Town of North Hempstead

Board of Zoning Appeals

PUBLIC HEARINGS

Wednesday, October 9, 2024

10:00 a.m.

BOARD MEMBERS PRESENT:

David Mammina, Chairman

Leslie Francis, Vice Chairman

Daniel Donatelli, Member

Jay Hernandez, Member

ALSO PRESENT:

Deborah Algios, Deputy Town Attorney

Virginia Wagner, Secretary

Steven Perrotta, Planner

Mariesel Berrios, Stenographer

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

(WHEREUPON, the Pledge of Allegiance was recited.)

CHAIRMAN MAMMINA: Good morning, everyone and apologies. Fortunately, I have a computer savvy technician next to me right here. I always like to joke, my eight-year-old granddaughter is in school now, so there's nothing I can do about getting to my major sources.

What we'll do is we'll do our little pre-speech and things before. What I will do is explain a little bit in terms of the way we do things in North Hempstead, which might vary, you know, a little bit. If you've been to this zoning board or if you've been to another town or to a village, they may have a little bit of different procedure.

What we will do is as each case is called by our secretary, Ms. Wagner, we will ask at that point for the applicant to come on -- stand on up and come up to the podium. I will then ask if there's anyone who's interested in the application, which just means that they may be here because they want to find out more information. They may be here because they think it's the most wonderful thing in the world, and they'd like to say why, and they may be here because they don't like it one bit, and all of those -- everyone's prerogative to voice all of those opinions. So the applicant will give the name and address as well as everyone who comes up. The applicant will then put their case onto the record, and the board will then ask what questions -- just for one second.

(WHEREUPON, there was a pause in the proceedings.)

CHAIRMAN MAMMINA: All right. We will keep going. So the applicant gives name and address, same as everyone, and at that point, the podium belongs to the applicant. The applicant will put their case onto the record, and the board will ask whatever questions we may feel that we want to -- that we'd like to ask, and then we'll just ask the applicant to -- if there's anyone who wishes to speak.

We'll have the applicant just take a seat wherever you would like to, and then one at a time, anyone who wishes to speak about the application will come up, give their name and address. They'll put on the record what they would like to say. The board will ask whatever questions it feels it might want to. So we'll do that then one at a time until everyone has had their opportunity.

At that point, the applicant and typically only the applicant gets a second turn at the podium because then they have the ability to either support or refute what someone is saying or present a rational or whatever. The board then has the opportunity to go back and forth to whatever we might feel that we want to then with the applicant, and then at that point, the hearing is closed, and we almost never have a second hearing. So that is highly unusual if we have a second hearing, but what will happen then is that once the hearing is closed, the board will do one of four things.

We will either approve the application. We'll disapprove the application. We may reserve the application, which that would mean that we have all the information that we want. We're not asking for anybody to submit anything else, and just that the board has not made

a decision, and you know, we may deliberate on it later today or next hearing. We're always live stream. The fourth is --

ATTORNEY ALGIOS: Closing the record.

CHAIRMAN MAMMINA: Ah, okay. Closing the record is the fourth. That's it. No more documents come in, you know, regarding that.

If we reserve, then we would be looking for other documents or the board may want to take a look, you know, at the property again. We may ask for something from the Building Department.

ATTORNEY ALGIOS: You said reserve.

CHAIRMAN MAMMINA: I mean, continue. That's why I'm the architect, not the attorney. I do see some people say, even though sometimes I think I'm the attorney, but no, I'm not gonna go into my attorney story.

What will happen is, you know, at that point, you know, we will do one of those four things. No second hearing. What we will ask you to do is that if we were to either reserve or continue, especially if it's a reserve, then you can speak, you know, with Ms. Wagner or anybody else in the zoning office, and they will tell you what the status, you know, is of that; has it been decided, hasn't been decided. They're really not there to give any advice regarding that.

This is a legal hearing of sorts. It's what's called quasi-judicial, which just means that there is a process here that's not just somebody making a decision. The board makes a decision as a unit.

With that part said, what we'll ask everyone to do is kind of take all of your things that make noise and that we live and die by,

you know, now, and just put them on silent. That's okay. You don't have to turn them off. If you have to make a phone call or take a phone call, that's okay. You just stand on up, and you can move on over into the lobby area.

One other point that I've forgotten is then when we have the persons who wish speak either for or against an application, that's limited to three minutes. As I like to say, we're not chopping anybody's head off at three minutes, but, you know, just depending upon how many people come out for an application. I mean, we could be here all day if everybody were to continue on and on.

So if we can take our, you know, devices, and then also, if there's anyone who's not here yet, who you're expecting to come, just that we ask you to have them do the same thing.

The other thing is that we keep crosstalk and things to zero, and even now and then, you know, our very capable stenographer will look at me and say, hey, you know what? You guys are killing me up here. And also, we do have one of our members is out; that's Member Goodsell. She has a family issue that she needed to deal with. I think I covered everything.

VICE CHAIRMAN FRANCIS: Yeah.

CHAIRMAN MAMMINA: Okay, we got the thumbs up on that. With that said, do we have any modifications to this morning's calendar?

SECRETARY WAGNER: Yes, Mr. Chairman. We have an adjournment of Appeal #21608, Giacobbe Realty Corporation; 17 Beechwood Avenue, Port Washington; Section 5, Block 94, Lot 589; in the Industrial B Zoning District.

Appeal for determination or in the alternative, variances from 70-202.A, 70-212.B, and variances from 70-50.A, and 70-208.F to legalize an addition to a non-conforming dwelling that will result in the expansion of a non-conforming dwelling that is located too close to the street, and to legalize an area of outdoor storage for vehicles, construction equipment, and machinery that is too big and is located too close to a property line. That is adjourned to November 6th.

We also have adjournment of Appeal #21607, Mucha Realty, Inc. (Town Animal Hospital of Manhasset); 260 Plandome Road, Manhasset; Section 3, Block 79, Lot 1; in the Business B Zoning District.

