by our secretary; we will then ask for the applicant to
13 identify themselves by standing up and coming on up to the
14 microphone. I will also ask if there's anyone in the room who
15 has an interest in the application. So, that could mean you'd like
16 to speak regarding the horrible thing it's going to do or the
17 wonderful thing it's going to do, so that would -- we would just
18 keep it seated at that point.

19 Everyone who comes up to the podium will give their
20 name and address to our stenographer. This is a quasi-judicial
21 judicial proceeding. Therefore, we keep a written record of
22 that. When that is done, then the podium microphone belongs to
23 the applicant. The applicant will put their case onto the
24 record. The Board will ask whatever questions it feels that
25 they would like to ask. Applicant responds to those questions.
26 If there's anyone who would like to speak, they're then invited

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2 to come up, one at a time, to the podium. Give your name and
3 address and, you know, express why they're for it or why
4 they're against it. When that is done, then the Board will then
5 invite the applicant back up in case there's something that has
6 raised a question for the Board or the applicant, or the
7 applicant would like to support something that someone said or
8 repeat something that someone said. So, when that is done, the
9 hearing is finished.

10 Very seldom do we have two hearings. You're here,
11 there are villages you can go to and have five, six, seven
12 hearings, but ours is today. Every now and again, very
13 infrequently, we'll have a second hearing. What will then
14 happen is, the Board will do one of four things. We will
15 either approve the application. We'll deny the application.
16 We may continue the application. If we continue, that means
17 that the Board would like to see a Building Department file.
18 The Board has said to the applicant, okay, do you have that
19 closing document that we would like to see, or if there's
20 anything else that we would like to see of the applicant, and
21 then our fourth thing would be we would reserve the
22 application. If we reserve the application, that would be the
23 Board might want to -- we feel that all of the information has
24 been given to us. There's nothing further that we need, but,
25 you know, we're not prepared to deliberate on that at that
26 point.

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2 Everything that we do is done in public. When we do
3 deliberate, which is typically after every hearing, we may be
4 talking about applications that are a month old, we may be
5 talking about applications from today, and you don't have to
6 come back for that. You certainly can. The doors are open.
7 We do live stream as Ms. Wagner had said, so you can watch it
8 from your office or your home or whenever you would like. If
9 you do come or if you do watch it, there is no more testimony,
10 so anyone who's here to hear the deliberation is only here to
11 hear the deliberation.

12 With all of that said, I just like to go through a
13 couple of things. As you saw us get all set up with our stuff
14 here, you know, we'll just ask that everybody takes your phone,
15 puts it on silent. You don't have to shut it off. If you need
16 to take a call or make a call at any point; that's okay. You
17 just stand up, walk on out, and so we just ask that ringers and
18 things be shut off on the phone. Also, if someone else is
19 coming to join you, we ask that you ask them the same thing,
20 and that also we keep crosstalk to kind of at zero to whatever
21 extent that we can because the stenographer has to take a
22 record, and there are times that even the Board has to be
23 careful about not speaking over each other. So, again, if
24 there's anyone else who is coming to go join you, please ask
25 them the same. I think I got everything.

26 VICE CHAIRMAN FRANCIS: Three-minute rule.

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CHAIRMAN MAMMINA: Oh, yes, thank you. There's a three-minute rule, which says that the applicant gets however how much time the applicant needs. Anyone else who wishes to speak for the project or against the project, we have a three-minute rule on that. I'd like to say at three minutes we're not going to chop anybody's head off, but, you know, we have a relatively small group this morning, at least thus far, and, you know, if we have ten people that want to speak and everybody goes on for, you know, for ten minutes, we're going to be here for a very long time. We try to do everything with courtesy and seems to always work out. So, I guess, with that said, Ms. Wagner, do we have any modifications to the calendar? I just want to get your intake on that.

SECRETARY WAGNER: I just want to clarify also when the Chairman said applicant, that includes any architects or engineers or anybody in support of the application can speak as long they need to.

ATTORNEY ALGIOS: Well, not anybody.

SECRETARY WAGNER: Well, no. Anybody with the --

ATTORNEY ALGIOS: Party of the applicant.

SECRETARY WAGNER: Right, as part of the applicant can speak.

ATTORNEY ALGIOS: Right.

SECRETARY WAGNER: But it's any members of the public or coming up afterwards committed to the three minutes.

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CHAIRMAN MAMMINA: Good point. I'll have to add that

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in.

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SECRETARY WAGNER: Well, just to clarify.

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CHAIRMAN MAMMINA: No, you're 100 percent correct.

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1 Appeal # 21479

2 RESIDENTIAL CALENDAR

3 SECRETARY WAGNER: First appeal is Appeal # 21479, Ezra
4 Sternstein; 124 Old Mill Road, Great Neck; Section 2, Block 45,
5 Lot 22; Zoned: Residence-A.

6 Variances from 70-100.2(K) and 70-100.2(A)(2)
7 to install a gas generator in a front yard and to
8 legalize fencing in a front yard.

9 CHAIRMAN MAMMINIA: We heard Appeal # 21479, Ezra
10 Sternstein. Is there anyone in the room who would like to
11 speak regarding the application other than the applicant?
12 Seeing no one, please give your name and address.

13 MR. STERNSTEIN: Good morning. My name is Ezra
14 Sternstein and my address is 124 Old Mill Road in Great Neck.

15 CHAIRMAN MAMMINA: Good morning.

16 MR. STERNSTEIN: Good morning to the Board. Thank you
17 for hearing this application. I am the homeowner, the proper
18 owner. I live at 124 Old Mill with my family and my wife and
19 two young kids. As the Board knows, there are two variances
20 that we are seeking, a gas generator in the front yard as
21 opposed to the rear or side and legalization of a fence in the
22 front yard. The fence been there for decades. Not only is
23 this -- are these applications uncontested, I submitted to the
24 Board consent forms from all of the neighbors. I have copies in
25 case the Board would like to see, but I did submit them by
26 email. All of our seven adjoining neighbors and the neighbors

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2 across the various rights of way, we live on a corner lot, so
3 there are two rights of way, have consented to both of these
4 variances and are in favor of them. A few points on them, if I
5 may, the generator, the utility of the generator is
6 self-evident; our power goes out, we continue to have power.
7 In our case, it has a benefit beyond just our home. My wife is
8 a radiologist. She reads emergency visits for Northwell
9 Hospital, and many others, for North Shore, LIJ, and other area
10 emergency room that are under the ownership of Northwell. She
11 reads those overnight from home. The continuation of power
12 and uninterrupted power is critical not only to us but also to
13 the patient whose scans are being read at 2:00, 3:00, and 4:00
14 A.M. by my wife, and, so having that generator would allow us
15 to maintain that work-from-home schedule, which all of her team
16 enjoys.

17 The reason we can't put it where it's, I guess, legal
18 under the code in a rear yard is for multiple -- a multitude of
19 factors. Number one, the gas piping out is out in front. The
20 meter is out in the front yard, and so we would have to extend
21 piping underground; do a massive dig to do that. By contrast,
22 where the generator would go is right there next to the piping.
23 Totally invisible from the street I should add. It's behind --
24 there's existing masonry and shrubbery. It can't be seen from
25 either -- from anywhere outside of the property. So that I
26 think takes care of the generator.

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2 The fence, like I said, it's been there for at least
3 20 years. The previous homeowner who we happen to know
4 actually still lives in our community. We didn't buy the house
5 from them, but we know that they lived there, and he told us he
6 put a fence. Old Mill Road is a business. It's one of the
7 chief west-east connectors in the Great Neck peninsula up north
8 to end of town to the other. He told us that the reason he
9 built because he had a young child who ran out into the street,
10 almost got hit by a car, and the next day, he built the fence.
11 He didn't ask anybody, just did it. We're committed to doing
12 things by the book, to legalizing it, to keeping that fence. As
13 I said at the beginning we also have two young children. The
14 existence of the fence was the key reason we bought the
15 property and that feeling of safety to ensure that our children
16 who are seven and a half and five and a half, and their friends,
17 who we have over, don't also run into the street. Like I say,
18 everybody around us, all of our neighbors have signed consent forms
19 that they're all in favor. I yield my time to the Board.

20 MEMBER DONATELLI: You mentioned the prior owner of the
21 house who had installed the fence. Did he give you some sort
22 of an affidavit or some sort of proof as to when the fence
23 might have been installed? The reason why I'm asking is
24 because the fence code was enacted in the mid-90s. It would be
25 an important question to answer as to when the fence was
26 installed, whether it was installed pre-code or after the

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code. Do you have any kind of proof as to when it might have been installed?

MR. STERNSTEIN: No, I don't have any proof. This was all figured out through just conversations. We attend the same synagogue. The live our -- his grandchild is in the same class as my daughter, so it had just, you know, chatting.

MEMBER GOODSSELL: When did you buy the house?

MR. STERNSTEIN: Six years ago. About six and a half years ago.

MEMBER GOODSSELL: Did this issue come up when you bought the house; the fence in the front yard?

MR. STERNSTEIN: Well, when we went to go look back at the closing documents, the survey company, you know, noticed it, and realized it -- we were first-time homebuyers. Pretty unsophisticated, to be quite honest, and, you know, we didn't read it closely. We didn't realize it until -- actually, the reason it came up was because of the variance for the generator. We submitted just for the generator, provided pictures to the Board just to substantiate the fact that it was invisible. It can't be seen, you know, wouldn't be an eyesore, and during that process, the Board realized that there was this fence was against code. We didn't know.

MEMBER GOODSSELL: Did the Town also point out to you when you applied for the fence that it's not on your property line?

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MR. STERNSTEIN: Yes, we know that it is -- in fact, it's over on both Old Mill Road and Parkside. Parkside is a town road. Old Mill Road is a county road. We've been working with the Town and County to fix that problem. I actually have a draft contract from the County to lease that nine feet, I think, of overage, so we're in the middle of that process and the application process with the town, but all the conversations I've had with the town, and I'm trying to remember now whether it's the Highway Department, whichever department of the town that I've been engaged in discusses with, they all seem very positive. I'm hoping that those are going to have a good outcome. If they can't, we'd be open to moving the fence back, but the goal --

MEMBER GOODSSELL: It's not just also the fence, you also have either are providing the shrubs or something growing there for privacy.

MR. STERNSTEIN: Yeah.

MEMBER GOODSSELL: Which is what the Board occasionally recommends, but yeah, it's pretty far off your property line in a couple of places. I'm glad you're aware of that issue. The other thing that I just want to point out is as a corner property, you do have two front yards, technically.

MR. STERNSTEIN: Yes.

MEMBER GOODSSELL: But the generator, you're asking to put in your main front yard.

1 Appeal # 21479

2 MR. STERNSTEIN: On Old Mill.

3 MEMBER GOODSSELL: Not on your side front yard. The
4 main front yard; that's correct?

5 MR. STERNSTEIN: Yes.

6 CHAIRMAN MAMMINA: The generator, why can't you run the
7 gas pipe through the cellar? It comes right into the house in
8 the front there, and it would just seem like you'd be a shot
9 through to, you know, reach to the generator.

10 MR. STERNSTEIN: So it's -- that's a good question.
11 It's not just the piping. It's also the location itself. The
12 way that -- and I believe there are pictures of this in the
13 record, but the -- because we're a corner lot, we only have one
14 yard where this could be placed, and the way that our property
15 is set up, is our rear deck has steps that go down to sort of a
16 small side -- side yard, I suppose, and to put it, there would
17 block the stair access from the deck to the side yard, so it --
18 there's a multiplicity of factors.

19 CHAIRMAN MAMMINA: I'm sure that you would understand
20 that the location of the generator, the issue with the Zoning
21 is seeing it from the street.

22 MR. STERNSTEIN: Yes.

23 CHAIRMAN MAMMINA: I'm looking at your survey, and I'm
24 saying -- and there are pictures of everything, but the same
25 way that you have your air conditioning units, you know, pushed
26 over to the side. What alternates have you examined as part of

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your application that you can demonstrate that issue?

MR. STERNSTEIN: Demonstrate the issue that it's --

CHAIRMAN MAMMINIA: Yes, I mean, there's a masonry patio here.

MR. STERNSTEIN: Yes, on the --

CHAIRMAN MAMMINA: So, I'm saying, why can't that hit someplace in the area. The gas piping is very easy to run, and the other thing that -- I know you have cut sheets of the generator in here, but -- and I know that you have that masonry wall. How high is the generator compared to that masonry wall, you know, in there?

MR. STERNSTEIN: Not as high as the wall. It's -- I can ensure the Board that it is totally and will be totally invisible from any position outside of the property. The only place that it could potentially be seen from is within our sunroom. You have the -- on our property in the -- inside the house can actually see the generator.

CHAIRMAN MAMMINA: How high is that wall from the inside?

MR. STERNSTEIN: I don't know the answer to that question offhand. Taller than the generator.

CHAIRMAN MAMMINA: That could be something that should be documented if we were to look favorably on this application, and just as a very, very minor point, letters, at least for me, as one person on the Board, letters from neighbors, and things

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generally don't carry a lot of weight because we have a legal balancing test that we need to --

MR. STERNSTEIN: Right.

CHAIRMAN MAMMINIA: -- you know, to do and opinions have to become facts. Nobody likes to be a bad neighbor, you know, and say I think your generator is horrible. I think it would be important to, you know, show something physically that says where that -- where that wall is, and then where that generator would sit within that wall. We don't have that at this point, and we do see an AC unit there that is shown on the survey. Let's see what's the date on this survey. The survey is 2016, so it's fairly recent, but understand, you know, the points that -- the points that you're making.

MEMBER GOODSSELL: We're not questioning the necessity or the use of a generator. They're very popular. We understand that, but what we're questioning is the location. We're following the town code that says the generator shall be located here or no more than so many feet or whatever. Mr. Mammina, who's the architect on our Board, and -- I have a question for you on the air conditioner unit. Were you the owner that installed, I assume, the central air conditioning?

MR. STERNSTEIN: They are central. We did not install.

MEMBER GOODSSELL: You did not.

MR. STERNSTEIN: The pre-owners.

MEMBER GOODSSELL: Because they seem to be properly

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located, and right where I would put a generator by the way.

MEMBER DONATELLI: I think the larger point is, and no one's trying to give you, a particularly hard time, but of course, by every decision we make, we set precedent for other properties that are similarly located in the Town of North Hempstead. We have to be very, very careful in our review, so that -- I think we would like the information that the chairman has indicated regarding the generator.

Getting back to the fence. Like I said, if we can substantiate whether or not the fence was installed prior to the enactment of the code about fencing or after, would be helpful to me, and when we have approved situations, I know it's been extremely rare, and corner houses tend to be problematic when it comes to fences. We understand why because you do have two front yards, but when we have allowed this fencing in a front yard, it's always been behind the vegetation. In your instance, it seems to be in front of the vegetation. Now, to your credit, where the vegetation has grown into the fence, it is partially hidden, but in other places, it's extremely prominent, but again, that was not the purpose of the Town Board in enacting the town code. They don't want fences in the front yard and on those limited instances when we have approved them, they've been hidden behind vegetation. As one Board member, that would be my concern, so I would strongly suggest that you try and date when

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the fence was installed, and also with the understanding that in those limited instances, when we have approved them, it's always been behind the vegetation.

CHAIRMAN MAMMINA: And I think just supporting what Member Donatelli had said previously, you can plant as dense, you know, a plant designed as you would like at your front property line. I believe there is a section of the building code, and I'm not sure about any other municipalities to where a certain distance back or a sight line of cars that are coming around the corner, you know, needs to be -- needs to be abided by. It's the fence that's the issue more than the landscaping that's there. I would agree that, in all probability, you'll get that vegetation, you know, approved by the County and by the Town. The fence does not fall within their purview, so they're basically looking at the obstruction within that, so if they say yes, that's okay, doesn't include the fence, though.

MR. STERNSTEIN: Understood. And --

VICE CHAIRMAN FRANCIS: Can it be -- I'm sorry, go ahead.

MR. STERNSTEIN: Oh, no, I just -- to respond to Mr. Donatelli's question. I assume I can get that information from the previous owner about when the fence was installed. I just don't have that information today.

CHAIRMAN MAMMINA: And what would be helpful, which people have presented in the past, if the fence is a recent

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installation. In the history of the world, I will not compare anybody to my wife who has the little notebook when we entered things by hand in 1976 when we got married, and she has every single document in 27 trance files in my basement, but usually, having some kind of a bill of sale or something is, you know, I'm just saying that supports it even better.

VICE CHAIRMAN FRANCIS: I'd like to see a copy of the proposed contract with the County.

MR. STERNSTEIN: I don't actually have that with me, but I'm happy to submit that.

VICE CHAIRMAN FRANCIS: Can you submit that?

MR. STERNSTEIN: I'm happy to submit that.

VICE CHAIRMAN FRANCIS: The other thing that came to mind is with regard to the generator. Did you explore alternative fuel sources, like propane as a fuel source, in order to put the generator in a compliant area?

MR. STERNSTEIN: Technically, no, we didn't. We were told the gas meter is more than big enough and more than -- I'm a little out of my depth as to how that all works. I am not a gas expert. I don't really understand it. We were told by the plumbers and the folks with knowledge, the meter was big enough, I suppose, or had more than enough capacity to supply the generator.

MEMBER DONATELLI: Can I ask one more question? Are there any other properties similarly situated in your

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neighborhood that have their fences in the front yard area?

MR. STERNSTEIN: I'm not aware of any. There may be, but not to my knowledge.

CHAIRMAN MAMMINA: One of the things we have to look at is the character of the neighborhood because the Zoning is set up by the Town Board, not by the Zoning Board, and we are here to do a balancing test to decide on the several factors. There are five factors. I don't know if you're aware of the five factors, and if you are, you want to put those on the record, you know, the ones that are in your opinion.

MR. STERNSTEIN: Yes, Mr. Chairman, I submitted a letter in connection with the application.

CHAIRMAN MAMMINA: We usually ask the applicant to put it on the record, though.

MR. STERNSTEIN: Okay, I hadn't realized that I needed to take that additional step, but we can put that on the record.