Conditional Use 70-139(C)to construct interior alterations to an existing commercial building for use as an animal hospital (a conditional use). That's adjourned to October 23rd. That's not on the calendar that you -- if you picked up a copy of the calendar, so it's not on your calendar, but it's advertised, so we're making sure anybody who might have seen that is here realizes that that will not be heard today. That's Appeal #21607 from Mucha Realty, Inc.

CHAIRMAN MAMMINA: What I like to say is, of course, we're saying that those are not going to be heard today. This is all so fascinating what we do here, so you may choose to stay here the whole day if you would like, but you do know, that is date certain. So that means that's the next time that it will be up, and they'll be notified by letter.

SECRETARY WAGNER: For the one that's adjourned to October 23rd, I don't believe they did their mailing, so they have to do both,

but if not, they would have to be notified by regular mail.

CHAIRMAN MAMMINA: Right. So one way or another, you will receive another notification if that time frame were to change.

With all of that said, Secretary Wagner, would you please call the first case?

SECRETARY WAGNER: Appeal #21590, Tomas Garcia; 701 Roman Avenue, Westbury; Section 11, Block 91, Lot 20; in the Residential C Zoning District.

Variance from 70-100.2(A)(2) to install fencing that is located within a front yard and to replace fencing that is located within a front yard.

CHAIRMAN MAMMINA: You have heard Appeal #21590, Tomas Garcia. Is there anyone in the room interested in the application other than the applicant? Seeing no one --

UNIDENTIFIED SPEAKER: Sorry.

CHAIRMAN MAMMINA: Oh, we do have one person. Oh, we have a couple more. So you will have the opportunity to speak then after the applicant. My apologies.

MS. GARCIA: Do we sit back down?

CHAIRMAN MAMMINA: No, you're up at bat now. Give your name address.

MS. GARCIA: So I'm going to speak on behalf of my dad.

CHAIRMAN MAMMINA: Then identify your -- that he's here, and just so it makes the record complete.

MS. GARCIA: Tomas Garcia; 701 Roman Avenue, Westbury.

VICE CHAIRMAN FRANCIS: And your name.

MS. GARCIA: My name is Jenny Garcia.

VICE CHAIRMAN FRANCIS: Okay. Same address?

MS. GARCIA: Yes.

VICE CHAIRMAN FRANCIS: Go ahead.

MS. GARCIA: So we want to petition to keep the fence. Me and my family currently reside there and we plan on staying there. My daughter has autism, and with this diagnosis, it is imperative for her safety measures. Kids with the spectrum tend to -- I'm sorry, this is hard.

VICE CHAIRMAN FRANCIS: It's fine. Take your time.

CHAIRMAN MAMMINA: Very emotional, and we fully understand.

MS. GARCIA: Yeah. So for her safety, being part of the community under autism, I hear about a lot of cases of kids wondering, getting hit by cars, not understanding safety. So her future is unknown, and I just want to protect her, and I hope that you guys understand that this decision --

VICE CHAIRMAN FRANCIS: We are very cognizant of this particular issue. We've had other cases before us with children with autism. And -- so your case is not unique. One thing I would say, your application, you're only seeking for 4-foot fence around the house.

MS. GARCIA: Right.

VICE CHAIRMAN FRANCIS: Is that going to be adequate going forward in five years? Is that going to be an adequate height for your child?

MS. GARCIA: I mean, I think so, yeah.

VICE CHAIRMAN FRANCIS: Okay.

MS. GARCIA: I don't know. I don't know. I can't speak from five years from now or, you know, if it's needed, not needed. I don't know what would be needed then, and that's -- I would assume so, it would be fine.

VICE CHAIRMAN FRANCIS: Okay.

MS. GARCIA: But --

VICE CHAIRMAN FRANCIS: Because we would certainly give you a taller fence if that's what you wanted.

MS. GARCIA: Okay. I would have to talk to my dad about that.

VICE CHAIRMAN FRANCIS: Sure.

CHAIRMAN MAMMINA: What type of fence will it be?

MS. GARCIA: It's a --

CHAIRMAN MAMMINA: What type of fence will it be?

VICE CHAIRMAN FRANCIS: Chain link. I mean, I see that --

MS. GARCIA: It's a --

CHAIRMAN MAMMINA: Will it be a chain link? I mean, I see that.

MS. GARCIA: Right now, that's what we have.

CHAIRMAN MAMMINA: Would that be --

MS. GARCIA: We do wanna plan on changing it to like a, I guess, the white.

MR. GARCIA: PVC.

MS. GARCIA: Yeah, PVC. I don't know.

VICE CHAIRMAN FRANCIS: You want to ask him now about the height? Because we can do this -- we already got the letter from

the doctor.

MS. GARCIA: Okay.

VICE CHAIRMAN FRANCIS: So --

MS. GARCIA: Four feet is fine.

VICE CHAIRMAN FRANCIS: I live in your neighborhood, so I'm very familiar with where you live and the traffic patterns and everything about that particular area. One thing I will point out before we get to my motion is that you can also --

ATTORNEY ALGIOS: (Inaudible) --

VICE CHAIRMAN FRANCIS: Oh, yeah, yeah.

ATTORNEY ALGIOS: They would have to come back.

VICE CHAIRMAN FRANCIS: Right, okay. Got it. You can also apply to the highway department to get a sign that says there is an autistic child in this neighborhood.

MS. GARCIA: Okay, thank you.

VICE CHAIRMAN FRANCIS: But there are other people who wanted to speak, so we would want to hear from them before we go further with making any motion.

MS. GARCIA: Okay. All right.

CHAIRMAN MAMMINA: You may have a seat.

MR. GARCIA: Thank you.

MR. UMANA: How you doing?

VICE CHAIRMAN FRANCIS: Good morning. Name and address, please.

MR. UMANA: I live at 270 Brook Street, Westbury, New York.

VICE CHAIRMAN FRANCIS: And your name, sir.

MR. UMANA: My name is Juan Miguel Umana. I'm their neighbor. I'm with them with the case they're having, so I agree with them. It doesn't bother me at all. I'm happy. They're good neighbors, so I'm willing to help.

VICE CHAIRMAN FRANCIS: Well, you're a good neighbor, too, for coming out.

MR. UMANA: Well, I came really far. Like I was telling them 'cause I live in Virginia. I got my mom living here. I'm taking care of her. Helping her out. She's a 70-year-old woman. Well, yeah. I feel having a kid -- I have a little son, too. I have boy. My kid had cancer. Fortunately, thank God of everything, he's cancer free now, so I understand when it comes to special situations, you know. It's not easy. Hopefully, you guys have a good heart and help them out.

VICE CHAIRMAN FRANCIS: Thank you. I appreciate it.

CHAIRMAN MAMMINA: Was there another gentleman that had his hand up?

VICE CHAIRMAN FRANCIS: Good morning.

MR. DUKES: Bless you all. Good morning. We are their neighbors next door; 705 Roman Avenue. My name is Michael and this is my mom.

VICE CHAIRMAN FRANCIS: And last name?

MS. DUKES: Dukes.

MR. DUKES: We've been knowing their family ever since they moved there. They're great people. We support their fence. You know, it's about safety for the family, not only for the child, but

for the family as well, and we support that, you know. We hate that child has the disease, but anything to help, you know, we support, and we will like you all to come together to help. That's what it's about in America. Each one of us helping one another, you know, to get through each day, which makes it a better place. I'm gonna get a little emotional too because one of my sons got hit by a car in front of the house, and maybe if a fence or something was up, it wouldn't have happened or, you know, so I second and third the motion to keep it up, please.

VICE CHAIRMAN FRANCIS: Okay.

MR. DUKES: Everyone think about that and let's come to an agreement here that helps. Thank you all for listening to us.

VICE CHAIRMAN FRANCIS: Thank you. Thank you for coming out.

MS. DUKES: I support them, too, 100 percent. They have little kids, so I have one. He got hit at the age of 15. A car cut up in the yard and hit him. He never -- he's handicapped for the rest of his life. Honor roll student, basketball player, guard. He would've been playing the NBA right now, but somebody cut up in the yard, put him down for the rest of his life. He's alive, but he can't do anything really for himself. We all help. So we support them the same way.

VICE CHAIRMAN FRANCIS: Ma'am, just please give your name.

MS. DUKES: So we support them. My name is Mary Dukes. I'm the next-door neighbor. I've been knowing them for a long time. They're good people, and I'm one of the oldest grandmothers on the block, 80 and a half years old, so I support everybody, kids, grand,

everybody. We just hope you all vote the right way. Thank you very much.

CHAIRMAN MAMMINA: I'm sure you're like the grandma of the block. Thank you for coming in and giving your thoughts.

MS. DUKES: Thank you for having us.

VICE CHAIRMAN FRANCIS: Is there anyone else who wants to speak?

COUNCILMEMBER TROIANO: Yes, please. Thank you, and good morning. My name is Robert Troiano, Jr. I come to you as the President of the Westbury Board of Education. I really came to support Ms. Garcia and her application, but after hearing the testimony so far, I don't think there's much I can add to that, and I may get a little emotional myself. It was very difficult.

I just wanted to say that I've spoken to the superintendent of schools in Westbury, as well as the director of special education, and they both confirm the diagnosis that was provided in the letter provided to you by the doctor, and I -- and so we would as members of the school district, we support the application as well.

If I can also ask, though, Vice Chairman Francis offered the opportunity to perhaps getting a higher fence.

VICE CHAIRMAN FRANCIS: Yeah.

COUNCILMEMBER TROIANO: And so -- I couldn't hear the exchange between you and the town attorney's office, but is that something that they could -- that they could accept as an option, and then still install the 4-foot fence if they wanted to?

VICE CHAIRMAN FRANCIS: According to the town attorney that would be a new application for fence height. Fence height is not

before us today.

COUNCILMEMBER TROIANO: I think they should stick while they're ahead.

VICE CHAIRMAN FRANCIS: Yeah.

COUNCILMEMBER TROIANO: Thank you.

VICE CHAIRMAN FRANCIS: Thank you for coming.

CHAIRMAN MAMMINA: Thank you very much.

VICE CHAIRMAN FRANCIS: Is there anyone else who wants to speak? Mr. Garcia and Ms. Garcia, you can step back up, please.

MR. GARCIA: Yes.

VICE CHAIRMAN FRANCIS: If you have nothing else to share with us?

MS. GARCIA: I just wanna thank you guys for your time and your understanding, and to all my neighbors around us that came out to support. It's a very big deal. Even though it -- after everyone leaves today, everyone goes about their day. This affects my daughter's safety permanently. I just want to thank everyone, and just keep in mind that whatever the decision is, it’s mostly for a little girl that unfortunately doesn't have much control of this diagnosis.

VICE CHAIRMAN FRANCIS: How old is she?

MS. GARCIA: She just turned four.

VICE CHAIRMAN FRANCIS: Four years old, okay. Mr. Chairman, I make a motion that we grant this application for all of the reasons stated in appearance of the two parties.

CHAIRMAN MAMMINA: We have a motion from Vice Chairman Francis.

Do we have a second?

MEMBER HERNANDEZ: Second.

MEMBER DONATELLI: Second. He beat me.

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

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: I'll say that your situation, I think, has a special place in everyone's heart.

MS. GARCIA: Thank you.

CHAIRMAN MAMMINA: My daughter changed careers to become a special education teacher, and she teachers in the Cutchogue School District now, and it truly is her life, and she loves those children, so.