CHAIRMAN MAMMINA: Only because people will say --

ATTORNEY ALGIOS: Well, if he submitted the letter, then it's in the record.

CHAIRMAN MAMMINA: Okay.

ATTORNEY ALGIOS: If you addressed those points in your letter, then it will be entered into the record.

MR. STERNSTEIN: Yes, in connection with both submissions, I think.

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CHAIRMAN MAMMINA: A lot times, they're very vague.
Does it affect the character? No.

MR. STERNSTEIN: I tried to be quite specific.

CHAIRMAN MAMMINA: Tell us how that's going to be
important, you know, to us. Generally, that's what we see;
just these yes or no kinds of answers.

MR. STERNSTEIN: I understand.

VICE CHAIRMAN FRANCIS: Is your letter one of the
exhibits that you submitted?

MR. STERNSTEIN: Yes.

CHAIRMAN MAMMINA: Yes, it's in here.

MEMBER GOODSSELL: It's in here.

MR. STERNSTEIN: Couple of pages. Probably one or two
pages.

MEMBER DONATELLI: Let me just add. In reviewing your
file, I noticed that you gave us a 1966 survey, and that 1966
survey does show an old rail fence there, so there was
something in 1966 there. The question, just to kind of put a
finer point on the question about the fence is, I guess, at
some point, that old rail fence was replaced with your estate
fence that you have right now. If you can try and find out
when that happened, whether or not that predated the code, that
might help us.

CHAIRMAN MAMMINA: Split rail fences were very popular

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1 Appeal # 21479

2 MEMBER DONATELLI: To keep the council.

3 CHAIRMAN MAMMINA: -- in the 60s.

4 MEMBER DONATELLI: Right.

5 MR. STERNSTEIN: Thank you. I will try to get that
6 information for the Board.

7 MEMBER DONATELLI: Thank you.

8 CHAIRMAN MAMMINA: I don't think we have any other
9 questions. What we'll do is we will continue this so that you
10 can see what information that you might have, that we have, or
11 potentially drive the neighborhood to see if you see any other
12 fences in the front yard.

13 MR. STERNSTEIN: Absolutely.

14 CHAIRMAN MAMMINA: Thank you very much. Well
15 presented.

16 MR. STERNSTEIN: Thank you.

17 SECRETARY WAGNER: So we're continuing, right?

18 CHAIRMAN MAMMINA: Yes, we're continuing.

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1 Appeal # 21487

2 SECRETARY WAGNER: Next appeal, Appeal #21487, Rupert
3 Yan; 96 Oxford Boulevard, Great Neck; Section 2, Block 353, Lot
4 12; Zoned: Residence-A

5 Variances 70-29 & 70-30.A & 70-208.F to construct
6 a foyer on a non-conforming home that is too close to the
7 street and makes the house too big.

8 CHAIRMAN MAMMINA: You heard Appeal #21487, Rupert Yan.
9 Is there anyone in the room who's interested in the application
10 other than the applicant? Seeing no one, please give your
11 name and address.

12 MR. SOLIS: John Solis, 16 Dolphin Green, Apartment
13 F1J, Port Washington, New York 11050.

14 CHAIRMAN MAMMINA: What is your relationship to the
15 property?

16 MR. SOLIS: I'm the authorized agent for the owner, and
17 I'm also representing the architect Edward Hicks.

18 CHAIRMAN MAMMINA: Okay.

19 MR. SOLIS: I have the consent forms from the neighbors
20 on either side.

21 SECRETARY WAGNER: This will be Exhibit Number 1, and you
22 have something else for me?

23 MR. SOLIS: Yes, these are just the principle talking
24 points that I'm going to be going over. I just wanted to give
25 you guys a copy so that you could follow along.

26 SECRETARY WAGNER: That'll be Exhibit Number 2.

Appeal # 21487

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MR. SOLIS: Great. Today, we're here for seeking two variances for a one-story vestibule located in the front yard. The variances are for a front yard setback and a floor area. As you'll see in a moment, these are just the principle talking points that are further explained than what was given in the application. Just starting with the first one in regard to the character of the neighborhood and the proposed vestibule. The proposed variance is for a one-story vestibule to an existing one-family residence. One-story vestibules and porticos can be found throughout the neighborhood and on a number of houses along the street. Both homes on either side of the subject property, 94 and 98 Oxford Boulevard, have one story porticos, and 106 Oxford Boulevard, which is located three houses down, has a one-story vestibule.

VICE CHAIRMAN FRANCIS: Did you check the Building Department records to see whether or not they were compliant.

MR. SOLIS: I did not.

VICE CHAIRMAN FRANCIS: How do you know that they're legal?

MR. SOLIS: Right now, this is just that -- it's -- these one-story porticos can be found in the neighborhood.

VICE CHAIRMAN FRANCIS: Not such a strong point unless they are compliant and legally built.

MR. SOLIS: Okay.

VICE CHAIRMAN FRANCIS: And you don't have any proof of

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that.

MR. SOLIS: I do not have the proof with me, no. The reason for the vestibule is because currently, right now, the entrance opens directly into the landing of the staircase. There is a five-foot setback when you open the entrance. You walk in, the stairs are right there, and there's also entrances into the dining room and living room area. As most people do nowadays, when they come in, they remove their shoes. They have two young kids, shoes everywhere, so this will help clear the area by adding the vestibule and giving them a space where they can place their shoes that wouldn't be interfering with the path of the travel.

In our opinion, the variance is not substantial where it would -- one-story vestibule would typically be a permitted encroachment into the front yard. Now, we are following the guidelines as per that permitted encroachment where it is a one-story. It is five feet deep, eight feet wide. The reason why we're so far into the front yard is because when the house was first built, the house itself already encroaches into the front yard, which was as per the plan examiner allowed at that time with the current zoning. We are already encroaching, so adding that one-story vestibule will cause us to encroach a bit further. Typically, it would be allowed, but because of the existing conditions, we are seeking a variance. In other --

MEMBER GOODSSELL: Excuse me. Was this vestibule shown

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on the original building plans? Because I know the building is under construction, and I know that there's a building permit posted. Was this vestibule shown on the original plans submitted to the Town, or was this all changed plans?

MR. SOLIS: For the existing construction? The existing construction that is going on right now is all interior work. There is no work being done to the bulk of the house. When the homeowner bought the house in 2020, the house itself, there's been no changes to the bulk of the house since then. This vestibule was added after the interior renovation application was submitted. The interior renovation application is for a finished cellar and for a bathroom located in the rear of the house.

MEMBER GOODSSELL: Okay, thank you.

MR. SOLIS: When the house was first built, it had I believe it was 3,800 square feet. I apologize. Let me -- yes, 3800 square feet, which was permitted at the time of construction. Since then, the code has changed, and so currently right now, the way the house sits, it is not compliant with current code, so adding these 40 additional square feet essentially increases the noncompliance. It goes back to if it was back in that old code, we would be able to do such work, but because of the code change, we're here for the variance.

VICE CHAIRMAN FRANCIS: So why don't you think that's

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substantial?

MR. SOLIS: I don't think the additional 40 square feet is substantial.

VICE CHAIRMAN FRANCIS: Why?

MR. SOLIS: In the grand scheme of things, it's one percent of the total floor area of the house. We're not increasing by, let's say, 500, a brand new room. This is just a small vestibule.

MEMBER DONATELLI: I would make the point that the Town Board actually set the gross floor area at a lower figure than what was previously allowed because the Town Board wanted smaller structures, and your client because the house was built prior to the current code, was allowed an additional 300 square feet, so your client already has gotten quite a bonus. As long as I've been on this Board, I know that we've been very strict, especially when it comes to gross floor area because, of course, that is bulk, and bulk detracts from the neighborhood. Now, I understand your point that it's only an additional 40 square feet, but from my perspective, it's already 300 square feet over what is now allowed. The other point that I would make, and again, as one Board member, is that when we think about zoning regulations, and in particular, about front yard setbacks, there is nothing more pressing or very few things that are more pressing than the impression that a house makes from its front yard setback and in a setback of the 27.75

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feet is a deviation of 7.25 feet, which again, presents itself to the street, and so that's a hard lift for me. I'm skeptical of that. Front yard setback exists for a reason because we do not want to change the character of the neighborhood because we want to preserve that open space in front and a close vestibule that protrudes 7.25 feet is quite an imposition, in my opinion.

MR. SOLIS: Just to that point, I provided two surveys just of the neighbors directly on either side of the house. Our house currently is more or less in line with those houses. Once you start to get further to the left of the house is when they go further back. I believe it starts about three houses down they start to go further back, which messes with the average front yard setback, and then --

MEMBER GOODSSELL: Is there a setback survey?

MR. SOLIS: I'm sorry?

MEMBER GOODSSELL: Is there a setback survey for the other houses on the block?

MR. SOLIS: Yes, in the plans, correct.

MEMBER GOODSSELL: Okay, let me take a look.

MR. SOLIS: In regards to the overall size of the house, I'm sure you've been to the neighborhood. You know Great Neck. The current size of the house is in keeping with the neighborhood. It's not -- it doesn't look out of place. It's not larger than the other houses in that area, especially

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on that street.

MEMBER DONATELLI: I do see your average front yard setback for the block, and that is very helpful, but I would just note that your own records indicate that it's 35.28 --

MR. SOLIS: The average, yes.

MEMBER DONATELLI: Front yard setback, so again, this a 27.75.

MR. SOLIS: Yeah.

MEMBER DONATELLI: Which is quite a deviation.

MR. SOLIS: The reason for that is it's not just the vestibule that's causing that, but the house already -- the existing house is already encroaching, and that's why the front yard gets pushed to 27 feet. Now, I just wanted to make it clear. These items with the house, which are existing current condition of the house, the floor area, the front yard, all of that was done prior to the current owner of the house, so it wasn't created by his actions. I just wanted to point that out.

MEMBER DONATELLI: Okay. For the record, as I look at the survey that was submitted as part of your application, right now, the front yard setback to the house is 32 feet 9 inches, and --

MR. SOLIS: It's 32.9.

MEMBER DONATELLI: Yeah, 32.9, okay. What's being proposed is 27.9, but again, our notes we have 27.75, but it's

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2 -- I think what we're talking about is decimals versus inches.

3 MR. SOLIS: Yeah.

4 CHAIRMAN MAMMINA: It's fine.

5 MEMBER DONATELLI: So, it's fine, but again, it would --
6 the house right now seems to be more or less compliant with the
7 average front yard setbacks on the street, as indicated in your
8 packet, but with the proposed foyer, it would then be quite a
9 deviation. The foyer would be enclosed; is that correct?

10 MR. SOLIS: Correct.

11 MEMBER DONATELLI: Because many times when we look at
12 these applications, and especially when they do violate a front
13 yard setback, one of the things that we looked into is whether or
14 not the foyer would be open, like a portico, and that would be
15 visually less intrusive than an enclosed foyer or vestibule.
16 And again, that -- it's just a very difficult lift for me.

17 MEMBER GOODSSELL: Could your client live with a single
18 open portico, as opposed to an enclosed foyer with an overhang
19 beyond that?

20 MEMBER FERNANDEZ: There's no overhang on this.

21 MEMBER GOODSSELL: No overhead, just the enclosed. All
22 right, I'm misreading this, then.

23 MR. SOLIS: Oh, yeah, there's no -- it's just the
24 enclosed. There's no additional portico.

25 MEMBER GOODSSELL: I'm looking at the drawing, but I'm
26 not an architect. I'm merely an attorney.

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CHAIRMAN MAMMINA: We forgive you.

MEMBER GOODSSELL: Read plans as far as I can read them.

MEMBER FERNANDEZ: The issue -- and that's the reason why the question was being started to ask. When you look down the street, and you see all of a sudden a five-foot protrusion coming forward, it becomes very obvious. If that would be an open portico, it obviously shows less bulk because you can see through it, so it's, therefore, less offensive, if you will, but you can see this bump out. The house itself is okay, more or less because it's more flush with the other house.

MR. SOLIS: And I understand, and if you drive down the street, you do see open porticos on many houses throughout. The reason why for the enclosure is really to give that added space, so when they do come in, they're able to have an area for their shoes and such. Now, there is a coatroom further back. The main thing is just that when you do walk into the house, like I mentioned, they have two kids and they're planning on more. It's a growing family. Where that space of the entrance is currently an access to the dining room on the left, the living room on the right, and then the stairs right there, it just helps us push away from that, and that's the reason for the enclosure, but --

MEMBER FERNANDEZ: Every house built between the 30s and the 50s had that same exact configuration. The same exact thing.

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MEMBER DONATELLI: Are you familiar with the five standards simply required to be considered by a Board in connection --

MR. SOLIS: The handout I gave you are those five points explained further.

MEMBER DONATELLI: Okay.

MR. SOLIS: That's what I was trying to get into, and then we went into discussion, but the majority of that has already been spoken about during this deliberation.

MEMBER DONATELLI: All right.

(Whereupon, a discussion was held amongst the Board Members.)

CHAIRMAN MAMMINA: I think what I'm going to suggest to the Board is that we continue the application, which will enable you to go through the neighborhood, see if you can find some other porticos that are there, and then also look at setbacks maybe in other areas of the block that are there, you know, to see what generally how far they compare to this one. I would also --

MEMBER GOODSSELL: We would also like to know that if you do find similar porticos on the block, and you could give us a couple of addresses, do they either predate the setback rule, or do they have a variance themselves? That's important to us.

MR. SOLIS: Okay. And going back to --

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2 MEMBER FERNANDEZ: Just for clarification, we keep
3 calling it a portico. It's a foyer that we're extending.
4 Portico is implied that you got open place. This is not an
5 open.

6 MR. SOLIS: Yeah.

7 MEMBER FERNANDEZ: You're proposing to extend the foyer
8 forward.

9 MR. SOLIS: Agreed, but the reason why, in my notes, I
10 included porticos is just because of that encroachment into the
11 front yard of the roof and such. Would you still want examples
12 of that, or do you just want me to stick to vestibules to help
13 you make your determination?

14 VICE CHAIRMAN FRANCIS: I think vestibules.

15 MEMBER FERNANDEZ: Vestibules.

16 MR. SOLIS: Vestibules only, okay.

17 ATTORNEY ALGIOS: And one other thing, you should also,
18 while you're doing your research, get evidence of other homes
19 that have received a gross floor area variance for exceeding
20 gross floor area.

21 MR. SOLIS: Okay. And just back to Board Member
22 Francis's point. I will, also, if I do come across more
23 porticos, I will also look into their old records to give you
24 dates and if they were legally installed and such.

25 VICE CHAIRMAN FRANCIS: Perfect.

26 CHAIRMAN MAMMINA: All right then, we'll continue the

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application. This won't be decided today, so that will give you an opportunity to help us support the document.

MR. SOLIS: Yes, great, thank you. Appreciate it.

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SECRETARY WAGNER: Next Appeal #21488, Sharmin & Ashraful Kamal; 3 Sunset Road North, Albertson; Section 7, Block 95, Lot 69; Zoned: Residence-B.

Variance from 70-42 to construct a deck that is too close to a rear property line.

CHAIRMAN MAMMINA: You heard Appeal #21488, Sharmin & Ashraful Kamal. Is there anyone in the room interested other than the applicant? Seeing no one, if he's the applicant, then -- if he's the applicant?

MR. LAPINSKI: No, no, I'm the applicant. He's the owner.

SECRETARY WAGNER: He's the owner?

CHAIRMAN MAMMINA: Oh, he's the owner.

SECRETARY WAGNER: He meant anybody else other than the presentation team.

CHAIRMAN MAMMINA: I'm sure he's not going to want to speak in opposition to his application, but he certainly is welcome to speak in favor if he would like to.

MR. LAPINSKI: Michael Lapinski, 25 Hillside Avenue, Williston Park, New York 11596. Good morning, Board Members.

CHAIRMAN MAMMINA: Good morning.

MR. LAPINSKI: I'm here with Jared Mendel Architects representing Ashraful Kamal of 3 Sunset Road North. It's on the corner. It's on the northeast corner of Sunset Road North

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2 and Serpentine Lane. This property is zoned as an RB Zoning
3 District. What we're proposing is a 305 square feet wooden
4 deck that sits roughly about 30 inches above grade. It does
5 create a couple of variances, which I'll discuss. Creates a
6 rear yard setback variance. The allowable is 15 feet, and what
7 we're proposing is eight feet to the rear property line, which
8 is the north property line.

9 VICE CHAIRMAN FRANCIS: Is there a home that's behind
10 that house?

11 MR. LAPINSKI: Adjacent to the rear yard?

12 VICE CHAIRMAN FRANCIS: Yes.

13 MR. LAPINSKI: Yes, there is. It's 72 Serpentine Lane.
14 So currently, Mr. Kamal has a standing platform of steps off the
15 kitchen and his dining room. He hired our office to start a
16 new deck, off grade, where his family can spend time together,
17 have dinner, and hang out when the weather is nicer.
18 Currently, the dwelling is kind of pushed towards the northeast
19 portion of the lot, and that was probably why adequate front
20 yard setbacks, but leaves with a minimal depth in the rear and
21 the side yard. Mr. Kamal purchased the home last year, 2022.
22 He was really unaware of the placement of the house and that
23 the decks have a required setback off property lines. The
24 house was positioned and built in 1985, which is almost
25 40 years prior to him purchasing it. We looked into the
26 possibility of bringing the deck back to the allowable setback

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line, but the depth of the post deck was really insufficient for his needs, which would be 13 feet, and reducing the deck and wrapping it around the rear also wouldn't give him adequate space along that kitchen bay wall, and would also just require just, you know, added structure, and if we did bring it back to the setback line, it would be just unusable space between that kitchen bay and the required setback line. If we did push it back; we'd actually, I guess, increase the linear length of the deck protruding into that rear setback line.

MEMBER DONATELLI: I'm not sure that I understand that point. I didn't want to interrupt.

MR. LAPINSKI: Of course.

MEMBER DONATELLI: But if we were to make the deck smaller, why would it be unusable?