MS. GARCIA: Thank you so much.

VICE CHAIRMAN FRANCIS: Your application was very, very unique in that we typically do not grant fences in the front yard, but because of your special circumstances, we understand that, and as the Chairman said, not only is it legally required for your child, it's heartfelt from all of us.

MS. GARCIA: Thank you.

VICE CHAIRMAN FRANCIS: We wish you the best of luck with your child.

MS. GARCIA: Thank you.

CHAIRMAN MAMMINA: The Americans with Disability Act, you know, is a piece of legislation, of wisdom, that recognizes that a disability is someone in a wheelchair, someone with autism.

MS. GARCIA: Right.

CHAIRMAN MAMMINA: You know, any number of things and protects your rights under that law.

MS. GARCIA: Thank you guys so much.

CHAIRMAN MAMMINA: I will also vote, aye. The application is granted.

VICE CHAIRMAN FRANCIS: The application is granted.

MS. GARCIA: Thank you so much. God bless you all.

VICE CHAIRMAN FRANCIS: Good luck.

MR. GARCIA: Thank you, everyone.

MEMBER DONATELLI: Nice way to start the morning.

CHAIRMAN MAMMINA: That's for sure.

VICE CHAIRMAN FRANCIS: We should leave now.

CHAIRMAN MAMMINA: All done. Sorry, everyone.

SECRETARY WAGNER: Next appeal, Appeal #21597, Feng Ren; 38 South Bayles, Port Washington; Section 5, Block 98, Lot 25; in the Business-A and Industrial B; reviewed as Residence C Zoning District.

Variances from 70-49.B, 70-46.A, 70-208.F, 70-50.A, and 70-231 to construct an addition to a non-conforming dwelling that makes the

home too big and too tall, and will result in the expansion of a non-conforming dwelling. To construct a portico that is located too close to the street and to legalize an attic with finished flooring and heat, which is not permitted.

CHAIRMAN MAMMINA: You've heard Appeal #21597, Feng Ren. Is there anyone in the room who wishes to speak regarding the application other than the applicant? Seeing no one, please give your name and address.

MR. ANG: It's Christopher Ang; 93 Main Street, West Sayville, New York 11796. I'm the representative for the owners. The owners are present. We are proposing a two-story addition to an existing two-story home in the rear of the home, along with a proposed wood deck and stairs in the rear of the home, and in the front of the home, we're proposing a portico and a new set of stairs.

The variances being sought are the front yard setback. The front yard setback is being reduced from the average front yard setback within 200 feet of 19.5 down to 16.5.

The other variance we're going to seek is the floor area ratio. The floor area ratio is allowed at 50 percent, and we're seeking 58.7 percent.

I'd like to point out to the board that the detached garage is attributing to the 58.7. The garage right -- the existing garage is 6.4 percent of that 58.7.

The other relief that we're seeking is the finished attic. Right now, it was, I believe, there was a permit applied for, but it was never closed out from the finished attic, and that finished

attic is 8.3 percent of the overall FAR that we're asking for. So with the garage and the attic, that's pushing us over the 50 percent of the lot coverage -- I'm sorry, the FAR.

I'd like to ask if the board has any questions?

VICE CHAIRMAN FRANCIS: I guess my first question is, why is the new addition in terms of the height going to be higher than what's there now?

MR. ANG: Can I just show you on the drawing?

VICE CHAIRMAN FRANCIS: Sure.

MR. ANG: So the addition that we're proposing is wider than the existing house, so we actually match the roof line and the roof line ended up five or six inches higher than the existing house.

MEMBER DONATELLI: I'm actually showing it 1.8 feet difference.

MR. ANG: Let me just double-check myself. I stand corrected, yes.

MEMBER DONATELLI: So it's substantially taller. Is there a reason for that?

MR. ANG: It is aesthetics, but that is something in the application that we'll be willing to maintain the existing height of the existing house and take that part of the application out.

MEMBER DONATELLI: May I ask a few questions?

MR. ANG: Sure.

MEMBER DONATELLI: I guess my first observation is that we're requesting, according to my calculation, you're requesting 451 square feet in addition -- over what is allowed.

MR. ANG: That is correct.

MEMBER DONATELLI: That is a pretty big ask.

MR. ANG: Okay.

MEMBER DONATELLI: This board typically tries to limit gross floor area pursuant to the building code. Under certain circumstances we do grant some variances, but that is a very big ask; 451 square feet, is a lot over the limit.

MR. ANG: We understand.

MEMBER DONATELLI: I'm familiar with the area. I'm actually from Port Washington. My office is half a block away from there, so I'm very familiar with these houses. There tend to be large houses on small lots, and I understand that this is one of the three that are even smaller than normal because of the parking lot behind it.

MR. ANG: Correct.

MEMBER DONATELLI: But still, that's a very big ask over what is allowed.

MR. ANG: One of the solutions that we have for that is that we can reduce the garage. Right now, there's a part of the garage -- and can I just show you on the thing?

MEMBER DONATELLI: Yes, please. The garage is over 300 square feet?

MR. ANG: That's correct. Right now, we have part of the garage in the front. The owner and I discussed it. The owner is willing to take that part of the garage out, therefore, would be including in the GFA.

MEMBER DONATELLI: So when you say, take that part of the garage

out, are we talking about demolishing the garage or making it smaller?

MR. ANG: Making it smaller.

MEMBER DONATELLI: Making it smaller under 300 square feet?

MR. ANG: That's correct, and that'll reduce it by 6.4 percent.

MEMBER HERNANDEZ: How big is the garage now?

MEMBER DONATELLI: The garage is 350 square feet.

MEMBER HERNANDEZ: So it's only over by 50 feet.

MEMBER DONATELLI: Right, but they're now suggesting that they might actually remove the garage.

MEMBER HERNANDEZ: Fifty less.