MR. LAPINSKI: The deck would -- well, that it would be unusable, just useable for his needs. If we're to push this deck back to, I guess, the allowed setback line, that deck would actually be roughly 13 feet, and then also, if you look at the floor plan, there are a pair of sliding doors that come out of the kitchen and that come out of the dining room, and really that space now -- I mean, if you look at his current, I guess, platform now, it's not very usable, and really there's only a chair there. That's basically really just become circulation in and outside of the house, so they really, you know, extend it out past that, would be the usable deck space.

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MEMBER DONATELLI: Would it be possible to make the deck smaller, then? Right now, I think you have it at 19.97, which is almost 20 feet.

MR. LAPINSKI: Correct.

MEMBER DONATELLI: That's a pretty large deck. Would it be possible to make the deck smaller?

MR. LAPINSKI: It could -- we could if the Board is amenable to, I guess, the dimension of the rear yard setback line.

VICE CHAIRMAN FRANCIS: My concern is for the rear yard neighbor. Eight feet is pretty close to their backyard. What you're building is something that's going to be used, you know, recreationally, so there's going to be a certain amount of noise being created on that deck, and if I'm the rear yard neighbor, I'm not too happy with you being eight feet closer to me.

MR. LAPINSKI: Absolutely. What we did do when we did design the deck, we held an allowable side yard setback, so we're almost, you know -- at first, we wanted to see how much we can get, and then once we back one, we realized the severity, I guess, of what we were asking for, we thought -- well, our office thought that at least holding a side yard setback on a corner lot, like such here, would be, I guess -- we're actually requesting more. It's actually eight feet. We're required a standard setback would be seven, so our thought is some other

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probably were to build a deck seven feet off their property line, we thought that be a sufficient line to at least hold, and then to ask for.

VICE CHAIRMAN FRANCIS: Did you get a consent from the rear yard neighborhood?

MR. LAPINSKI: I do, and I can actually, you know, submit this into an exhibit.

VICE CHAIRMAN FRANCIS: You should.

MR. LAPINSKI: I'd just make a note for the record that 17 Serpentine Lane, the homeowner, has signed this application.

VICE CHAIRMAN FRANCIS: Okay.

MR. PERROTTA: Thank you.

SECRETARY WAGNER: Make this an exhibit?

MR. LAPINSKI: Yes.

MR. PERROTTA: Exhibit 1.

CHAIRMAN MAMMINA: You're also about 30 inches off of the ground, you know, so, I mean, you're a tall guy. I'm a short guy, but if we can push it up another if you're standing on top of a 30-inch deck, and if their fence is, I don't know, five feet permitted. Could be six. You know that's still a lot of activity very close to, you know, their house. The existing house from the photographs appear to have a step-down to where the concrete platform is. Now, could this deck step down so that it limits the height that it comes up above grade, and you could even have a platform that comes out, level it if

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2 you'd like to, and then step it down, you know, from there,
3 which would take eight inches off to that -- that height of
4 that deck.

5 MR. LAPINSKI: Yeah, so we are going to be proposing a
6 step down from the, I guess, the dining room and the kitchen
7 sliding doors, just for, you know, snow purposes, so it is
8 going down slightly.

9 CHAIRMAN MAMMINA: I don't see a section.

10 MR. LAPINSKI: I believe Sheet A2, Drawing 4.

11 CHAIRMAN MAMMINA: Hold on, let me see. I'm not seeing
12 a section through that. I'm seeing something that appears to
13 line up with the deck.

14 MR. LAPINSKI: So, you want to see a cross-section, I
15 guess, through that one story.

16 CHAIRMAN MAMMINA: Not even necessarily a cross-section.
17 I mean, take a look at your Detail 4. I don't know.
18 Where -- show me where the step down is?

19 MEMBER DONATELLI: It's showing --

20 CHAIRMAN MAMMINA: That it's level.

21 MR. LAPINSKI: Yeah, it's showing that it's level.

22 MEMBER DONATELLI: So, I'm saying if you have had a
23 platform even.

24 MEMBER FERNANDEZ: Yep.

25 CHAIRMAN MAMMINA: So that you're not stepping directly
26 out of the house, and you have, I'm just suggesting a four-foot

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2 by four-foot platform, and then you step down eight inches, you
3 still gotten your deck, but now you're, whatever --

4 MEMBER FERNANDEZ: Sixteen inches lower.

5 CHAIRMAN MAMMINA: Yeah, right.

6 MR. LAPINSKI: A foot. Somewhere around there.

7 CHAIRMAN MAMMINA: Yeah, so you're substantially lower
8 than what you would otherwise.

9 MEMBER FERNANDEZ: You're roughly a foot and a half
10 versus three.

11 CHAIRMAN MAMMINA: Yeah, yeah, exactly. Yeah, so I
12 mean, I will just add Mr. Kamal, you know, he wanted to try to
13 minimize the amount of, I guess, the elevation from the step
14 off the kitchen and dining down to his deck, but, you know --
15 is it okay if I bring him up here and just quickly and speak to
16 that?

17 VICE CHAIRMAN FRANCIS: Before you do that, just, I want
18 to go back to your point about the side yard versus the rear
19 yard.

20 MR. LAPINSKI: Yes.

21 VICE CHAIRMAN FRANCIS: Whatever you did or didn't do
22 to the side yard really still doesn't affect the rear yard
23 setback. Would you agree with that?

24 MR. LAPINSKI: Sorry, can you -- can you say that
25 again?

26 VICE CHAIRMAN FRANCIS: Whatever you did to the side

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2 yard, made it compliant, gave him his own room, whatever, still
3 doesn't have any effect on the rear yard setback.

4 MR. LAPINSKI: No, it doesn't. I'm just saying in
5 terms of, I guess, a generality where you could, I guess, you
6 could build a deck seven feet off of a property line, which
7 would be your side yard. We're doing that with just a rear
8 yard on a corner lot, and we're holding the eight feet.

9 VICE CHAIRMAN FRANCIS: Okay.

10 MR. LAPINSKI: Sorry, one moment.

11 (Whereupon, there was a pause in the proceeding.)

12 MR. LAPINSKI: I was talking to the homeowner, Mr.
13 Kamal. He's saying that he has three young children, and if he
14 can try to minimize the elevation from the kitchen and the
15 dining room, just because they're three little kids and an
16 eight-inch step is quite a lot for them, and he does not want
17 them to trip and fall.

18 MR. KAMAL: They might trip and fall.

19 VICE CHAIRMAN FRANCIS: Sir, give your name and
20 address.

21 MR. KAMAL: Good morning. My name is Ashraful Kamal.

22 ATTORNEY ALGIOS: Spell it for the court reporter.

23 MR. KAMAL: Ashraful Kamal, A-S-H-R-A-F-U-L; Kamal,
24 K-A-M-A-L. Address is 3 Sunset Road North, Albertson, New
25 York.

26 VICE CHAIRMAN FRANCIS: Okay, go ahead.

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MR. KAMAL: I purchase the house last year. Just want to, I have three little kids, so I want to build a deck for the backyard, so kids could spend time outside in the summer, barbecue and other outside stuff, so -- but the steps I was talking it will be scared. They might fall when they come from the kitchen or the dining room, either of them going down. If it's going down -- it's the same level, it'd be easier for them to go in and out. That's my only thing.

CHAIRMAN MAMMINA: Part of what we do is, we have to look at are there other options, or is there any way that we can mitigate maybe making it less, and please, take this the way I mean, because I got kids that are all grown, but I've got three grandchildren, you know, and we all worry about them, but they're going to open doors and go downstairs. They're going to go down steps in the house. They're young now. The deck will be there forever, so I think, basically, we're talking about potentially creating a platform outside or taking one step down that when you're opening the door, you'd walk out level and then that takes that deck down from 30 inches -- 30 inches?

MEMBER FERNANDEZ: Yes.

CHAIRMAN MAMMINA: Yes, 30 inches to 22 inches, you know, by doing it that way, so that your neighbors that are in back of you there have less impact. I mean, I just -- as an example what am I talking about, and it was -- it's in my own neighborhood and I look at it and say, I'm not the zoning

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2 police, but somebody put up a swimming pool on a corner lot in
3 the front yard, which they use as their rear yard, and then
4 they put up a five-foot fence, and they have a four-foot
5 platform, so it's like you see all these people walking around
6 who are floating in the air because -- and now, clearly, it
7 violates the zoning completely, but just trying to give an
8 example that if we can lower it a little bit, we mitigate to
9 that neighbor. We give you then, assuming that the Board
10 agrees, you still have your 20-foot deck out there. You can
11 put on nice planters on each side of it.

12 MEMBER FERNANDEZ: Put a platform.

13 CHAIRMAN MAMMINA: Put a platform coming out of the
14 doors.

15 MEMBER GOODSSELL: Lower the deck. It'll be less
16 intrusive to the neighborhood. It's a large deck. I
17 understand that, and we understand that your children are
18 young. They will go up and down the stairs inside the house.
19 They're growing up now, but we're looking at the impact of the
20 neighborhood, not the neighbor itself.

21 (Whereupon, a discussion was held amongst the Board
22 Members.)

23 MR. LAPINSKI: If I may, so I guess with that current
24 condition of the two sliding doors. What would have to happen
25 is, I guess, if you were to take a line from, I guess, that
26 kitchen corner toward where the deck intersects and draw that

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across the line, that would all have to be raised up because we also need a platform outside the sliding doors of the dining room.

Now, would the Board be amenable to -- would a four-inch step off of the, I guess, off of the kitchen and the dining room, almost as a slow ledge, and then a four-inch step then onto the main part of the deck, so then, I guess, the main part of the deck that projects out past, I guess, the corner of that bay would be eight inches below, and then, I guess, the platform that takes up the length of the deck will be four inches, and then four inches into the house.

VICE CHAIRMAN FRANCIS: I can't even follow.

CHAIRMAN MAMMINA: You can't visualize it.

MR. LAPINSKI: Okay, no problem.

MEMBER GOODSSELL: What does the sliding open to now? Does it open to the step platform shown on your pictures?

MR. LAPINSKI: I'm sorry, do you mind saying that again?

MEMBER GOODSSELL: What does this sliding glass door open to now? Does it open to the stepped platform on your photos?

MR. KAMAL: No, the step is still lower. The step is a little bit lower. Not at all the way flat.

MEMBER GOODSSELL: The step --

MR. KAMAL: Not at all the way flat.

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MEMBER GOODSSELL: It's a little bit lower than the sliding glass door?

MR. KAMAL: Probably six inches lower than -- six inches lower.

MEMBER GOODSSELL: Than the sliding glass door.

MR. KAMAL: Yeah.

MR. LAPINSKI: Yeah.

MEMBER GOODSSELL: Shouldn't be a problem, then.

CHAIRMAN MAMMINA: Why don't you submit --

MR. LAPINSKI: Okay.

CHAIRMAN MAMMINA: You know, a sketch, or you can modify these very easily.

MR. LAPINSKI: Exactly.

CHAIRMAN MAMMINA: Draw on a notepad, and you can -- you can change that up quickly. Yep.

SECRETARY WAGNER: How long are you telling him he has to come back from the property line? What are you --

MEMBER DONATELLI: And that gets to a question that I had. As I indicated in my comments earlier, your deck is going to be almost 20 feet long by 15 feet wide. What do you anticipate putting on this deck?

MR. LAPINSKI: Unless Mr. Kamal wants to take over, it's really just for a table, you know, for eating, potentially a couple of lounge, you know, outdoor lounge chairs and a --

MEMBER DONATELLI: Would it be possible to achieve the

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same result with a deck that might be a few feet shorter than 20 feet?

MR. LAPINSKI: If we are, I guess, elevating platform, there's not going to be really sufficient space to be put all of the, I guess, furniture, and the, I guess, outdoor table, I guess, on that platform if we were to decrease the depth from 20 feet.

MEMBER DONATELLI: So -- and I'm not being argumentative, but I'm sure, you know, one of the factors that we're required to examine as we weigh our decision is whether or not the -- we are granting the least variance possible. And again, if we're talking about what is almost 300 square feet of deck, if it's 20 by 15, then my question is, would it be possible to create a smaller deck that still achieves what the applicant is trying to achieve but would be less of a variance by being less of an encroachment on the rear yard setback?

ATTORNEY ALGIOS: I also -- I'm sorry, I have a question, too. Are you also proposing a patio off the deck?

MR. LAPINSKI: Yes, the pat -- there's a proposed previous patio on grade.

ATTORNEY ALGIOS: So, would it be possible to bring the deck back and move some of the furniture down to the patio?

MR. LAPINSKI: I guess Mr. Kamal just wanted to have, you know, furniture that essentially wasn't on grade at the end

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of the day.

SECRETARY WAGNER: So, maybe what you can do is, in your sketch, you can show some of the furniture, you need space to require the table; whatever it is he needs to be on the deck itself and show how much room is needed in order to place that.

MR. LAPINSKI: Yeah, so really from -- and I just want to put this. So, really the deck, once we take the platform -- once we elevate that platform, and becomes almost unusable of what kind of space he has there right now. We're requesting really that deck, I guess, at that lower grade to be 13 feet.

MR. KAMAL: Only the 13 feet from the steps. We're not getting the whole 20.

MEMBER DONATELLI: I'm sorry, can you repeat that?

MR. LAPINSKI: Yeah, so if you were to create a platform that Chairman Mammina was mentioning that is currently -- that's roughly the size of what he -- in terms of, I guess, the depth of what is there right now, which is pretty unusable, so once we have to create that platform, and then step down onto the main, I guess, we'll call it the main part of the deck, that's about seven feet from -- hold on one -- so, right here, this is about seven feet from this dimension right to here.

MEMBER DONATELLI: Yes.

MR. LAPINSKI: So if we were to put a platform there because we have sliding doors here and sliding doors there, we

1 Appeal # 21488

2 need a platform to go all the way across. This dimension is
3 13 feet.

4 MEMBER DONATELLI: Well, that's still the 20 feet,
5 though.

6 MR. LAPINSKI: Correct, the deck as a whole is 20 feet.
7 Usable deck space really then just becomes 13 feet.

8 MEMBER FERNANDEZ: I'm not the architect drawing this
9 but one thing you may want to consider is instead of splitting
10 your deck into an upper deck and a lower deck; just consider
11 combining the two as a lower deck in the back. What you're
12 calling the step-out platform --

13 MR. LAPINSKI: Just go right down.

14 MEMBER FERNANDEZ: Just go right down, so you'll have a
15 more usable -- instead of half halves, and again, I'm not a
16 designer. I'm not the architect, but it sounds to me that you
17 may want to consider that.

18 (Whereupon, a discussion was held amongst the Board
19 Members.)

20 MR. LAPINSKI: So, I think we're going to revise the
21 plans to show the entire deck to be lower. Keeping the same
22 size and dropping it down, and we can, I guess, provide a
23 sketch to the Zoning Board.

24 MEMBER FERNANDEZ: You don't have to come in person
25 again. You can just submit it.

26 (Whereupon, a discussion was held amongst the Board

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Members.)

MEMBER DONATELLI: Let me suggest this because, again, if you've been here since this morning, you know that everything that we do sets precedent for every application that follows. I have certainly listened very carefully to your presentation and to your client's desire, and I think we're mindful of what it is that your client is trying to achieve. I personally think as one Board member, it would make this more palatable to me if the deck were dropped lower because then it becomes less intrusive to the neighbors and somebody standing on your deck wouldn't necessarily be able to look over the fence or vice versa.

The other issue that I have is, of course, your requesting what is essentially a 40 percent variance of the rear yard setback from 15 feet to 8 feet, which is just very, very difficult for us to approve. As I said earlier, one of the things that we're required to consider is whether or not we're granting the minimum variance because we are not the Town Board, and we don't have a right to just make things up on our own. We are bound by our precedents.

Would your client consider at least giving us -- and this is not let's make a deal, but would your client consider giving us a rear yard setback of ten feet so it can cut the width of the deck from 20 feet to 18 feet, thereby giving us a rear yard setback of ten feet. That might make it a bit more

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palatable.

MR. LAPINSKI: Yes, I spoke to Mr. Kamal, and he's accepting of that, and we can shift the deck to be a depth of 18 feet.

MEMBER DONATELLI: Let me suggest this because I appreciate that. Let me suggest that we continue this, Mr. Chairman for new plans showing that and then it will be a -- it will be a little bit easier for us to reach a decision.

MR. LAPINSKI: Is that resubmitting to the Board or being heard -- to Virginia, right?

MEMBER DONATELLI: To Ms. Wagner.

CHAIRMAN MAMMINA: You needn't come back.

MR. LAPINSKI: Okay, perfect.

CHAIRMAN MAMMINA: And those would just go to the Zoning Department to Ms. Wagner.

MR. LAPINSKI: Perfect, okay, understood.

CHAIRMAN MAMMINIA: Whatever we approve, the Building Department will see that was approved.

MR. LAPINSKI: Exactly.

CHAIRMAN MAMMINIA: And then move the application.

MR. LAPINSKI: Absolutely. Thank you, guys, so much.

CHAIRMAN MAMMINA: We appreciate it.

MEMBER DONATELLI: Good presentation.

MR. LAPINSKI: Thank you.

1 Appeal # 21489

2 SECRETARY WAGNER: Appeal #21489, Rajesh Subraj; 2
3 Parkway Drive, Roslyn Heights; Section 7, Block 172, Lot
4 11; Zoned: Residence-AA.

5 Variance from 70-100.1 to legalize a stationary
6 barbecue and a gas fire pit in a side yard.

7 CHAIRMAN MAMMINA: You've heard Appeal #21489, Rajesh
8 Subraj, is there anyone in the room who has an interest in the
9 application other than applicant? Seeing no one, you can
10 give your name and address.

11 MR. KOUTSOUMBIS: Good morning, and Members of the
12 Board. My name is Dean Koutsoumbis. My address is 121
13 Newbridge Road in Hicksville. I'm here with my client today
14 Mr. Subraj.

15 MR. SUBRAJ: Good morning. Happy Holidays. My name is
16 Rajesh Subraj, 2 Parkway Drive, Roslyn Heights, New York 11557.

17 CHAIRMAN MAMMINA: Thank you. Appreciate it.

18 MR. KOUTSOUMBIS: We're seeking permission today to
19 legalize a barbecue island and a fire pit, and the reason we
20 need a variance is because the Town determined that these
21 structures are located in the side yard of the property. Now,
22 from a technical standpoint, yes, this is considered the side
23 yard, but from a practical, you know, use of the land in the
24 property, the front of the house is facing Parkway Drive, and
25 essentially, you know, the back of the house is where the
26 structures are, but even though the property appears to be

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2 somewhat square, the actual dimensions are 128 in one direction
3 by 130 in the other direction, so the rear yard, according to the
4 legal Town standards would be the space between, you know,
5 between the side property line, like, in essence, where the
6 generator and the shed are. It's really the -- the rear yard
7 is that area of the property.

8 It would not be practical to locate these structures in
9 that area. I know we're here -- we're asking for forgiveness
10 being that they're built already. This was part of a, you
11 know, major renovation. I shouldn't say renovation, but
12 exterior improvement, which included the pool, the spa, the
13 retaining walls, the platform, the pavers, so other work was
14 being done, and to be honest, there was actually a permit
15 for a barbecue island, but did call for it in the area where
16 they, essentially, where they put the spa.

17 The spa in itself did not need a variance because the
18 spa is completely in the rear yard. They did come back at one
19 point -- at one point, they were here for a variance on the pool
20 because of a portion of the pool is located within the side
21 yard of the property.

22 We're not asking for any setback variances. This is
23 this far -- both structures are far away from any neighbors.
24 It is 18 feet to the fire pit. Forty-three feet to the
25 barbecue island. If they were in a complaint location, they
26 actually would be closer to neighbors, so I don't feel like

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2 this is a type of variance where, you know, we have to ask for
3 neighbors' permission or anything like that because it's a
4 matter -- it's far -- they're much further away from the
5 property lines to affect any neighbors.

6 I understand this is a somewhat self-created being that
7 it was built already. I believe that my client had used, you
8 know, him and his contractors used their best judgments when
9 they, you know, installed these structures.

10 There is no undesirable change in character of the
11 neighborhood. Many houses in this neighborhood have outdoor
12 fire pits and barbecue islands, so that's rather, you know,
13 whether or not they have variances or not. I know many of
14 them have permits, so those aren't structures that are out of
15 character.

16 There is a, you know, like I said, there, you know, an
17 alternative method would not be practical just because of the
18 layout of the property, and there is no environmental effect
19 with these structures. That concludes my presentation. If my
20 client has to add anything?

21 VICE CHAIRMAN FRANCIS: You submitted a photo that
22 shows the barbecue island and directly across from the barbecue
23 island, there is a portable barbecue up against the house. I'm
24 praying that that's not where you use that.

25 MR. KOUTSOUMBIS: Okay, yes, all right. I see the -- I
26 have the photo here. Yeah, he --

1 Appeal # 21489

2 MR. SUBRAJ: That was being disposed of. It was just

3 --

4 MEMBER FERNANDEZ: The old one.

5 VICE CHAIRMAN FRANCIS: I didn't want to make the
6 assumption, but it --

7 MR. SUBRAJ: No, that was disposed of.

8 MR. KOUTSOUMBIS: I have to be honest. I took these
9 photographs at a time when the yard was still under
10 construction. This all happened within the last year or so.

11 VICE CHAIRMAN FRANCIS: Right. I don't have a problem
12 with it.

13 MEMBER FERNANDEZ: So, you received variances before
14 because you are right, I recall the case. There was a pool
15 that was halfway into this technical side yard of the house,
16 okay. Because of the way the house is laid out, but the rest
17 of the pool was fine. The old, the spas, where the original
18 barbecue was fine, but now you built a very nice outdoor
19 kitchen, which is actually in a very logical place near the
20 house where all the power lines are and where all the plumbing
21 is, so it's in a very logical place. I, as one member, don't see
22 a problem with this.

23 CHAIRMAN MAMMINA: I have one other question, though.
24 The fact that the pool had to come in for a variance -- I mean,
25 there was knowledge that the rear yards and side yards, and,
26 you know, being making those decisions, you know, without

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saying I didn't know what I was doing, I mean, the rear yard, side yard, you know, is something that you've testified to. Was your firm the -- are you the architect on the project?

MR. KOUTSOUMBIS: No.

CHAIRMAN MAMMINA: What is your relationship?

MR. KOUTSOUMBIS: I do permit expediting for the pool company but different contractors -- I've worked on this project. They were -- really just helping them with the variances here, so this wasn't -- I wasn't involved with the filing of the pool permit.

Mr. Subraj can talk about, I believe, he was present for the first variance, so go ahead.

CHAIRMAN MAMMINA: Please.

MR. SUBRAJ: Good morning again, and thank you. First off I have to apologize for creating this -- this is a self-created situation, so that is my fault with the knowledge I do have. We did apply for the prior variance. We did have requests for the fire pit in the corner of the property; if you recall. Chairman Mammina did recommend to put it in the location that we did eventually build it.

At that time, if you recall, that was in the middle of the pandemic, and we were afraid to lose our contractor, who was building the pool, so we had continued to build it without the permit, and that's what had happened. Knowing that you had suggested to place it there, and now we're here looking to

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legalize it.

Placing the kitchen where we did place it was a better location as Member Hernandez had suggested. It stayed away from our neighbors with the cooking smells and the heat from -- because their house was actually very close to that side. Again, we didn't lose our contractor, so we did proceed with the build. You know, it was in the middle of the pandemic. Contractors were hard to get at that point.

MEMBER DONATELLI: The contractor, at the very least should have known better. Unfortunately or fortunately, contractors are licensed, and they should know from practice as well as architects who work with them should know from practice. While I understand your point, I think that the contractors certainly should have known better. Having said that, I think I would agree with Mr. Hernandez that functionally, this is probably the proper place for it, so as one Board Member, I have no objection.

CHAIRMAN MAMMINA: Okay. We have a motion?

MEMBER FERNANDEZ: Motion.

CHAIRMAN MAMMINA: Member Hernandez?

MEMBER DONATELLI: I'll second.

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

MEMBER GOODSSELL: Who called motion?

SECRETARY WAGNER: Jay and Dan, you second?

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MEMBER DONATELLI: Yes.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

MEMBER FERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammìna?

CHAIRMAN MAMMÌNA: Aye. Application is granted. Thank

you.

MR. SUBRAJ: Thank you. Happy holidays.

CHAIRMAN MAMMÌNA: Same to you.

MR. KOUTSOUMBIS: Thank you.

(Whereupon, a discussion was held amongst the Board

Members.)

1 Appeal # 21490

2 SECRETARY WAGNER: Appeal #21490, Edward Probst; 52
3 Netz Place, Albertson; Section 7, Block 197, Lot 94;
4 Zoned: Residence-B.

5 Variances from 70-40, 70-41, & 70-39 to construct
6 additions that would be too close to the street, have smaller
7 than required side yards and total (aggregate) side yard
8 setbacks, and would make the home too big.

9 CHAIRMAN MAMMINA: You've heard Appeal #21474, Mohammad
10 Bashire. Is there anyone in the room --

11 SECRETARY WAGNER: No, no.

12 CHAIRMAN MAMMINA: I got the wrong one?

13 SECRETARY WAGNER: Yes, 21490.

14 CHAIRMAN MAMMINIA: Sorry. You've heard Appeal #21490,
15 Edward Probst. Is there anyone in the room interested in the
16 application other than the applicant? Seeing no one, please
17 give your name and address.

18 MR. LUTHER: Sure, William Luther, L-U-T-H-E-R, 66
19 Clark Boulevard, Massapequa Park, New York 11762. I'm a design
20 build contractor representing the owners, the Probst Family,
21 since I'm probably the most knowledgeable about the plan and
22 the current situation.

23 Just some things to review. All of the items here are
24 predicated on the fact that there's an existing home on a narrow
25 50-foot plot. The proposed plan was to do a second story
26 vertically above what's existing on the footprint of the

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property now.

To address individual issues. The front setback proposes 29.83, where a 30-foot setback is required with an average setback in the neighborhood of 27.47. The stonework that is actually on the home, I believe, is what creates that small .17 inconsistency with the 30 feet. There's actually fieldstone added to the front of the house prior to the owner purchasing it, so I don't know if it was built that way or added by the previous owners. In fact, historically, in my knowledge of architectural and survey work after a 40-year career in this, is that typically the foundation is the access point for measurements for land -- surveyors, so I think when the new survey was created, the surveyor measured to the face of the wall, not to the foundation, creating that issue for the front yard. So, quite honestly, I would ask the Board in just some logical consideration to treat the front yard setback at .17th as a nonissue.

The other issues with the property being the side yard. They have existed since the 60s when the house was built. To my knowledge, the house was not built with a variance then, so going vertically up is really just a consideration of modern living in older neighborhoods. People need bedrooms. The family has two children. Their grandparents own the house next door. They're trying to stay in a community that they've been for 15 years, without relocating, keeping the equity in their

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home.

The largest issue that we're asking for forgiveness on or consideration is the fact that going vertically over the existing home covering it with a second story creates approximately 340 square feet of additional space of lot coverage being the mitigating factor of why we didn't just start pulling walls in and things like that. It was my recommendation to the owner to cover the house vertically because it presents a much nicer-looking structure.

I have four exhibits to give you, which are all addresses in Albertson, 90 Netz Place, 60 Netz Place, 44 Netz Place, and then 37 Plainview Road, which is behind the current street. They're all -- and I'll hold here for a moment. They're all two stories directly above the existing structures with architectural lines. The architect on the Board here will appreciate that this is modern living and how houses are being designed today. This one happens to be just a giant block, but it's two stories vertically up. It seems to saturate most of the yard. They do have a driveway, so I know the side yard was not a variance, just from objection.

I think the ask here is to allow a resident that has lived in the community to vertically expand upward. There is no objection from neighbors as noted by no one's presence here today. One of his neighbor's being his parents, they want their family to live next door and had no issue.

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What we're proposing, we maintain the front setback because I think, as the Board has indicated in the previous hearing here that's what makes a neighborhood a neighborhood when you just don't let people do all the stupid things that make a neighborhood look ugly. And I'm sure in our minds, we all know of a neighborhood that's like that.

I wanted to present these four drawings -- I'm sorry, four pictures, just as a reference to the fact that what we're proposing is very similar to what exists on the street already.

MEMBER GOODSSELL: Well, that may well be Mr. Luther. If this is a vacant lot and you had come to the Building Department with these plans, they would have been denied, modern or not, because they are over the allowable floor area limit.

MR. LUTHER: I understand, and that was why I said that is the largest concern, I think, with this particular ask.

MEMBER DONATELLI: May I ask the same thing? We've been presented with many applications over the years that I've been on this Board, particularly in areas of New Hyde Park and sometimes in Albertson, but where measurements, the exactitude of the measurement has changed over the years or, as we mentioned, the width of the brick and how the Building Department determines front yard setback, so I would agree that, at least in my mind, those are not insurmountable problems, but as to the issue of gross floor. That means can be

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2 very strictly because that, of course, goes to bulk, and bulk
3 is one of the things that we're mostly concerned with. Is
4 there some way that the applicant can build the first story
5 above the first story, but for example, not build over the
6 garage, and therefore not violate the gross floor area.

7 MR. LUTHER: I anticipated that question specifically.

8 MEMBER DONATELLI: Wow.

9 MR. LUTHER: I pride myself on presenting projects that
10 are not only well-built and constructed correctly but also add
11 aesthetics, and when you go two stories, you wanna break the
12 lines, just to make the house not look like the one there that
13 looks like a giant Lego block, just set on a property.

14 In order to remove what is basically 347 feet, we would
15 be eliminating the space above the garage considerably, which
16 then would make a second story where it's sitting above the
17 first story and then two-thirds of the front of the house has a
18 second story on it, and then there's a chunk missing. I think
19 from an aesthetic view, it looks worse than having a prettier
20 or nicer project with the extra footage.

21 CHAIRMAN MAMMINIA: Unfortunately, we are not an
22 aesthetic Board. That has absolutely nothing to do with what
23 we do, so we really can't consider that whether I think it's
24 beautiful, you think it's beautiful, somebody else hates it.
25 It's not something that we take into consideration.

26 MR. LUTHER: Okay.

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MEMBER DONATELLI: What I would say is that there are many houses that are built up, and I understand when we weigh the five factors that we are required to weigh, I understand that building straight up makes more sense from a financial point of view. You want your load-bearing walls, do all the rest on the concrete foundation, but in a case like this, it seems to me that the -- the way the garage is situated would allow for the construction above the existing foundation with the exception of that area over the garage, and you can very easily construct the second story over the existing foundation but still leave the garage at one story. As the Chairman said we're not an aesthetic Board, and we are required to consider the least variance that would still serve the applicant's purpose.

MR. LUTHER: I understand that. I also understand that the purpose of this hearing is to present some facts, have discussions, and make exceptions 'cause that's what variance means exceptions.

MEMBER GOODSSELL: You have to tell us why you need or why your client needs this exception, and not that they want it.

CHAIRMAN MAMMINA: And that you have no alternatives.

MEMBER GOODSSELL: We understand why they want it.

MR. LUTHER: So, to speak to that question.

MEMBER FERNANDEZ: Just before you get to it because

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you have been sitting here all morning, so you heard us talking to other people.

MR. LUTHER: Yes.

MEMBER FERNANDEZ: You also make, I'm assuming the comment that, and although we're not an aesthetic Board, that you felt that not building over the garage would look odd. We saw plenty of pictures this morning, and we see them every time, where it was very common to have a garage attached to a house, not onto the house, but attached to the house, with a railing above it that looks like it was a deck. It's a very common style, so it's not -- it may not be your preference or somebody else's, but it's a style.

MR. LUTHER: Okay, so I -- just openly speaking here. I guess what happens with variance hearings because I've done many of them in many townships, each township kind of leans toward one thing or another based on the current Board. Previous Boards have allowed different things, and then I scour the neighborhood, and I find those one exemptions that might apply here, and then I present it and say, okay, not to discriminate against one person; you've allowed it before. Let's do it again.

When I look at this, I didn't come unprepared, I just thought that because of it was a 50-foot piece of property to begin with, and a house was built on it and all the side yards were there; the planning of the sixties was not looking forward

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2 to the planning of the 2023. And we all know this because I
3 grew up in the Town of Hempstead in Bellmore. Houses are 18,
4 20 feet wide. They're getting variances every single day
5 because there's no other way to accommodate growth in America
6 without allowing it.

7 I've done commercial properties where they were growing
8 property, where they only had workers show up in parking lots
9 and those buildings are then converted to office space where
10 you now have multiple parking issues, and its consideration
11 because the towns know there's a growth.

12 This particular project is being proposed to
13 accommodate bedroom structures upstairs so more modern living
14 can occur on the first floor, like most homes today. The
15 client requested bigger rooms for his children because they're
16 now teenagers, and teenagers tend to stay around a little bit
17 longer, as I know from my own children. They don't turn 18,
18 get a job, and go get married anymore. They're around into
19 their 20s and even 30s.

20 MEMBER DONATELLI: You have to change the locks.

21 MR. LUTHER: Or charge them rent, then they start to
22 leave. Okay, so yes, to me, it was an aesthetic decision to draw
23 this vertically thinking that the footprint, the setbacks, all
24 remain the same on the existing home. Why not just give the
25 benefit of the more space on top. Could the owner live without
26 the space? We all can live with a lot of things less in our

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life. Does he want to? No, he doesn't. So I'm here so ask the Board what consideration we can do that would not enforce removing that above the garage since it is a home on a small plot. It's being maximized. Would it be necessary for me to scour the neighbor and find that one exception so that you have a legal basis, I guess, would be the word.

CHAIRMAN MAMMINA: You would have to see that they came to the Zoning Board and got a variance, not that there are existing houses that are larger because the Zoning -- and I've been on the Zoning Board 32 years so you know --

MR. LUTHER: I'm familiar with you.

CHAIRMAN MAMMINA: In terms of bringing knowledge forward, that might be a record for the town, but the -- if you scour the neighborhood and find those existing houses, the Zoning -- the Town Board adopted zoning in the 90s, and they were one of -- North Hempstead was one of the first municipalities to adopt floor area ratio, so they decided that neighborhoods were too big, okay? That was their decision, not ours. You know, to say they don't want to see the bigger houses, they feel that it is changing the character of the neighborhood.

They then, maybe four years later, tightened it up even more. So, point being that, that space that's there, you have to show other houses where that space is there in the front of the house because if you needed -- I would just be making it up,

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you know, 50 square feet, and that square feet was in the back of the house is different.

Well, we might consider something like that, but also, in terms of having alternatives. I mean, you got a massive bedroom and I'm not saying people shouldn't have what they want, okay, but we do have, you know, there -- a Board member who just was made a judge, would say, you know, sometimes it's time to move. That sounds harsh, but the -- when I'm looking at the size of the bedroom, I'm saying okay, that home gym can go down into the basement. You already have an exercise room -- excuse me, home office/gym, you know, that could be in the basement. The reconfiguration of that plan on the second floor could bring that walk-in closet over to another place on the second floor. Things can shift around.

I mean, there are alternatives to meet that part of the zoning. I think, as Member Donatelli said, being off by an inch in a setback, you know, that's easy, but bringing modern times forward, you know, is not our job per se, and I agree what you're saying, and it's easy for me to say, well, you got a great room across the back of the house at 16 feet by 26, you then -- you got your breakfast nook, you know. They're very big spaces, so it could be about the shifting around is what has to happen here. So, I think, for myself, as one Board member, there are alternatives.

MEMBER DONATELLI: May I just add one other thing,

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which is, you've mentioned several times that it's a 50-foot wide lot, and yes, that is an issue, but that's why it's especially important for us to try and limit the gross floor area because it is a smaller lot, and so proportionally, it's that much more intrusive from a bulk point of view.

MR. LUTHER: Okay, so to address this, and just to find a -- try and find the logic in here for my understanding as well. If we eliminated 347 feet off the clip, the back of this, and the whole front remained the same, it would visually be the same structure that you will always see from the street.

MEMBER GOODSSELL: Correct.

CHAIRMAN MAMMINA: But then you've complied with the zoning, so that's okay.