MEMBER DONATELLI: And you would still have the two compliant spaces?

MR. ANG: Can you repeat the question?

MEMBER DONATELLI: In others words, you're required by code to have two parking spaces, on-site parking spaces?

MR. ANG: Yes, we would have that still.

(WHEREUPON, a discussion was held among Board Members.)

SECRETARY WAGNER: Did you say you were going to demolish the --

MR. ANG: No, I did not.

SECRETARY WAGNER: Or modify?

MR. ANG: I said we're going to modify the garage.

MR. PERROTTA: Modify the garage.

MR. ANG: That's correct, yeah.

MEMBER DONATELLI: I understand.

(WHEREUPON, a discussion was held among Board Members.)

MEMBER DONATELLI: Are you familiar with the Five Factors that

we're required to --

MR. ANG: I do.

MEMBER DONATELLI: So what I will ask because --

MR. PERROTTA: There's a copy.

MEMBER DONATELLI: -- I think you kind of glossed over some of the items on the notice of disapproval. If you can please go over all the items, and you can also address the Five Factors, please.

MR. ANG: Do you want me to do the Five Factors first?

MEMBER DONATELLI: Why don't you address all the issues that are in the notice of disapproval, and then you can address the Five Factors --

MR. ANG: Okay.

MEMBER DONATELLI: As to those.

MR. ANG: So the home being too big is the floor area ratio. So that one we would like to reduce the size of the garage to bring it under the -- under or at 300 square feet, and that will reduce the percentage 6.4 percent. So that'll bring it down to 52.3 percent, so that's what we would be asking for; 52.3 percent instead of the allowable 50 percent.

MEMBER DONATELLI: Yes, please.

MR. ANG: The front yard, we're reducing the required 19.5 feet front yard setback. That's the average setback within 200 feet of the property, down to 16.5. So the required is 19.5 feet. We're asking for 16.5 feet, and I'd like to point that is a portico, and it will be an open portico porch that will never be inhabited or heated.

MEMBER DONATELLI: Well, my understanding is that the front yard setback is 25 feet with an allowance of five feet for the portico. So when you talk about average, the law requires it's either the minimum or the average, which is more than the minimum.

MEMBER HERNANDEZ: When it's more.

MEMBER DONATELLI: When it's more. So in other words, the requirement is 25 feet.

MR. ANG: Okay, so I apologize. I thought it was 19.5. So I'd like to just re-read that. Which is going to be a 20-foot required setback, and we're reducing down to 16.5.

MEMBER DONATELLI: It's just important that we keep the record straight.

MR. ANG: I understand. And then the --

SECRETARY WAGNER: Excuse me, sir.

MR. ANG: Yes.

SECRETARY WAGNER: You're saying 16.5? The disapproval says a one-story over portico 12.5.

MR. ANG: Oh, I'm sorry. I apologize. We're going from -- can I clarify that?

VICE CHAIRMAN FRANCIS: Go ahead.

MR. ANG: We're going from 20 feet down to 12.5. So 20 feet is required. We're asking for 12.5 to the portico. I'm sorry, it's 16.5 to the building.

MEMBER DONATELLI: 7.5 percent overage.

MR. ANG: That's correct.

MEMBER HERNANDEZ: Can I just ask for -- just clarification

again because as I look at your drawing, the side view, it looks like there is an open portico in front of another structure that protrudes forward, so when you're measuring, where are you measuring to? The protrusion or to the wall of the house? What are considering the wall of the house? I don't see measurements here.

MR. ANG: So 12.5 is to the portico, and then the 16.5 is to the house itself.

MEMBER HERNANDEZ: To the protrusion that goes forward.

MR. ANG: Yes.

MEMBER HERNANDEZ: And is that new or is that part of the existing house?

MR. ANG: The portico is proposed.

MEMBER HERNANDEZ: The portico is new, but the protrusion coming forward in front of the house --

CHAIRMAN MAMMINA: Where the office is.

MEMBER HERNANDEZ: Is that --

MR. ANG: That is existing.

MEMBER HERNANDEZ: That is existing.

MR. ANG: That is existing.

VICE CHAIRMAN FRANCIS: Thank you.

(WHEREUPON, a discussion was held among Board Members.)

MR. ANG: And then for the height of the building, we understand that the board does not, you know, that does not like to grant heights on a building, so we would like to take the height and bring it down to the existing height. So on that point, I'd like to maintain the existing height of the existing house.

CHAIRMAN MAMMINA: We also want to talk about the attic.

MR. ANG: Correct.

CHAIRMAN MAMMINA: Because that's -- that's not permitted.

MR. ANG: Yeah, so if that's -- yeah, right now, it is a finished attic. So if that's something that the, you know, the board would, you know, would not consider for the case and for the grant, then we would take that attic and make it a non-finished attic and storage only.

MEMBER DONATELLI: Are there fixed stairs leading to it?

MR. ANG: Yes.

MEMBER DONATELLI: Is it currently used for habitation?

MR. ANG: No.

MEMBER DONATELLI: And when you say finished, can you describe it, please?

MR. ANG: Yes, there's sheetrock up there, and there is heat, but right now, they're not using it as a habitable space.

MEMBER DONATELLI: So it's being used for storage?

MR. ANG: That's correct.

MEMBER HERNANDEZ: And you said fixed stairs. Is it an open, fixed stairs, or is it a fixed stairs and a closet behind a closet door or something?

MR. ANG: The second. It's behind a closet door.

MEMBER HERNANDEZ: Behind a closet door.

MR. ANG: Yeah. So it's a steep stair to --

MEMBER HERNANDEZ: Right.

MR. ANG: -- you know.

MEMBER HERNANDEZ: Some will be fixed stairs directly above the first, second-floor stairs continuing up. This is completely meant to be an attic, but it's fixed rather than drop-down.

MR. ANG: You're absolutely correct, and that is original to the house.