MR. LUTHER: Right, but the reason we have the zoning appeals board is to make exceptions to guide to -- to groom the neighborhood with balance.

CHAIRMAN MAMMINA: We do a balance testing.

MR. LUTHER: I give you all that.

CHAIRMAN MAMMINA: And if you take it off, then the bulk in the back is going to be less obtrusive than it is. You can slide your bulk wherever you would like as you're complying with all of the other requirements of the zoning.

MR. LUTHER: Okay, so --

CHAIRMAN MAMMINA: So, yes, you can chop off the back.

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You certainly can.

MR. LUTHER: And is there a guidance or a workaround here that if we're able to please the owner, please the Board, and still be over some footage, right? Because 347 square feet is a chunk.

MEMBER GOODSSELL: It is a large chunk.

MR. LUTHER: It's a large chunk when it impacts getting the amount of bedrooms that are required for this family.

MEMBER FERNANDEZ: If I may add something. You're right. You're asking for a lot because 347 is a lot of square feet. You also have, if you add up those three spaces that the Chairman was just speaking of because that gym or home office, whatever, is only accessible through the main bedroom of the house. If you look at the main bedroom of the house, plus that space, plus the walk-in closet, excluding the bathroom, is over 600 feet, so I'm --

MR. LUTHER: I'm sorry, I'm not following you. The walk-in closet area above the garage is 22 by 11. Removing all of that we're still requiring --

MEMBER FERNANDEZ: No, I'm not saying just that. I'm saying if you look at the front room of the house, the main room of the house. I do not like calling it a master bedroom. The main room of the house, okay? If you add that space, that walk-in closet, and the home office or gym, which is only accessible via that bedroom, so it's basically part of that

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room, right? Because anyone from the rest of the home can't really use it. That's over 600 square feet right there. I think we can all agree that the main room of the house, supposedly 600 square feet, if you can do it without a variance, then, by all means, build it as big as you want, but if you're asking for a variance, that's a big room to ask for.

MR. LUTHER: Well, the variance would be required here for the front yard setback of the .17 as well as the aggregate.

MEMBER GOODSSELL: Agreed. I think you can see from the tenure of the Board, we would be inclined to agree.

MR. LUTHER: I just want to confirm --

MEMBER FERNANDEZ: If you were building straight up in your existing foundation house encroaches a little bit, we generally speak and say, you know what, if you're building straight up, we're pretty much okay with that. Generally speaking, not always. Generally speaking, but you're not just asking for just that. You're asking for 347 more square feet. All we're suggesting is that one way of getting rid of all of it, if not most of it, is just don't built over the garage. That extra office space that you're building there, you can put that in the basement, which you have plenty of room. You can put it someplace else. You can reconfigure part of the house.

MR. LUTHER: Okay.

MEMBER FERNANDEZ: Again, I'm not telling you how to

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design a house. That's one easy place where you see a lot of excess square feet.

ATTORNEY ALGIOS: Mr. Luther, I think the Board is saying if you want to take the opportunity to redesign the plans to reduce that GFA, the Board here can't tell you yes, that's acceptable at this point.

MR. LUTHER: I understand.

ATTORNEY ALGIOS: But they will certainly review plans that have that reduced.

MR. LUTHER: But we have a consensus, however, the setback issues are the minor problem. This -- okay. Since it's public knowledge, I'll ask this question. In the past, have you forgiven lot coverage and to what percent is the greatest you have?

CHAIRMAN MAMMINA: We can't -- I wouldn't even know.

MEMBER FERNANDEZ: Every case is different.

CHAIRMAN MAMMINA: And every case is different. It all depends. You're going to have to go back --

MR. LUTHER: So, if I wanted to FOIL that information in the Building Departments.

CHAIRMAN MAMMINA: Sure.

MEMBER FERNANDEZ: You'll get numbers all over the place.

MR. LUTHER: Right, but it -- is it tracked? Do we know the homes that have lot coverage --

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2 CHAIRMAN MAMMINA: I have no idea.

3 MR. LUTHER: Variances.

4 SECRETARY WAGNER: You mean lot coverage or gross floor
5 area?

6 ATTORNEY ALGIOS: You mean GFA?

7 MR. LUTHER: Gross floor, I'm sorry.

8 CHAIRMAN MAMMINA: Oh, gross floor area?

9 MR. LUTHER: Yes.

10 CHAIRMAN MAMMINA: No, it's not tracked, you know, as
11 to which ones, but you are welcome --

12 MEMBER FERNANDEZ: I mean, I don't know. You have some
13 samples here.

14 MR. LUTHER: I assume all these properties are legally
15 built because they --

16 MEMBER FERNANDEZ: No, we can't make that assumption.

17 MEMBER GOODSSELL: We can't make that assumption.

18 MR. LUTHER: Okay.

19 MEMBER GOODSSELL: We can't make that assumption.

20 ATTORNEY ALGIOS: You can absolutely FOIL for that
21 information, and whatever the Building Department has, they
22 will --

23 MR. LUTHER: Specifically under that, that requirement
24 or --

25 ATTORNEY ALGIOS: The GFA.

26 MR. LUTHER: Yes.

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ATTORNEY ALGIOS: If you want to ask for GFA in that location.

SECRETARY WAGNER: You should probably be a little bit more specific. That, I mean, like in terms of like years.

MR. LUTHER: I'm trying to find the information that will allow you to possibly approve something. It's -- things are computerized. You now have a portal. Are things tracked by variance?

SECRETARY WAGNER: No.

MR. LUTHER: And the purpose of the variance?

MEMBER FERNANDEZ: You gave us four pictures, okay, to support your argument.

MR. LUTHER: Right.

MEMBER FERNANDEZ: I would go and ask for those four.

MR. LUTHER: Of course.

CHAIRMAN MAMMINA: I'm saying, to your point, most applications have multiple variances, you know. How do you -- who's going to say well, you know, this application got this one, and this one got that one. They're just not -- I'm not aware of any municipality that tracks.

MR. LUTHER: So, Mr. Donatelli is an attorney, and we know there are law review books and case studies, and they record sexual harassment, property, larceny, whatever. Is there any way to sort the information in this Building Department?

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ATTORNEY ALGIOS: I'm not sure about the answer to that. I don't know how they sort it.

MR. LUTHER: Okay.

ATTORNEY ALGIOS: All I know is you absolutely have the right to submit a FOIL request, put what you're looking for, and that'll go to the Building Department, and they'll see if they can accommodate. If they can't, they'll let you know, and maybe you can narrow it and try to phrase it a different --

MR. LUTHER: Yeah, I'm trying to save the workload, not for myself, but for the Building Department. If I go and see 80 homes in Albertson or in the Village of North Hempstead -- Town of North Hempstead, 65 of them may have not even apply, but I'm going to be pulling all those records, and --

CHAIRMAN MAMMINIA: You may.

MR. LUTHER: No, I know. It's our right to do that.

CHAIRMAN MAMMINIA: Yeah.

MR. LUTHER: And you're very open about the foiling of that. I was just wondering if there is a way to sort that through the computer system.

ATTORNEY ALGIOS: I'm not sure.

MR. LUTHER: Okay. Thank you for your time today. Happy holidays.

CHAIRMAN MAMMINA: We'll reserve decision on it, so that --

MR. LUTHER: Thank you. So I would get --

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ATTORNEY ALGIOS: You want to continue.

CHAIRMAN MAMMINIA: Continue, I'm sorry. Continue,
thank you.

MR. LUTHER: Okay, so when I resubmit a hearing
wouldn't be required; it would be just a matter of submitting
articles?

CHAIRMAN MAMMINIA: Correct.

MR. LUTHER: Okay, thank you.

ATTORNEY ALGIOS: Whatever additional information you
find out, so in other words, if you find that there are other
examples of GFA that were granted of this size, and you want to
submit that and keep your plans as is; you can do that, or if
you want to reduce the GFA and re-revise your plans, and submit
new plans, you can do that as well.

MR. LUTHER: Okay, so as the town attorney, I'll ask
this question. Once a condition is accepted and granted
previously, it creates a precedence.

ATTORNEY ALGIOS: Well, but the Board is not bound by
that precedent. In other words, sometimes it's bound by
precedent, but you have to show that it's a similar
circumstance.

MR. LUTHER: Okay.

ATTORNEY ALGIOS: So, if you could show that it's a
similar circumstance, it's in the same area, the same zoning,
classification, the same size property. If you can show that

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it's substantially similar, and it was granted, then yes, that's going to carry a lot of weight with the Board.

MR. LUTHER: Right.

ATTORNEY ALGIOS: But if it's different and the Board -- the Board can distinguish and say in your situation, it's going to have more of an impact to the neighborhood than it did in this circumstance, but we granted it, then they're within their right to deny it.

MR. LUTHER: Okay. Would any further consideration from the neighbors, letters stating that they've seen the plan, they see the size of the house; it has no impact on your decision?

ATTORNEY ALGIOS: You're welcome to submit that.

MR. LUTHER: I rather be direct and ask the question.

ATTORNEY ALGIOS: But you know, the Board also has to -- it's the impact of the property. So, there may be -- on the road be other neighbors that live there. So, yes, does it carry weight? Of course, it carries some weight, but is it determinative? No.

MR. LUTHER: Right. I just don't feel the character of this project is a detriment to the neighborhood, considering those photos that are on the same block, there's massive houses there.

MEMBER GOODSSELL: But are their property sizes different? Are they built within the confines?

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MR. LUTHER: I will bring that information back to you.

MEMBER GOODSSELL: I think that you can see that the Board is concerned with the matter of degree. I don't think three square feet bothers us as much as 347 square feet, especially when you're designing something new. Usually our first question is, why can't you design it to fit within the confines, and then you explain to us why, and you did do an explanation.

MR. LUTHER: Right.

MEMBER GOODSSELL: As to why you couldn't.

MR. LUTHER: Right; the family wants to live in the largest home they can on their property to stay in the neighborhood.

CHAIRMAN MAMMINA: Understood.

MR. LUTHER: Versus moving from the township.

CHAIRMAN MAMMINA: I think we spent a whole lot of time.

MR. LUTHER: That's fine. Thank you.

CHAIRMAN MAMMINA: Thank you.

SECRETARY WAGNER: You know also something that you say does not appear massive or appear not to; they might, in fact, be conformed. We don't know --

MR. LUTHER: I understand that.

SECRETARY WAGNER: Because there's many times --

MR. LUTHER: It's the lot size and GFA.

SECRETARY WAGNER: Exactly, yeah.

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2 CHAIRMAN MAMMINA: Or when they were built.

3 SECRETARY WAGNER: That's what appears to be -- look at
4 the actual plan.

5 CHAIRMAN MAMMINIA: Thank you.

6 MR. LUTHER: Thank you.

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1 Appeal # 21474

2 SECRETARY WAGNER: Next appeal, Appeal #21474, Mohammad
3 Bashire; 52 Knolls Drive North, New Hyde Park; Section 8, Block
4 255, Lot 78; Zoned: Residence-A.

5 Variance from 70-30 to legalize a two-story portico
6 that is too close to the street.

7 CHAIRMAN MAMMINIA: You've heard Appeal #21474,
8 Mohammed Bashire. Is there anyone in the room interested in
9 the application other than the applicant? Seeing no one,
10 please, give your name and address.

11 MR. BASHIRE: Good afternoon and happy holidays, Board.

12 CHAIRMAN MAMMINIA: Thank you.

13 MR. BASHIRE: My name is Mohammad Bashire. I live in
14 52 Knolls Drive North, New Hyde Park.

15 CHAIRMAN MAMMINA: Good afternoon.

16 MR. BASHIRE: Thank you. I purchase this property last
17 year, not knowing there's an issue. It is already built. A
18 lot of the houses on this neighborhood is very similar. I had
19 no idea at all about this portico that it was too close to the
20 street. We came to know a little bit later than, and not
21 knowing there's an existing issue or there was no violation at
22 all when I purchased it. There's nothing came up.

23 MEMBER GOODSSELL: When you purchased, was the house in
24 this condition? Had the portico already been built?

25 MR. BASHIRE: Yes, I did not build it. I have
26 pictures, even I looked into the Google Maps like ten years

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back, 15 years back, the same condition. I did not build anything on it, on this, and I purchased it as is, then I came to know it's an issue. If you look into my neighborhood, most of the houses look very identical.

VICE CHAIRMAN FRANCIS: Are you saying that there are other houses with two-story porticos in your neighborhood?

MR. BASHIRE: Yes, even next to me. Next to me.

CHAIRMAN MAMMINIA: That are --

VICE CHAIRMAN FRANCIS: That are legal.

MEMBER GOODSELL: That's the point. I've been through that neighborhood a number of times because I've lived in New Hype Park for 43 years. I'm familiar with your neighborhood, and I'm familiar with your street. As a matter of fact, when I looked at your property because we all go and we all look at the property that comes in front of us. There are a number of other properties in your immediate area that have a large portico, but my question is, are they legal? Because if they are not legal, you cannot say, well, they have one, I would like this.

MR. BASHIRE: No, I have no idea. I'm not, you know, expert on legal stuff. I'm not an architect or anything like that. I'm just a resident.

VICE CHAIRMAN FRANCIS: How are you proposing to prove that we should grant this?

MR. BASHIRE: It is 29.2 feet from the front setback.

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2 VICE CHAIRMAN FRANCIS: Right.

3 MR. BASHIRE: This matches the character of the
4 neighborhood. Portico is there to block rain or snow, and I
5 cannot achieve it anywhere else in the house. This is not a
6 substantial request. There is no adverse physical or
7 environmental condition for the neighborhood. This is not
8 self-created.

9 VICE CHAIRMAN FRANCIS: Okay, you went through those
10 five factors. Give us -- you really gave us generalities in
11 terms of answering those. Give us some specifics with regard
12 to each one of those points.

13 MR. BASHIRE: Again, as I say, a lot of the property
14 has two-story portico. It matches the character in the
15 neighborhood.

16 CHAIRMAN MAMMINA: Are they illegal porticos that were
17 built without permits?

18 MR. BASHIRE: As I said previously, I have no idea
19 legal.

20 CHAIRMAN MAMMINA: That would be proof --

21 MR. BASHIRE: Legal or illegal, but it's already there.

22 CHAIRMAN MAMMINA: You would need to find and, in my
23 opinion, they would also then have to be similar bulk if
24 they're illegal, you know, for us to consider. You can have a
25 two-story portico, as long as it complies with what the zoning,
26 you know, requires. You can have a larger house if it complies

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with the zoning. You would need to find examples that show where legally those were built.

MR. BASHIRE: As I said, I did not build it. I purchased it as is, not knowing this is legal or illegal.

CHAIRMAN MAMMINA: That goes to is it self-created. Unfortunately, under the law, it's self-created because the law says that, not me; the law says that you should have had knowledge before you bought it.

MEMBER FERNANDEZ: Your attorney should have.

MR. BASHIRE: Yeah, my attorney looked into it. There is no violation at all.

CHAIRMAN MAMMINA: Doesn't mean there's a violation.

VICE CHAIRMAN FRANCIS: Right.

MR. BASHIRE: As I said, I'm just the homeowner.

CHAIRMAN MAMMINA: And believe me, I understand fully.

MR. BASHIRE: I had --

MEMBER GOODSSELL: Mr. Chair, I'm sorry, I don't mean to interrupt. I'm a real estate attorney. We have a couple of real estate attorneys on the Board here. When you bought this house --

MR. BASHIRE: Last year.

MEMBER GOODSSELL: -- were you given, did your attorney get for you any kind of certificate of completion, amended certificate of occupancy? What was in your title report? You said there was no violation, but what did you actually get?

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MR. BASHIRE: Just the CO, regular CO.

MEMBER GOODSSELL: This is not a new house.

MR. BASHIRE: This is existing house.

MEMBER GOODSSELL: So the certificate of occupancy would have been old, possibly from the 1950s.

MR. BASHIRE: Yeah, it could be.

MEMBER GOODSSELL: I'm not sure when that little enclave was built, but the certificate of occupancy would have been for the original house. If we look in Google Maps, there are pictures of the way this house looked before you bought it.

MR. BASHIRE: Right.

MEMBER GOODSSELL: So you or your attorney did not ask any questions about additions to the house? Did you get a new survey? Did you notice that the house was very new looking?

MR. BASHIRE: No.

MEMBER GOODSSELL: Did you do any investigation?

MR. BASHIRE: No, we did the survey. The house is not new looking. The house is old-looking and still in the same condition. We didn't do anything to the exterior. If you even look into Google Map, you can see it like ten, 15 years back. It's the same. I got one or two pictures.

CHAIRMAN MAMMINIA: What brings you here today? How did you -- how did you end up, I'm assuming, with a violation?

MR. BASHIRE: This portico had a little issue in the down, the pillar, so I was repairing, and an inspector happen to

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be there. An inspector give me a summons. I did try to legalize through an architect and that gave me a variance. Then I went to the variance, another guy that help me expedite this, and, you know, give me all the things that needed to do done. I did. Today, I'm here to existing condition as it is to be legal.

MEMBER DONATELLI: So in other words, you had a violation. Did you go to court?

MR. BASHIRE: Yes.

MEMBER DONATELLI: Has that matter been resolved?

MR. BASHIRE: Yes, they give me \$500 fine. I paid for it.

MEMBER DONATELLI: So, it is not illegal to have a two-story portico; however, you're entitled to a five-foot encroachment, only if the portico is under a certain size and only if it is one-story.

MR. BASHIRE: Right.

MEMBER DONATELLI: When you talk about other houses in your area, we don't know whether or not those porticos were built legally, whether or not they meet the front yard setback. We're not really able to take those into consideration, just like the gentleman who appeared before you. We need to know whether or not those porticos, those houses were constructed legally. We can't assume that they were constructed legally. So I think that's skepticism that you're

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hearing here.

From a practical point of view, we've also found that two-story porticos don't supply any of the protection from the elements that people think that they do. One-story porticos supply some protection from the elements. If it's raining, if it's snowing, you can have access, but when it's a two-story portico, you're going to get the wind. You're going to get the rain, even if you're fumbling with your keys to open the door. From a practical point of view, they're not as useful either. But, again, to the main point, the main point is that if this had built -- been built compliant with the code, then there would be no issue. The issue is because it doesn't qualify for a five-foot setback, number one, and number two, it's more than five feet.