(WHEREUPON, a discussion was held among Board Members.)

CHAIRMAN MAMMINA: We're not talking zoning. We're just talking life safety. Is that -- because, I mean, that attic -- I don't know if that's considered a third floor on the disapproval, but, you know, there's criteria that has to happen there. There needs to be sprinklers. There needs to be a sprinkler system that goes down to the front door. You know, it's got to have interconnected smoke detectors. You know, there's a whole section of the existing building code --

MR. ANG: Yes.

CHAIRMAN MAMMINA: -- that covers that, so I think you've got two things, you know, that are here. The second one regarding building code and whatever. We don't call that here. That's not our job. That belongs across -- belong across the street. What would you do to that attic?

VICE CHAIRMAN FRANCIS: Right, that was my question.

CHAIRMAN MAMMINA: Go ahead.

VICE CHAIRMAN FRANCIS: No, go ahead.

CHAIRMAN MAMMINA: What I think in legalizing that, you got finished flooring and heat not permitted. I mean, that would seem easy enough, you know, to address by saying, I'm going to take that

out, and then it goes away.

MR. ANG: Yes. Yeah, so that's something that we discussed with the owner, and I did realize that it might be a point that the board would concentrate on. They would agree not to keep it finished.

CHAIRMAN MAMMINA: But just recognizing, and I understand what you're saying.

MR. ANG: Yeah.

CHAIRMAN MAMMINA: It's not a question of us not concentrating, you know, on that. And I don't think that you're saying, hey, Board, are you doing, you know, what you say you're doing, but then the next person comes in with a finished attic, you know, with heat and what the Building Department deems storage. We don't do that. Then the question becomes how do we tell them that they can't have that?

MR. ANG: No, I understand the precedence of the board would be considered on the other cases, and we would not wanna set a precedent that the board would have a hard time --

CHAIRMAN MAMMINA: Sure.

MR. ANG: -- moving forward with.

CHAIRMAN MAMMINA: Because that's a question of use.

MR. ANG: That's correct.

CHAIRMAN MAMMINA: So it's really -- it's zoning -- building code can be fixed.

MR. ANG: Yeah.

CHAIRMAN MAMMINA: I always tell people, I can fix anything you want for money but if it's a building code issue, if it's a zoning

issue, I can't help you.

MR. ANG: There's nothing we can do.

ATTORNEY ALGIOS: So would you like to withdraw then on the record those two variances --

MR. ANG: Yes, the height --

ATTORNEY ALGIOS: The one for the attic and the one for the height?

MR. ANG: That's correct.

MEMBER DONATELLI: I think -- and I know that I've asked you to address the Five Factors, and I would still like to hear that, but I think that I'm really leaning toward needing to see new plans. I guess for the premises that's now being proposed because these are substantial changes that I would like to see.

VICE CHAIRMAN FRANCIS: Yeah, absolutely.

MR. ANG: Sure.

CHAIRMAN MAMMINA: And I do think supporting that, that it's something also that I use the word protect. I don't mean that in such a literal way, but it protects you as the professional, which I can relate to certainly.

MR. ANG: Thank you.

CHAIRMAN MAMMINA: And protects your clients, who are then the residents just to make sure all the math works.

MR. ANG: Yeah, I agree.

CHAIRMAN MAMMINA: Because if there's an exit review done by the Building Department, you know, later on. Take this as I mean it. We don't want to see you again, and I'm sure you don't want to

come back, and I'm sure your client doesn't want you to come back.

MR. ANG: Yeah.

CHAIRMAN MAMMINA: So that's -- I mean, that -- I think the necessity for, you know, re-plans, gives you the ability to double-check your math.

MR. ANG: We would agree to that.

SECRETARY WAGNER: What you would do is to submit the plans to or upload to the Building Department Applications so that the plans examiner can take a look at them again, and then they would advise us as to whether those variances were actually eliminated and then the board can give -- then at that point, you would upload them to the Board of Zoning Appeals Application, and then the board would look at them again to determine, you know, based on the new disapproval.

MEMBER HERNANDEZ: You do not have to come back to re-present the plans.

MR. ANG: Say that part again.

MEMBER HERNANDEZ: You don't have to come back --

MR. ANG: Oh, okay.

MEMBER HERNANDEZ: -- to re-present them. They will be sent to us electronically. We'll review them, discuss them, and then decide based on that.

MR. ANG: Okay, understood.

MEMBER HERNANDEZ: So you don't have to take your time ahead to do.

MR. ANG: I appreciate that. Thank you.

CHAIRMAN MAMMINA: And there was no one who wanted to speak, correct?

VICE CHAIRMAN FRANCIS: No.

CHAIRMAN MAMMINA: Okay, just making sure.

SECRETARY WAGNER: The applicant wants to speak.

CHAIRMAN MAMMINA: Oh, the applicant, of course, may speak.

MEMBER HERNANDEZ: Of course, please.

MEMBER DONATELLI: Good morning.

MR. REN: Hi, good morning. My name is Feng Ren, 38 South Bayles Avenue. I'm the husband, owner.

MS. REN: I'm Rachel Ren.

MEMBER HERNANDEZ: Welcome.

MS. REN: Thank you.

MR. REN: Thank you. So just answering a couple of the comments 'cause we do have a bit more history. When we purchased the house about nine years ago, the attic was already done --

MS. REN: No, I don't want to talk about that.

MR. REN: Okay.

MS. REN: Our primary purpose for expanding the house is for our children. We have ages almost five, turning five on October 30th, and a son that also just turned nine. We specifically chose to stay in Port Washington. We had considered moving to New Jersey. I know. I know. I know. It's wild, but we were looking for space.

MEMBER DONATELLI: Let's see. Port Washington? New Jersey?

MS. REN: I know. I was, like, do I really want to commute by

bus or New Jersey Transit every day?

MEMBER HERNANDEZ: No.