MEMBER GOODSSELL: If you brought it down to a one-story, you understand this would be legal.

MR. BASHIRE: I thought -- what I was told. I thought it's 30 feet required. I have 29.2 feet.

MEMBER FERNANDEZ: It was a two-meter variance, but it's a general --

MEMBER GOODSSELL: Two-meter variance, but it's a much smaller variance.

MR. BASHIRE: I did not build this.

MEMBER DONATELLI: We understand.

CHAIRMAN MAMMINA: We understand.

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VICE CHAIRMAN FRANCIS: But you bought the house.

MR. BASHIRE: I bought the house. This was -- if you look into the house next to me, everybody has very same way in the neighborhood. You probably know it.

MEMBER GOODSSELL: But I'm asking you how many of those are legal? Because if none of them are legal, you can't use that as an argument.

MR. BASHIRE: I have no idea which one is legal or not legal.

MEMBER GOODSSELL: Public records. You're welcome to go to the Building Department and take a look. Those are all public records. When we talk about a FOIL request, Freedom of Information requests, you can go to the Building Department and look at any of your neighbor's files to see whether or not they meet the setback. They're 35 or more feet back, or whether they have a variance.

MR. BASHIRE: Right. You know, breaking this, it's gonna have to break the house in the front. It's a lot of things.

MEMBER GOODSSELL: I'm looking at a picture of your house. I can see that.

CHAIRMAN MAMMINA: And it's not that we like it or we don't like it. It's not that.

MR. BASHIRE: And also is, if you look in the character of the neighborhood, then it's not matching either.

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2 MEMBER DONATELLI: May I suggest this, and you
3 certainly, we understand that you're not an architect or an
4 attorney, and you've gotten up here, and you said, you know,
5 you tried to address your points, but this is -- you may
6 benefit from having some advice because this is a bigger matter
7 than perhaps you understand. I understand that nobody wants to
8 rip their roof apart or make a two-story portico into a
9 one-story portico, but again, I ask you to understand that any
10 decisions that we make here for houses that are similar to
11 yours, then can be used as precedent for other applicants who
12 might come here in the future. For that reason, we have to be
13 very careful in our determinations. And so, you may benefit,
14 and I think you have already because you addressed the five
15 issues, so I think you've spoken to somebody already, but you
16 may benefit from having somebody actually do some research as
17 was suggested by Member Goodsell. Going through the Building
18 Department files and really making a more cohesive argument
19 because you can't just categorically say it's not going to
20 change the character of the neighborhood. We don't make up the
21 zoning code, the Town Board does. All that we do is, under
22 certain limited circumstances, we're empowered to grant
23 variances, but again, we have to be careful what we decide for
24 any future applications.

25 MR. BASHIRE: Got it.

26 CHAIRMAN MAMMINA: We'll continue this for you so that

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you have an opportunity to put together that -- I'll call it evidence. I don't want to make it sound too heavy. That would document the neighborhood and those other porticos that you see, and whether or not those were put up with permits. It would also tell you if they complied with the zoning as well. They may not be legal, or they may be legal, but they fit the zoning.

MR. BASHIRE: Okay.

CHAIRMAN MAMMINIA: I may love a two-story portico. I may hate a two-story portico, but if it's built under the zoning, you know, what Member Donatelli was saying that you can have a projecting portico, but it has to be a one-story and only five feet by eight feet, but that's not going to apply in here. I think there would be homework for you to do to see if you can find other instances where these porticos have been given variances in your neighborhood.

MR. BASHIRE: Okay, I am gonna have to try, even though I don't know how to do it, but I'll --

CHAIRMAN MAMMINA: Well, that's why Mr. Donatelli is saying maybe you should reach out for someone beyond, beyond your, I guess, he's an engineer who did that; just so that they understand how to do it.

MR. BASHIRE: This is what they told me, and this is what I present. Again, even next to me, it's the same, or if you look at the next houses right next to me, it's the same,

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the very same way. They don't have issue. I happen to be unlucky to have that issue. While I was repairing in the bottom --

MEMBER GOODSSELL: They may have issues, and they may not know that they have issues. That's what we're looking at.

MR. BASHIRE: Exactly.

ATTORNEY ALGIOS: Mr. Bashire, if you call the Town attorney's office and you ask for me. This is my name. Give me a call, and I can help you with what you would have to FOIL since you're not familiar with that.

MR. BASHIRE: Thank you so much. I appreciate it.

ATTORNEY ALGIOS: You're welcome.

MR. BASHIRE: I have been going to -- I don't want anything to be illegal in my house. I live there with my two children and I really don't want any issues. That's why I'm trying to make it clean, clean, possibly, as much as possible.

SECRETARY WAGNER: You're just going to be requesting the records for those properties, the ones that you're using as an example.

MR. BASHIRE: I'm going to look out for you. Thank you.

CHAIRMAN MAMMINA: We'll continue.

MR. BASHIRE: How do I send it back to you when I find the FOIL?

SECRETARY WAGNER: You can send it to the BZA Department.

1 Appeal # 21474

2 The same way you sent in the application.

3 MR. BASHIRE: Okay. The email
4 bzadepartment@northhempstead?

5 SECRETARY WAGNER: At northhempsteadny.gov.

6 MR. BASHIRE: Yes.

7 SECRETARY WAGNER: Call us, and we'll tell you what to
8 do.

9 MR. BASHIRE: Okay, thank you so much.

10 SECRETARY WAGNER: Do you have the phone number? It's
11 on top of the agenda.

12 MR. BASHIRE: Thank you.

13 SECRETARY WAGNER: We're going to take a five-minute
14 break.

15 (Whereupon, there was a break in the proceeding.)

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1 Appeal # 21492

2 SECRETARY WAGNER: We're going to take one of the
3 appeals out of order. We're going to call Appeal #21492, Lucid
4 Motors (Sign); Northern Boulevard, Manhasset; Section 3, Block
5 219, Lot 9; Zoned: Business-A.

6 Variances from 70-196.J(1)(a), 70-196.J(1)(f) and
7 70-196.J(1)(b) to install signage that is too
8 tall, too big, and located too high above the ground and to
9 install too many signs on a wall.

10 CHAIRMAN MAMMINA: You've heard Appeal #21492, Lucid
11 Motors (Sign). Is there anyone in the room interested in the
12 application other than the applicant? You have permission.

13 MR. MIGATZ: Bruce W. Migatz, Law Firm Albanese &
14 Albanese, 1050 Franklin Avenue in Garden City, for the
15 applicant. Good afternoon, Chairman and Members of the Board.
16 I have pre-marked 15 exhibits in the binder one for the record,
17 and one for each member of the Board. The applicant is Lucid
18 Group USA. With me today is Miquel Claros, C-L-A-R-O-S, who is
19 the design manager for the Lucid Group. The owner of the
20 property, landlords, KMO 361 Manhasset, LLC. That's the group of
21 stores that is known as the Gate at Manhasset. Some people
22 confuse it as part of the Americana, but it's a separate
23 shopping center known as the Gate.

24 There was a prior appeal that was in 2021 that granted a
25 conditional use permit for Lucid Motors to have a showroom. If
26 you're not familiar with Lucid, they sell very high-end

Appeal # 21492

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2 electric vehicles. This is a showroom only that they'll have
3 at this location. I was before this Board in 2021 for a height
4 variance for a sign that's facing Northern Boulevard. A
5 picture of that sign is Exhibit 1 in the packet that I handed
6 up, and Exhibit 2 is this Board's decision that granted a
7 height variance for that sign to be 26.5 feet above grade as
8 opposed to the 18 feet that's required.

9 Now, the present application is to erect virtually the
10 same sign, slightly smaller on the south side of the building
11 that faces the parking lot. The sign, if you look at the
12 picture, it is stainless steel letters that are affixed to a
13 black background panel. The panel is not lit; only the letters
14 are backlit along the edge at night. If you've seen it at
15 night, it's a very tasteful sign.

16 MEMBER FERNANDEZ: Is the sign in the front also
17 backlit?

18 MR. MIGATZ: Yes.

19 MEMBER FERNANDEZ: So they're both the same type of
20 signs?

21 MR. MIGATZ: The letters are backlit, not the panel.
22 Just the letters.

23 MEMBER FERNANDEZ: Right, but are they -- is it the
24 same type of sign?

25 MR. MIGATZ: Yes.

26 MEMBER FERNANDEZ: Just wanted to check.

1 Appeal # 21492

2 MR. MIGATZ: Now, the panel is two and a half feet high
3 by 17 feet one inch for an area of 42.7 square feet, but the
4 letters are only ten and a half inches high for 14 feet five
5 and one-eighth inches long, so the area of the letters, if you
6 boxed out the letters, it's only 12.6 square feet, but as you
7 know, the Building Department goes by the size of the panel.

8 VICE CHAIRMAN FRANCIS: Right.

9 MEMBER FERNANDEZ: What exhibit is this on? I'm
10 looking for it, but I can't --

11 MR. MIGATZ: Exhibit 1.

12 MEMBER FERNANDEZ: No, that's not the -- the one in the
13 front. The one in the back. The one that you're proposing.

14 MR. MIGATZ: The existing sign?

15 MEMBER FERNANDEZ: No, the one you're proposing.

16 MR. MIGATZ: I don't have a picture of that. I have
17 the plan of it, but it's the same.

18 MEMBER FERNANDEZ: But you don't have it in your
19 exhibits?

20 MR. MIGATZ: Well, they haven't erected it yet, so it
21 will be the same sign.

22 MEMBER FERNANDEZ: Okay.

23 MR. MIGATZ: We do need three variances. This is the
24 second sign on the wall in the rear. Exhibit 3 is a picture of
25 the rear of the store that faces the parking area, and that is
26 the existing sign. We need a variance for height above grade.

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The permitted height, as you know, is 18 feet. The proposed height due to the topography also of this property, and where the sign band is located; the height would be 26 feet 4.38 inches. We need a variance for the area, which is 42.7 square feet, where 24 square feet is permitted.

Now, the existing sign, if you look at Exhibit 3, the picture of that existing sign, that's a very, very small sign. The letters are only five inches high. Due to the topography, of this property, when you drive into this parking lot, you can't see that sign. I've tried to demonstrate that in two photographs marked Exhibit 4. If you enter this shopping center from Northern Boulevard going in an easterly direction and you turn into the Gate; you cannot make your first left into that first aisle, which is a one-way.

MEMBER GOODSSELL: Right.

VICE CHAIRMAN FRANCIS: Right.

MR. MIGATZ: So, you have to go to the second aisle. This photograph is taken when I drove into that second aisle, and I stopped in front of the Lucid store; you can't -- you can barely see that sign.

VICE CHAIRMAN FRANCIS: I'm sorry, so you're proposing to put it up where the Sephora sign is.

MR. MIGATZ: Exactly.

MEMBER FERNANDEZ: Exactly.

MR. MIGATZ: And exhibit -- the second photograph part

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2 of Exhibit 4. If you enter from Shelter Rock, the Searingtown
3 Road, and you drive through the Americana shopping center,
4 which many people, you have to drive down that back aisle.
5 Now, the representative from Americana is here. I have to be
6 careful what I say, but that parking lot has a lot of Do Not
7 Enter and one ways, and it's like a maze. So if you're trying
8 get to the other end, you're going to drive down that back
9 aisle other than going through a maze, so the second photograph
10 is taken from that back aisle. If you're looking for Lucid, you
11 can't see that sign.

12 VICE CHAIRMAN FRANCIS: No, you can't.

13 MR. MIGATZ: You can't see it. You can see Sephora and
14 we propose to put our sign at that same height as Sephora.

15 MEMBER GOODSSELL: What would you do with the sign
16 that's there now?

17 MR. MIGATZ: Well, we hope to leave that there.

18 MEMBER GOODSSELL: That invisible sign? Really?

19 MR. MIGATZ: Well, it's a very, very tasteful sign.
20 It's a very tasteful sign. It's more -- I wouldn't even call
21 it a sign. It's more of, here we are. This is our building.
22 Now, we sell high-end cars, and we have a nice fancy entrance
23 to our building.

24 VICE CHAIRMAN FRANCIS: There are no signs on the window
25 itself?

26 MR. MIGATZ: No.

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VICE CHAIRMAN FRANCIS: So if you're walking by, really the only way to identify what that is, is to have a sign where it's located.

MR. MIGATZ: Well, in all honestly, you can see cars through the window, but yes, other than that, yeah, that sign shows you this is where we are, and it's very, very small.

MEMBER FERNANDEZ: Doesn't help that they chose to make the sign letters block on a black background.

MR. MIGATZ: Well, that's -- you see, it really wasn't meant to be a sign. It's meant to be this is our entrance, you know. It's a fancy entrance, is what it is.

CHAIRMAN MAMMINA: I'll give you the technical term. It's very slick looking.

MR. MIGATZ: There you go. People don't come to Lucid on a regular basis like you come to the other stores, you know, where -- I mean, you go to the other stores, Sephora all the time. You get to know where it is. Lucid, you may go there just once. It's a showroom only. They call it a studio. They are not allowed to sell cars. They're not even allowed to talk about price in this showroom. So you're there -- it's like an art gallery. You're there to look at it, and if you like the car, you're directed to their website for pricing, and someone will contact you and then negotiate a purchase with this. So, you may just go there once, most likely. Everybody coming there is a new customer. They're trying to find the store and Lucid

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has received, you know, complaints from customers. We didn't see your store because of your sign, so this is what --

MEMBER GOODSSELL: It is very noticeable from the Northern Boulevard side, sorry.

MR. MIGATZ: It is, but if you're coming from the west, you don't see that sign, all right. If you go through the Americana, you don't see that sign. Even if you come from the east, and you're, oh, there's a sign, and you turn in, you still have to find it in the parking lot. You still have to find it.

MEMBER GOODSSELL: I would agree with you with respect to the back sign because I did not even realize that Lucid had a parking lot entrance when I drove to that area. I knew where it was because it's right -- it's very visible from the Northern Boulevard side, but I know there are some stores that don't face both Northern Boulevard and the parking lot, and I just assumed Lucid was one of them. You can see from the front that it's a car showroom or studio.

MR. MIGATZ: Right. Let's go through those factors for you. Will there be a detriment to the community? No, because this sign is in harmony with the other signs. They're all more or less at that same height, along that sign band. The actual height above grade differs in measurement because of the topography. You can see that in the picture how it slopes down.

Exhibit 5 is the photo of the Banana Republic sign.

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That was -- this is the space that Lucid is now in. They got a variance for that sign at the same height that Lucid is looking for a sign, and they also got a variance for a second sign above their doorway that says Banana Republic. Exhibit 5 is a photo of that. It's a copy of sign plan, disapproval notice, and this Board's decision in Appeal #19845. The Banana Republic sign, according to the plan was 23 feet, six inches. We're going at the same height, but on that plan, they measured the height from the left side of the ground before it sloped down, and we measured it, being very lucid about our presentation.

CHAIRMAN MAMMINIA: That was very slick too.

MR. MIGATZ: We measured it from the lowest point.

CHAIRMAN MAMMINIA: Very slick.

MR. MIGATZ: Exhibit 6 is a Crate & Barrel sign. That has a height variance of 33 feet. Exhibit 7 is the Sephora sign. That has a height variance of 25.5 feet. Exhibit 8, just recently, this Board gave a variance for Arc'Teryx. That was 18 feet, ten inches. Exhibit 9, you recently gave a height variance for Natuzzi Italia sign, 18 feet, six inches. I'm not clear how those -- how there's a difference in those. I'm not sure why on the plans, the height of those signs are the same. If you look at the photograph, the Natuzzi sign is much higher than the Arc'Teryx sign, but being as it may, they both have height variances. Those are existing tenants. Prior tenants

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received the same height variance. Exhibit 10 is for BeBe, which used to be there, 25 feet. Exhibit 11 is the Greenhouse Manhasset Spa, 23 feet above grade. Bless you.

MEMBER DONATELLI: Thank you.

MR. MIGATZ: Exhibit 12, the former spa, Althera, 23 feet above grade. Exhibit 13, Nine West, 21 feet above grade. Exhibit 14, HMV record stores, 20 feet above grade. The chairman would appreciate this. When I looked at the HMV record store, you remember Jean Martin was in the secretary. In the file there's a picture of a Beatles album.

CHAIRMAN MAMMINIA: I was looking at some of the things in here that you had. That sign and one of the questions -- one of the things that I said to Member Donatelli and Member Francis is, what's a record. You know, those have become very, very popular again.

VICE CHAIRMAN FRANCIS: Yes, they have.

CHAIRMAN MAMMINIA: No more CDs, no more cassette tapes, you know, it's all gone on a track.

VICE CHAIRMAN FRANCIS: Eight-track.

CHAIRMAN MAMMINA: Eight-track, yeah.

MR. MIGATZ: I submit to you that granting a height variance will not have an adverse impact on its community if it's in harmony with all the other signs. We do need an area variance. Like I said, the panel is more than 24 square feet, but the letters are only 12.6 square feet.

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2 Now, this is not the kind of a sign panel that lights
3 up, has other lettering on it. It serves only -- it serves a
4 purpose of having something to matte the letters on them, to frame
5 them and has electricity behind them. It doesn't light up at
6 night. At night, all you see are the letters, and in the
7 daytime, it doesn't look like a sign. It looks like a piece of
8 the wall, really. It does project slightly, but it's just
9 painted black. I don't think it's the kind of wall sign that
10 the code has in mind when they say you got to measure it with
11 the panel because it's -- it really doesn't function as a sign.

12 Banana Republic did have an area there -- that's
13 Exhibit 5. They had an area variance for 30 square feet,
14 and that was just their letters. Our letters are only 12.5
15 square feet. Our letters are smaller than the letters on
16 Banana Republic. Same thing with Sephora. They had a variance
17 for square footage of 31 square feet, and again, that was only
18 their letters. Our letters are much smaller than their
19 letters. Exhibit 11 that I referred to the Greenhouse Spa,
20 with the panel, they're at 55 square feet. Exhibit 12, Spa
21 Althea, 34 square feet.