MS. REN: No. But ultimately what actually led me to stay in Port Washington is I'm heavily involved with the Port Washington Children's Center, with -- you might be familiar with since you're a Port Washington local.

CHAIRMAN MAMMINA: It's great.

MS. REN: Super involved. My kids have been there since they were basically 18 months and two years old, and I have to be honest, I also love the library. I think one of the best libraries. I actually have a library book with me. So for that and a bunch of reasons, like we love of our neighbors. We specifically choose to stay in Port Washington.

Unfortunately, as you have seen all over New York, it is not a Port Washington issue. We are getting priced out of houses. That being said, we love our location. We are walking distance to the train. You can't get better than that. Even if you looked a little further and paid a little bit more, you can't beat us. We can -- we walk to Main Street. We go to Gino's all the time because it's right down the block, so we love Port Washington.

We want to stay here. We want our kids to be here. My kids will be able to walk to the middle of high school right down Vanderventer, so we specifically chose to stay in Port Washington. We just needed a bigger space 'cause I got two boys, and they are wild. They need space. They are rambunctious. One loves to play and climb and play, so we just need more space.

MR. REN: Yeah, and we have four people in two bedrooms, so that's been life for a bit.

MS. REN: Yes.

MEMBER DONATELLI: Well, I appreciate the incite. My kids were at the Children's Center some 35 years ago.

MS. REN: Oh.

MEMBER DONATELLI: So it's been a while, but it was there 35 years ago, which is my point. And I've certainly heard you, and I appreciate your input. What I would like to ask is, you said you lived in Port Washington for nine years, you said? People who live here love the walkable of it. It's part of what makes Port Washington special and Manhasset as well. When you travel the country, you see how special it is to have a walkable downtown.

MS. REN: You don't have to tell me twice. I lived in Texas for a while. There is no walking there.

MEMBER DONATELLI: That's right. So I'm very sympathetic to the emotions that you're expressing today. Thank you for your input.

VICE CHAIRMAN FRANCIS: I lived in Texas for one year. I couldn't wait to get out.

MS. REN: What part? Do you mind?

VICE CHAIRMAN FRANCIS: A small town called Tyler. A little bit out of Dallas.

MS. REN: Oh, okay. I was in Houston for a bit and then also a very, very small town called Magnolia. It's -- yeah, there's no walking.

VICE CHAIRMAN FRANCIS: No.

MS. REN: Just driving.

MEMBER DONATELLI: Maybe the Chairman knows this. I've heard said that Houston is the one city that doesn't have zoning.

SECRETARY WAGNER: It's true.

CHAIRMAN MAMMINA: Yes, and there's parts of Florida that did not have zoning on some levels, at least until Disney really came in, you know, hard and fast, yeah.

MS. REN: That's wild.

MEMBER DONATELLI: All right. Thank you.

MR. REN: Thank you.

MEMBER DONATELLI: May I hear from your architect again?

MS. REN: Thank you.

MEMBER DONATELLI: So, sir, I know we've gone back and forth, but would you please address the five issues?

MR. ANG: Yes. One is whether an undesirable change will be produced in the character of the neighbor or a detriment to nearby properties will be created by granting the area variance?

The proposed work will not change the character of the adjacent neighborhood if the area variance is granted. So two -- that was the answer for number one.

Two is whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than area variance?

Two, the benefit sought cannot be achieved by another method. The property size does allow for work without an area variance.

And then three is whether the requested area variance is

substantial?

The requested variance is not substantial. That's all I have for that.

And then for four, whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

So the proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood.

And then five, whether the alleged difficulty was self-created?

The alleged difficulty was -- is not self-created due to the non-conforming location of the existing structure/dwelling. The additional square footage needed for the floor area ratio is attic space and garage space, but we're gonna -- actually. I wanna take that out of that. We're not gonna actually go for the attic space or the garage space, and that's it. That's number five.

MEMBER DONATELLI: Well, what I would ask, Mr. Chairman, is that we continue the hearing for -- with the new plans with the modifications that the applicant has recommended. And I would also like to address for the record that one of the issues on the notice of disapproval is the increase of the non-conformity of the structure, and that is more of a question for us to address than for the applicant in this instance. I would point out that the houses there are already pre-existing non-conforming. I will point out that many of the houses in the area are probably in the neighborhood of 100 years old or so. So that -- it is a question that we're often asked of these older structures, particularly in Port Washington,

so we'll just keep that in mind when we review the new plans that are going to be submitted.

MR. ANG: I appreciate that.

CHAIRMAN MAMMINA: We'll continue the application, and I guess we will continue it without date unless you would like to ask for a specific date now, you know, and then --

SECRETARY WAGNER: Going to submit.

VICE CHAIRMAN FRANCIS: He's not coming back.

MEMBER HERNANDEZ: He's coming back?

MEMBER DONATELLI: No, we'll submit -- right.

CHAIRMAN MAMMINA: No, no, I'm sorry. I'm sorry.

SECRETARY WAGNER: He's going to resubmit the plans.

CHAIRMAN MAMMINA: I said I don't want to see you again.

MR. ANG: Okay.

SECRETARY WAGNER: He's going to submit the plans and then --

CHAIRMAN MAMMINA: Right, yes, yes.

MEMBER DONATELLI: He's going to submit the new plans, and we'll review them.

MR. ANG: Okay.

MEMBER DONATELLI: So the procedure that Ms. Wagner laid out previously, submit it. If you're going to withdraw certain of the variance requests, then you can do that through the Building Department. Submit the new plans for their review, and then it will come its way to us, and then you shouldn't have to appear a second time.

CHAIRMAN MAMMINA: No.

MR. ANG: Thank you.

CHAIRMAN MAMMINA: My error. My apologies. Every once in a while, I thought I made a mistake, but I was mistaken, so.

MR. ANG: Thank you, Chairman, Members of the board.