22 I had an interesting conversation with the planning
23 examiner because I noticed there were some signs facing the
24 parking lot that do not have an area variance but are still
25 greater than 24 square feet. For example, Park Terrace sign.
26 That has an area of 32.87 square feet but only had a height

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2 variance. So I had a discussion with the planning examiner, and
3 he explained to me that what they do they let the applicant
4 choose what the front of the store will be, so you can have your
5 sign two square feet per lineage footer wall, which would be 90
6 square foot sign for us. We can have a 90-square-foot sign
7 facing the parking lot if our sign facing Northern Boulevard
8 was 24 square feet, so it's interesting how they do that.

9 Now, as far as adverse impact on the community, when
10 you're looking at the sign from the parking lot that's,
11 hopefully, 42 square feet; you don't see the sign on Northern
12 Boulevard, that's 24 square feet. You only see the one sign.
13 If I have a 42-square-foot sign facing the parking lot if the
14 other sign facing the boulevard is smaller, how can that sign
15 have an adverse impact on the community? Because you don't see
16 the other sign, so that was interesting what I found out how
17 that is done. There are -- point is there are signs facing
18 that parking lot that are greater than 24 square feet. I
19 submit to you that our sign would not have an adverse impact to
20 give an area variance. Number one, the letters are less
21 than 24 square feet. They're almost half of 24 square feet,
22 and the panel is really just to frame the letters and doesn't
23 really give area to what the sign is.

24 Finally, the sign variance, as I said before, that
25 existing Lucid is not really a sign in the sense of a sign to
26 attract customers to the store. That is what signage is for.

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2 It's -- and of course, it's not attracting customers to the --
3 it's really just part of the fancy entrance, and it's only five
4 inches high. So, I don't think that is the type of second sign
5 that the code has in mind when they say you can only have one
6 sign. I think what the code is talking about is two signs, 24
7 square feet that are advertising the store, not like a marquee
8 entrance, little lettering above the entrance store.

9 Exhibit 15, these pictures of the right adjacent
10 stores, they're actually part of the Americana. A lot of
11 people think they're part of the Gate, but they're part --
12 although they are adjoining the Gate stores, they are part of the
13 Americana. Picture of Ralph Lauren. They have a sign and two
14 awnings that are deemed a sign. Picture of Tiffany's. They
15 have a big sign, very high, and two signs on their awnings,
16 and a picture of Tory Burch, if I'm pronouncing that right.
17 Ladies? Burch?

18 MEMBER GOODSSELL: Yes.

19 ATTORNEY ALGIOS: Tory Burch.

20 MR. MIGATZ: They have two wall signs. So again, our
21 little sign above the entrance door would not be out of
22 character of what people see in the Americana and the Gate
23 shopping center.

24 The benefit we seek cannot be achieved by any other
25 means, other than not to have a sign. Whether or not the
26 variance is substantial; percentage deviation is not the key

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2 factor, and to plagiarize your counsel, the totality of the
3 circumstances weighs against the deviation of being
4 substantial. That comes from prior decisions that this Board
5 has written. I think that applies to this case as well. As
6 unlisted action, signs don't usually have an adverse impact on
7 the environment. The difficulty is called self-created matter
8 of the law.

9 There are two letters in opposition. There's a letter
10 from the village attorney or village of Monson Park that
11 thought the sign was facing Northern Boulevard, which for some
12 reason he got bent out of shape over that. I did write back to
13 the counsel explaining this facing the parking lot, and counsel
14 sent a letter -- sent me an email saying that they withdraw the
15 opposition and said to share that with the Board, and I did.
16 There was an email from a resident at 15 Village Road, which I've
17 never seen a resident on Village Road oppose sign variance
18 before, either in Americana or the Gate. This resident says
19 that this will create an eyesore in our neighborhood. The Gate
20 and the Americana is the neighborhood there. If the parking
21 lot, you buy a house next to the Americana and the Gate, you
22 can't complain about the signs, nor -- I don't see how the
23 doctor even sees it. 15 Village Road faces Crate & Barrel, so
24 he looks out of his second-story window, he sees Crate & Barrel.
25 If he leans out the window and looks to the right, he may
26 see Lucid, but I just don't think it has any adverse impact on

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him. That being said, we respect the request that you allow two -- this is the second sign, and at the height and the area as proposed that fits in very nicely to that shopping center.

MEMBER FERNANDEZ: Mr. Chairman, I know the shopping center for multiple reasons very, very well. I go through it constantly. I do have one question. Again, just for clarity, especially because Village Road is the road that would be mostly impacted if anybody's impacted at all by this sign. I just want to clarify exactly how this sign would be lit and what hours will the sign be lit because if it is lit at night, it is possible that someone on that side of Village Road over their fence, and through their trees, they might see it. So, if you can just walk us through.

MR. MIGATZ: Let me have Miguel -- you can answer that better than I can answer that. Come up and give your name.

MR. CLAROS: Yes, so now --

MR. MIGATZ: Name and address.

MR. CLAROS: Oh, Miquel Claros, 585 Prospect Avenue in Little Silver, New Jersey. The way that the sign works is, it's stainless steel front, and it's only table lit, so it does not shine through the front. It's just the surrounding letters shining towards the sign.

MEMBER FERNANDEZ: So you have stainless steel letters that are separated from the background.

MR. CLAROS: Correct.

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MEMBER FERNANDEZ: Which is black.

MR. CLAROS: Correct.

MEMBER FERNANDEZ: And the lighting is behind the letters, so what you see is the glow --

MR. CLAROS: The glow around the letters, correct.

MEMBER FERNANDEZ: Around the letters.

MR. CLAROS: Correct and the hours will follow the most hours. I don't have the hours with me. Whatever hours everyone else --

MEMBER FERNANDEZ: When the mall closes, the lights go out?

MR. CLAROS: If that's how they do it, we will do exactly the same.

MEMBER FERNANDEZ: Okay, thank you.

SECRETARY WAGNER: Is that what it says in your application?

MR. MIGATZ: I put down as typically from sunset to -- lit from sun -- sunset to sunrise, but that's -- whatever the other stores are, I would imagine, they'll follow.

MEMBER FERNANDEZ: I will be fine with what the rest of the center does. If you're consistent with that, I am okay with that because there are others that are lit there at nighttime.

MR. CLAROS: We wouldn't do anything outside of the mall. We need to comply with the mall's regulations.

MEMBER FERNANDEZ: Yeah, so as long as you don't, yeah,

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if they shut down at whatever, 10:00, 11:00, whatever it is, that's fine. I just don't want it if everybody else shuts down, then you will be lit all night long. There's no reason why you would be because no one is going to show up there.

MR. CLAROS: No, we will follow the mall's -- whatever the rules are for the mall.

MEMBER FERNANDEZ: Okay, very well. Mr. Chairman, this sign has to be at that height because that is a band up there. The rest of the wall is pretty much not friendly for signage, so they do differ a little bit depending on the store, but they are all above the 18-foot requirement. I agree that the background probably should not be part of the sign. The sign is the size of the letters, so it's not a significant, in fact, it's not overly sized. It's consistent with what it should be. So I move that we grant the application.

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

MEMBER DONATELLI: Second.

CHAIRMAN MAMMINA: We have a motion by Member Hernandez and second by Member Donatelli. Please call the Board.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

MEMBER FERNANDEZ: Aye.

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. Application is granted. Thank
7 you.

8 MR. MIGATZ: And just to be clear, that includes the
9 second sign variance also well, right?

10 MEMBER FERNANDEZ: Yes.

11 MEMBER GOODSSELL: The second sign.

12 MEMBER FERNANDEZ: He keeps the one above the door.

13 MR. MIGATZ: Right.

14 MEMBER GOODSSELL: Right, because it's practically
15 invisible anyway. Like I said, I drove through there, I could
16 not find an access point there.

17 MEMBER FERNANDEZ: But if you're walking, you need to
18 have that; otherwise, you would have to break your neck
19 looking up.

20 MR. MIGATZ: That's why you don't have a Lucid car, so
21 you couldn't find it.

22 SECRETARY WAGNER: Did you just get sighted for a
23 second --

24 MR. MIGATZ: I applied for that. I applied for a
25 variance for it.

26 SECRETARY WAGNER: Okay.

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MR. MIGATZ: Thank you very much. Thank you for another great year appearing before you. Merry Christmas, happy holiday, happy and healthy new year. Look forward to seeing you next year.

VICE CHAIRMAN FRANCIS: Same to you.

SECRETARY WAGNER: Now, we're going back to Max Mara.

CHAIRMAN MAMMINIA: Okay.

SECRETARY WAGNER: Just so you know, and you and because you're submitting the green card. We don't require return receipt anymore. The code does not say return receipt.

MR. MIGATZ: Really?

MS. TSOUKALAS CURTO: Really?

MEMBER GOODSSELL: It just says proof of mailing?

SECRETARY WAGNER: Yeah.

MEMBER GOODSSELL: It just says proof of mailing.

SECRETARY WAGNER: Certified mail. Does not have to be a return receipt.

MR. MIGATZ: Didn't know that. Saves us money.

MS. TSOUKALAS CURTO: That's good. Thank you.

1 Appeal # 21491

2 SECRETARY WAGNER: Appeal #21491, Max Mara, U.S.A.,
3 Incorporated; 2102 Northern Boulevard, Manhasset; Section 3,
4 Block 183, Lot 12; Zoned: Business-A/Parking District.

5 Conditional Use 70-126F for interior alterations to
6 install a coffee bar and beverage counter in a retail store.

7 CHAIRMAN MAMMINA: You heard Appeal #21491, Max Mara
8 U.S.A., Inc. Is there anyone in the room interested in the
9 application other than the applicant? Seeing no one, please
10 give your name and address.

11 MS. TSOUKALAS CURTO: Andrea Tsoukalas Curto with the
12 firm of Forchelli, Deegan and Terrana, 333 Earle Ovington
13 Boulevard, Uniondale, New York. Good afternoon, Chairman
14 Mammina and Members of the Board. I am here on behalf of 5th
15 Avenue of Long Island Realty Associated. Craig Westergard is
16 with me today. He's the director of property management for
17 the Americana. I do have an exhibit packet that I'd like to
18 submit at this time.

19 SECRETARY WAGNER: If you could just --

20 MS. TSOUKALAS CURTO: Applicant's Exhibit A.

21 SECRETARY WAGNER: Okay.

22 MS. TSOUKALAS CURTO: So this is an application for a
23 conditional use permit to allow Max Mara at the Americana
24 Manhasset shopping center to convert a portion of its retail
25 space to a cafe. The cafe is being proposed with ten interior
26 seats at the front of the store by the glass windows. A

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2 parking variance is not required for the proposed cafe because
3 the Americana has sufficient onsite parking. The shopping
4 center is located on the southwest corner of Northern Boulevard
5 and Searingtown Road. Max Mara is located on the south side of
6 the center facing the parking lot and is adjacent to what is
7 identified as the key map as the west walkway. There will be
8 access to the cafe via a window within the walkway for the
9 to-go orders and in store adjacent to the proposed seating area.

10 Exhibit 1 of the packet that you have is an aerial of
11 the center. Exhibit 2 is a key map that shows all the stores
12 in the center. Max Mara is highlighted in yellow. Exhibit 3,
13 the first two photographs are the entrance to the Max Mara
14 retail store and the proposed location of the cafe. Also,
15 shows the window in the walkway for takeout orders. That's
16 going to be similar to Kith Treats, which is right next door.
17 The next two pictures depict the location of the cafe at the
18 seating area. We also have pictures of the alley and seating
19 that's in front of the store that's part of the Americana.
20 There's usually bench seating for patrons. It's not
21 specifically for Max Mara, but it is conveniently located in
22 front of the store.

23 Max Mara does not have a branded coffee, like Ralph's
24 just came in, Ralph Lauren. They're going to team up with an
25 operator, who's going to provide a branded coffee and food to
26 run the cafe. So, because they don't have an operator yet,

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2 they don't have a set menu, but they do intend on selling
3 coffee, beverages, pastries, and prepared foods. As you all
4 know, there's many food uses; Toku, Cipollini Pronto, Kith
5 Treats, and most recently, Ralph's Coffee was approved. This
6 will be most similar to Ralph's Coffee except to a much smaller
7 scale. Ralph's had indoor and outdoor seating, so much bigger
8 than the cafe.

9 There will be no onsite cooking. It's anticipated that
10 they're going to need one to two people per shift operating the
11 cafe. It's going to be self-serve, so you grab your order from
12 the counter, and you sit down and enjoy your coffee and
13 whatever pastry or whatever, but small bites. Nothing too
14 elaborate.

15 As you know, the cafe is a permitted use in the
16 district. Conditional uses are akin to permitted uses. It's
17 in character with other food uses at the Americana, and it
18 would only benefit the existing stores, and it's another
19 amenity for people who come to the Americana.

20 The proposed use is in harmony with the surrounding
21 property. The proposed cafe will not generate additional
22 traffic because it will be accommodating existing clients at
23 Max Mara and the Americana. It will not in any way have a
24 negative impact on the surrounding properties or uses.

25 MEMBER DONATELLI: If you spill coffee on one of the
26 jackets, do you have to buy it?

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2 MS. TSOUKALAS CURTO: I would think so. I went in
3 there and they asked me if I wanted to shop and I said, ah, no.

4 CHAIRMAN MAMMINA: No, no.

5 MS. TSOUKALAS CURTO: Out of my price range.

6 VICE CHAIRMAN FRANCIS: They didn't offer you a
7 discount, I'm assuming.

8 MS. TSOUKALAS CURTO: Maybe, I don't know. I still
9 don't think I can afford their clothes.

10 MEMBER FERNANDEZ: Now, the cafe is going to be that
11 blue rectangle, I guess, that you're showing on the plan?

12 MS. TSOUKALAS CURTO: Yes.

13 MEMBER FERNANDEZ: Page two, there was a page number.

14 MS. TSOUKALAS CURTO: Yeah, it will be right against
15 those windows. So, you'll have, you know, a view of the center.
16 There's no outdoor seating associated with it. But yes, right
17 when you walk into the left, that's where the seating area is
18 going to be, and then they're going to create like an area
19 where there's going to be a counter, and then there's going to
20 be the coffee and whatever takeout foods that will be provided. I
21 don't know yet.

22 MEMBER FERNANDEZ: I'm just trying to make sense of it.
23 You said there's going to be a takeout window, and I'm trying
24 to figure out where's the window and where's the ten seats.

25 MS. TSOUKALAS CURTO: Okay, so --

26 VICE CHAIRMAN FRANCIS: That's the --

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2 MEMBER FERNANDEZ: Okay, so this is, I guess, where the
3 actual --

4 VICE CHAIRMAN FRANCIS: Separates.

5 MEMBER FERNANDEZ: So this is the sitting area, and this
6 is where the employee will be?

7 VICE CHAIRMAN FRANCIS: Right.

8 MEMBER FERNANDEZ: She said it was self-serve. That's
9 the reason why. You said it was self-serve.

10 MS. TSOUKALAS CURTO: Well, you go to the counter, you
11 order your coffee, you take it, and go back to your seat.

12 MEMBER FERNANDEZ: So it's like a Starbucks. You walk
13 to an employee that will serve it.

14 MS. TSOUKALAS CURTO: That's most likely how it's
15 going to be done.

16 MEMBER FERNANDEZ: Okay.

17 MS. TSOUKALAS CURTO: They may have somebody bring over
18 your coffee, but most likely, that's what they anticipate
19 happening.

20 MEMBER FERNANDEZ: That's fine.

21 MS. TSOUKALAS CURTO: Look, they're not in the coffee
22 business, so --

23 MEMBER FERNANDEZ: It's just the plan is not showing
24 ten seats. It wasn't clear as to where. It showed a
25 highlight area, which I assume was the cafe area, but the area
26 next to it appears to be where the window is.

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2 MS. TSOUKALAS CURTO: That's correct.

3 MEMBER FERNANDEZ: So, I guess it's two sections.

4 VICE CHAIRMAN FRANCIS: Right.

5 MS. TSOUKALAS CURTO: They highlighted the area where
6 the seating is going to be.

7 VICE CHAIRMAN FRANCIS: Right.

8 MS. TSOUKALAS CURTO: That's correct.

9 CHAIRMAN MAMMINA: As soon as I saw that drawing, and I
10 had it blown up on my screen, maybe Mr. Westergard would
11 appreciate that, I said this drawing is not done in America,
12 and I slid it over; okay, and it's Luchio Graci (phonetic)
13 Architects, Reggio Amelia, Italia. I was right. I checked the
14 spelling, but --

15 MS. TSOUKALAS CURTO: Yes.

16 CHAIRMAN MAMMINIA: Pretty good.

17 MS. TSOUKALAS CURTO: All good.

18 MEMBER GOODSSELL: Well, this seems to be a trend now at
19 retail, in high-end retail.

20 CHAIRMAN MAMMINA: Yes.

21 VICE CHAIRMAN FRANCIS: Yep.

22 MS. TSOUKALAS CURTO: Yes.

23 MEMBER GOODSSELL: Where you go, you shop, you have a
24 snack.

25 MS. TSOUKALAS CURTO: Right.

26 MEMBER GOODSSELL: You have a coffee. My Board members

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pointed as well; you don't dare spill the coffee onto anything that you might purchase in there at the high-end store. I am all about food, and I don't have any objection to this.

MEMBER FERNANDEZ: Now, you said there will be no food preparation. Everything will be just prepared, and basically just unwrapped or whatever.

MS. TSOUKALAS CURTO: Correct, right. The operator would bring in any pastries. I'm thinking high-end Italian, you know, the same type of flare; Italian coffee, espresso, cappuccino, that sort of thing.

MEMBER FERNANDEZ: I can't see the plan, but I'm assuming that you have a refrigerator garbage there, somewhere, right? Because you will have --

MS. TSOUKALAS CURTO: It's not noted on the plan, but we will have to accommodate that.

MEMBER FERNANDEZ: Right, because you have to -- you can't see. You can't open it for some reason.

MS. TSOUKALAS CURTO: Oh, Mr. Westergard said it's in the basement.

MEMBER FERNANDEZ: Okay. Anybody else have any other?

MEMBER DONATELLI: I'm looking at the plan. I think I just lost it, sorry.

CHAIRMAN MAMMINA: Here it is.

MEMBER DONATELLI: There's an area to the right as you enter that is bubbled in red. Any changes being made to that

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area?

CHAIRMAN MAMMINA: Typically, a revision bubble.

MS. TSOUKALAS CURTO: No, I think they were just clarifying the area to be used for the seating.

CHAIRMAN MAMMINA: You tag it.

MEMBER DONATELLI: Right, exactly. I'm just wondering why --

MS. TSOUKALAS CURTO: Nothing was changed, yeah.

CHAIRMAN MAMMINIA: Okay.

MEMBER DONATELLI: And there is no outdoor window to pedestrians who might walk up? It's purely inside?

MS. TSOUKALAS CURTO: No, in the alley, there will be a window.

MEMBER DONATELLI: There will be a window?

MS. TSOUKALAS CURTO: Similar to Kith Treats. Where you can go up and just --

MEMBER FERNANDEZ: If you look past the blue on the left.

MEMBER DONATELLI: I see. Where it says coffee shop.

MEMBER FERNANDEZ: That fooled me, too, at first.

MS. TSOUKALAS CURTO: Yeah, there's going to be a window there.

CHAIRMAN MAMMINA: Very compact.

VICE CHAIRMAN FRANCIS: Cool design.

CHAIRMAN MAMMINA: What do we think?

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2 MEMBER FERNANDEZ: If anybody has anything else?

3 MEMBER GOODSSELL: No.

4 MEMBER FERNANDEZ: Mr. Chairman, this appears to be the
5 way of the future with all these stores. I remember ten years
6 ago, Brooks Brothers, up on the second floor, had a little --
7 that was purely self-serve, exactly was like Keurig machines.
8 It wasn't Keurig, but that type of Italian machine where you
9 make your own espresso. It's been trending up, and clearly it's
10 multiple in this shopping center, so I find no objection to it,
11 and as long as you have refrigerated garbage in the building,
12 that will be fine. I move that we grant the application.

13 CHAIRMAN MAMMINA: Do we have a motion?

14 MS. TSOUKALAS CURTO: With the resolution.

15 MEMBER FERNANDEZ: I'm sorry?

16 MS. TSOUKALAS CURTO: With the resolution.

17 MEMBER FERNANDEZ: Yes.

18 CHAIRMAN MAMMINA: Motion by Member Hernandez. Do we
19 have a second?

20 MEMBER GOODSSELL: I second that.

21 CHAIRMAN MAMMINIA: Second by Member Goodsell. Please
22 poll the Board.

23 SECRETARY WAGNER: Member Goodsell?

24 MEMBER GOODSSELL: Aye.

25 SECRETARY WAGNER: Member Hernandez?

26 MEMBER FERNANDEZ: Aye.

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2 SECRETARY WAGNER: Member Donatelli?

3 MEMBER DONATELLI: Aye.

4 SECRETARY WAGNER: Vice Chairman Francis?

5 VICE CHAIRMAN FRANCIS: Aye.

6 SECRETARY WAGNER: Chairman Mammina?

7 CHAIRMAN MAMMINA: Aye.

8 MS. TSOUKALAS CURTO: Thank you very much.

9 (Whereupon, there was a discussion amongst the Board

10 Members.)

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1 Appeal # 21493

2 SECRETARY WAGNER: Next appeal, Appeal #21493, Bagel
3 Boss of Roslyn; 400 Willis Avenue, Roslyn Heights; Section 7,
4 Block 83, Lot 118; Zoned: Business-A.

5 Conditional Use 70-126A (pursuant to 70-225(B)(7)(a)[1]
6 for modification of prior conditional use under appeal #16308)
7 & variances 70-103(A)(1), 70-103(B) & 70-103(F) to legalize the
8 expansion of the kitchen of an existing bagel store (a
9 conditional use) with not enough parking, parking spaces that
10 are too small, and a loading zone that is too small.

11 CHAIRMAN MAMMINA: You've heard Appeal #21493, Bagel
12 Boss of Roslyn. Is there anyone in the room interested in the
13 application other than the applicant? Seeing, no one, please
14 give your name and address.

15 MS. TSOUKALAS CURTO: Same appearance, Andrea Tsoukalas
16 Curto for Forchelli, Deegan and Terrana. I'm here on behalf of
17 Jurors One, doing business as Bagel Boss. With me, today is
18 Wayne Muller from R&M Engineering. I'd like to submit
19 applicant's Exhibit A.

20 MR. PERROTTA: Thank you.

21 MS. TSOUKALAS CURTO: This is an application for area
22 variances to maintain an existing Bagel Boss Cafe at the
23 premises. Specifically, the applicant seeks a parking
24 variance. Sixty-six spaces are required under the current
25 code, and 25 spaces are provided. The applicant also seeks
26 area variances for parking stall and loading zone dimensions.

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Twelve stalls are at nine by 18, instead of the required ten by 20, and the loading zone also does not meet the required ten by 25 feet.

Finally, the applicant seeks an expansion of its conditional use permit for the cafe because the size of the kitchen was increased by more than 20 percent. The premises is located on the northeast corner of Willis Avenue and Yale Street. It's situated in Zone Business A and Residence C Zoning District, and has a lot area of 16,834 feet. The premises is an improved with a one-story building and parking lot. The first floor is 3,182 square feet, and the cellar is 2,059 square feet.

As you all know, Willis Avenue is a commercial quarter. I've provided photos of the premises and the surrounding area. They're in the exhibit packet under tabs three and four. There is a seafood restaurant on the southeast corner of Willis Avenue and Yale Street across the street. Other uses on Willis Avenue include a hairdresser for kids, a salon, a dentist, a tile store. Across the street, there's also a Subway, a Dairy Barn further south and 388 Restaurant further north.

It's important to note that the applicant is not changing its business model or increasing the number of patrons that can eat at the cafe. They're simply maintaining an extension of the kitchen area and office in the cellar.

My client leases the premises. They have been at this

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2 location for ten and a half years since April of 2013. The
3 prior operator obtained a conditional use permit for the
4 existing Bagel Boss Cafe in 1999. That was under Appeal
5 #16308. At that time, the Board only approved the first floor
6 to be used in conjunction with the cafe, and the basement was
7 vacant. The prior operators made improvements to the cellar
8 without coming before this Board to modify the conditional use
9 permit.

10 When my clients came in, they were advised that all
11 approvals were in place, so they had no reason to believe that
12 the conditional use permit did not, in fact, incorporate the
13 cellar kitchen and office. This only came to their attention
14 when someone from the Building Department conducted a site
15 inspection, and found that the improvements to the basement
16 were not part of the original approval. My client took over an
17 existing operating business. They actually kept the prior
18 operators on for five years before they took over the business
19 and operated it themselves. They've been operating the store
20 for about five and a half years.

21 Some additional history. This building was originally
22 approved in 1959 under Appeal #6235, and at that time, the
23 Board granted variances for not meeting the required landscape
24 buffer zone between the business and residential zones, and
25 also to permit parking in a residential zone. Before it was a
26 Bagel Boss Cafe, it was a bakery. That approval was in 1996

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2 under Appeal #15473, and the Board had approved a conditional
3 use permit for a bakery cafe with 60 seats at that time. Prior
4 uses were retail paint store, woman's clothing store, then the
5 cafe, then the Bagel Boss.

6 The applicant retained as I mentioned -- to conduct a
7 parking study. The report concludes there's sufficient parking
8 onsite and on Willis Avenue to accommodate the existing Bagel
9 Boss. Again, this is an existing business that was approved
10 more than ten years ago. As I mentioned, the use was actually
11 approved with more seats in 1996. The requirement at that time
12 was 25 parking stalls, and that's for a much more intense use
13 because the current store has 42, and what was approved was 66
14 seats. Also, with respect to the dimensions, the parking stalls,
15 the existing nine by 18 stalls are safe and are an adequate
16 size for most vehicles. Also, with respect to the conditional
17 use permit, the site has been used as a bakery cafe since 1996
18 and is a Bagel Boss Cafe since 1999.

19 Conditional use permits are akin to permitted uses with
20 the caveat that this Board has jurisdiction to post conditions
21 as it deems fit to mitigate any impacted neighbors. As
22 mentioned, there are several other food uses in the area, and
23 the existing use is in harmony with those uses and other retail
24 uses on Willis Avenue. The existing use also provides a
25 desirable service to the community, both residential and
26 commercial. It is a typical store found on a corner that abuts

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2 a residential neighborhood. There also will be no detriment to
3 the community to include traffic conditions or parking in the
4 area. With that, I would just like Wayne to just give a recap of
5 his report.

6 MR. MULLER: Good afternoon. For the record, Wayne
7 Muller, Robinson & Muller Engineering. Office is at 50 Elm
8 Street, Huntington, New York. As Ms. Curto indicated, we have
9 prepared a letter report dated October 31, 2023, which was
10 submitted to the Board on behalf of the applicant.

11 Essentially, in our report it's an analysis of the existing
12 conditions. The Bagel Boss is currently operating. We looked
13 at the peak times of the Bagel Boss. What we found is that
14 there is sufficient parking onsite and on Willis Avenue,
15 excluding the residential areas located to the north and south
16 of the subject and east to accommodate the level of activity
17 that currently exists, so therefore, the work that was done on
18 the basement, does not significantly impact parking and traffic
19 conditions in the area surrounding the subject property.

20 In addition, as Ms. Curto has indicated -- it's
21 actually, the Bagel Boss represents a significant reduction in
22 the seating, which was previously approved on the property. I
23 believe there were 60 seats at a traditional restaurant that was
24 approved or a bakery, excuse me, to the 42 seats that are
25 currently within the Bagel Boss, so in theory, there would be a
26 reduction in the number of vehicles parked in the area, and

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also, the traffic associated with the increased level of seating.

Therefore, based on our analysis, it is my personal opinion that the granting of the relief required to maintain the existing Bagel Boss restaurant will not have any significant traffic or parking conditions in and around the subject property. I'll be happy to answer any questions if the Board has any.

MEMBER GOODSSELL: I do. What are the peak hours for a bagel store?

MR. MULLER: Traditionally, in the morning. With the level of activity in the area and the surrounding businesses would be, at its least, a little bit into the afternoon around lunch.

MEMBER GOODSSELL: And a bagel store or a bagel food store, which I had to go in just to make sure that it really was a bagel store, as opposed to a restaurant; seems to me that the patrons are there for less time than they would be in a restaurant.

MR. MULLER: I totally agree. That's correct.

MEMBER GOODSSELL: Did you find also that the traffic in the morning or the morning hours were short-term, pick up bagel and go, pick up stuff and go?

MR. MULLER: Absolutely. Your assessment is totally 100 percent correct. It's more of a food shop than a

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traditional restaurant.

MEMBER GOODSSELL: The denial indicates that the --
there's not enough space for a loading zone. The loading zone
is too small. Where is the loading zone on the property?

MR. MULLER: I believe they unload within the parking
lot.

MEMBER GOODSSELL: I didn't see if they designated it as
a loading zone. Do you know when they load?

MR. MULLER: I think the loading zone is if you look
at the plan, Sheet A-1.2.

MEMBER GOODSSELL: I have it up on my computer.

MR. MULLER: It's at the southeast corner of the
building, that hatched area, that's the loading zone.

MEMBER GOODSSELL: That's the loading zoning.

MR. MULLER: So essentially, the truck would pull in
from Willis and then unload the products to the bagel store,
and then kind of come out curve cut once you're there, you go
back to Willis. Usually, the deliveries are during the
off-hours of the store.

MEMBER GOODSSELL: I would think so.

MR. MULLER: It wouldn't be beneficial for the truck to
show up at 7:30 in the morning when the activity there is
bustling. I don't know the exact hour, but based on my
experience with these bagel stores, it occurs later in the
afternoon.

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MEMBER DONATELLI: In your opinion, by relocating the prep area to the basement, would that cause the applicant to have to hire additional employees, or would that in any way impact the parking situation as it is?

MR. MULLER: I think the largest component down in the basement where he's got an office, which takes up a significant portion. Those people would already be there, and some of the prep areas, the walk-in cooler. I mean, that's just-- essentially allows them to store more product, I believe, downstairs, which would lead to less frequent deliveries, so, therefore, potentially reducing the amount of traffic, truck traffic that would come to the site because they could actually hold the product in the facility rather than having the trucks continuously come back to restock the store.

CHAIRMAN MAMMINIA: I would also think that while not legal, it's apparently been being used that way for, I don't know, ten years, seven years, whatever.

MEMBER FERNANDEZ: At least six.

MR. MULLER: For a long time.

CHAIRMAN MAMMINA: Valid question, certainly.

MEMBER DONATELLI: Had there been any -- to your knowledge, have there been any complaints against the applicant by the neighbors?

MS. TSOUKALAS CURTO: I spoke to the operator, my client, and he said there were no complaints. He has got a good

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relationship with the neighbors. He's the one that uses the office in the basement. He has not changed the business operations. He hasn't hired any additional people. He didn't make these improvements.

MEMBER DONATELLI: Right, I understand. Certainly, I think the nature of a bagel store is such that if you can easily find parking in the lot adjacent to the store; you're likely to pop in and pop out as opposed to having to park half a block away and then have to walk back to the store with your coffee and your bagel, or in your instance, with whatever you eat.

MEMBER GOODSSELL: I bought a sandwich and a salad.

MEMBER DONATELLI: To your knowledge, there are no complaints about it, and that it has been in existence for over ten years is certainly a testament to the fact that it's so far operating well. Unless anyone else has any other questions or comments?

MEMBER FERNANDEZ: Can I put my own testimony? I have been there multiple times. The parking is tight, but we used to find parking in many places, and I have also gone by because it was full; I didn't stop.

MR. MULLER: Right.

MEMBER FERNANDEZ: And other times, there was parking, and I parked, and I went in. My wife and I ordered, and we sat down and ate. It was a very good bagel. Certainly, works the

1 Appeal # 21493

2 way it's supposed to.

3 MR. MULLER: Correct, I agree.

4 MEMBER DONATELLI: All right, so therefore, I make a
5 motion that we grant the application.

6 CHAIRMAN MAMMINA: Motion by Member Donatelli. Do we
7 have a second?

8 MEMBER FERNANDEZ: Second.

9 MEMBER DONATELLI: Second by Member Hernandez. Please
10 poll the Board.

11 SECRETARY WAGNER: Member Goodsell?

12 MEMBER GOODSSELL: Aye.

13 SECRETARY WAGNER: Member Hernandez?

14 MEMBER FERNANDEZ: Aye.

15 SECRETARY WAGNER: Member Donatelli?

16 MEMBER DONATELLI: Aye.

17 SECRETARY WAGNER: Vice Chairman Francis?

18 VICE CHAIRMAN FRANCIS: Aye.

19 SECRETARY WAGNER: Chairman Mammina?

20 CHAIRMAN MAMMINA: Aye.

21 SECRETARY WAGNER: And that's with the restaurant?

22 CHAIRMAN MAMMINA: That's with the restaurant.

23 MEMBER DONATELLI: Right.

24 CHAIRMAN MAMMINA: I couldn't resist that at the amount
25 of cars that are now required for like a 5,700 square feet
26 building at 350 square feet per car, which is fair. It's

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23,000 square feet. I mean, that's half an acre.

MR. MULLER: Yeah, it's --

CHAIRMAN MAMMINA: I don't know. That's a lot of cars.

MEMBER FERNANDEZ: And they count the basement square
footage now.

CHAIRMAN MAMMINIA: Yeah.

MEMBER FERNANDEZ: For parking, when obviously, there's
only a handful of --

CHAIRMAN MAMMINA: Even at 300 square feet a car, which
is, you'd have to have the perfect piece of property for that.
That's 19,000 square feet of property. It's crazy.

MR. MULLER: Yeah, I agree.

CHAIRMAN MAMMINIA: We'll do a lot of the business here
that way.

MR. MULLER: Well, thank you. Happy holidays.

MS. TSOUKALAS CURTO: Thank you very much. Happy
holidays.

CHAIRMAN MAMMINA: Yes, thank you all.

MEMBER DONATELLI: Happy holidays.

VICE CHAIRMAN FRANCIS: Happy holidays.

Whereupon, there was a discussion amongst the Board
Members.)

SECRETARY WAGNER: We have an extension of time, SEQRA.

VICE CHAIRMAN FRANCIS: Oh, right. I'll move SEQRA.

MEMBER FERNANDEZ: Moved.

1 Appeal # 20898

2 MEMBER DONATELLI: Second.

3 CHAIRMAN MAMMINA: Extension, motion, second. All in
4 favor?

5 (Whereupon, all Board Members voted unanimously.)

6 SECRETARY WAGNER: Then we have an extension of time
7 request.

8 VICE CHAIRMAN FRANCIS: I'll move that, also.

9 SECRETARY WAGNER: Appeal #20898. It was, I think a
10 dance studio in a basement or something. They're requesting
11 extension of time because they can't find a tenant. An
12 extension of time was granted already in 2022; gave them one
13 additional year until February of 2024. The extension will
14 give them another year to 2025. This is the second request.
15 They're allowed to make one more, and then that's it.

16 MEMBER DONATELLI: The one in Great Neck?

17 SECRETARY WAGNER: No, this is 2833 Jericho Turnpike,
18 New Hyde Park. So moved by Les.

19 VICE CHAIRMAN FRANCIS: Yes.

20 SECRETARY WAGNER: Anyone second?

21 MEMBER FERNANDEZ: Second.

22 SECRETARY WAGNER: Member Goodsell?

23 MEMBER GOODSSELL: Aye.

24 SECRETARY WAGNER: Member Hernandez?

25 MEMBER FERNANDEZ: Aye.

26 SECRETARY WAGNER: Member Donatelli?

1 Appeal # 20898

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 SECRETARY WAGNER: Thank you.

8 (Time Noted: 1:29 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

) SS.:

COUNTY OF NASSAU)

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this
18th day of January, 2024.



MARIESEL BERRIOS