SECRETARY WAGNER: Just make sure you let the Building Department know when you submit the plans. Alert the plans examiner that you're doing that so they know that they're coming in.

MR. ANG: Okay, thank you. I don't need anything from the board to resubmit that?

SECRETARY WAGNER: No.

MR. ANG: Thank you.

SECRETARY WAGNER: Let the record reflect that the Chairman will not be present possibly for the next case.

Next Appeal #21598, Nirav Patel; 16 Crescent Drive, Albertson; Section 7, Block 112, Lot 9; in the Residence A Zoning District.

Variance from 70-22.6 to install more front yard paving that is not permitted.

VICE CHAIRMAN FRANCIS: You heard Appeal #21598, Nirav Patel?

MR. PATEL: Yes.

VICE CHAIRMAN FRANCIS: Is there anyone in the room interested in the application other than the applicant? Seeing no one, please give your name and address, sir.

MR. PATEL: Good morning, Members of the Board. My name is Nirav Patel, 16 Crescent Drive, Albertson, New York, 11507.

This morning, I'm seeking relief on the front yard paving of

my house. The house is in a R-AA Zone. It was up-zoned to -- I'm sorry, it's in a R-AA Zone, which requires front yard paving of -- RA Zone, which requires 40 percent, and we were up-zoned due to the size of the lot to an R-AA, which requires 30 percent.

We're proposing 41.44 percent. For the reason -- so my family, my wife and I, we have two young kids. Right now, the driveway, it's just adequate where -- sorry, let me go back for a second. With the up-zone, the front yard setback goes from 35 feet to 50 feet, so just with that increased distance, the driveway becomes bigger and the percentage grows.

Right now, as it stands, the driveway is just adequate to get cars in and out of the driveway. If another car is parked, it blocks one of the garages, so you can't go in and out. We have two young kids. A one-year-old, and a four-year-old. Both very active. Both very curious. Both who love to run around. So we prefer to expand the driveway. I have -- we have two family cars. I have a work pickup truck. We wanna expand the driveway so the pickup truck can park inside, and the two -- the rest of the driveway can be left open for the garages, so you know, my wife, my parents, whoever has the kids, they can pull into the garage, pull the door, and then let the kids out; just really for the sake of safety. If this isn't granted, I, you know, the truck would be in everyone's way, and you'd have to kind of play around, or it'll have to be parked on the street.

Crescent Drive it's not a super narrow, but it's also not a super wide street. With a large pickup truck parked on the street, I don't think my neighbors would be too happy with me. So if I have this

additional space of driveway, I could park it inside. Keep it off the street, and also resolve the safety concern for my kids.

VICE CHAIRMAN FRANCIS: Sir --

MEMBER HERNANDEZ: Can I ask one question?

VICE CHAIRMAN FRANCIS: Go ahead.

MEMBER HERNANDEZ: You're asking for a variance of 645 roughly square feet to park your pickup truck.

MR. PATEL: Yeah.

MEMBER HERNANDEZ: But your pickup truck only needs 200 square feet to park, so where's the other 400-and-change square feet coming from?

MR. PATEL: So it's -- like it's not directly straight. It's kind of off to the side, so it needs a little bit of space for the truck to actually be able turn in and out; if that makes sense?

MEMBER DONATELLI: I will tell you that a large part of what we do here as we -- and all of us board members at one point or another in preparation for the hearing, we drive through the areas. We take a look at the applications and the houses surrounding the areas. As one board member, one of the things that I try to look for is the context of the area, but also, driveways in my mind and too much paving in the front is really a quality of life thing. It's something that everyone sees. It's something that is very, very evident. Nobody wants large areas of front lawns paved over.

I understand what you're saying. We all know that cars have gotten bigger over time, but at the same point, I'm very skeptical of granting variances in a case like this. As one board member, only

because I think it is something that is so visible and so evident, and it really does, in my opinion, when contrary to what the Town Board was trying to do when it passed this new house. So, you know, I guess I would ask is there some way to decrease the amount of the variance that you're seeking?

MR. PATEL: I mean, I can decrease it. Certainly not within the confine of 30 percent. I wouldn't physically be able to get the truck inside. I could reduce it. Without taking out a ruler and measuring, maybe another 100, 150 square feet perhaps. I'd have to go back to the architect and have him re-draw it and just kind of --

VICE CHAIRMAN FRANCIS: You should really understand it. It's not necessarily about the truck because you're not going to have the truck forever.

MR. PATEL: Right.

VICE CHAIRMAN FRANCIS: It is about how big this driveway is.

MR. PATEL: Okay.

VICE CHAIRMAN FRANCIS: And that's something that troubles us.

MEMBER DONATELLI: And, again, remember that what we do has this potential to be precedent for other people similarly situated.

MR. PATEL: Of course.

MEMBER DONATELLI: And it's not our role to substitute our judgement for what the Town Board has said. We're empowered to grant variance under certain circumstances, but we can't grant it because we like you or because you have a large truck. It has to be in context of the broader code.

MR. PATEL: No, I completely understand. I get that. It's

just that with the setback the way it is -- had it been 35 feet, I think I would've -- I wouldn't be in front of this board. Just because of the, you know, the up-zone, I was pushed to 50 feet, so that added 15 feet of driveway added that many more square feet and likely pushed me over, the limit that is.

MEMBER DONATELLI: So 645 square feet is a very large variance for a front yard pavement.

MR. PATEL: Okay.

MEMBER DONATELLI: It has all sorts of implications for drainage. Potentially runoff to your neighbors, even though you're showing the dry well there. It does very much go into the character of the neighborhood, and it can change the character of the neighborhood. So, like I say, as one board member, I'm very skeptical, and I would ask you again, is there some way that you can decrease it? Maybe by carving out one spot but not going almost all the way to the curb. I don't know.

MR. PATEL: To speak to your point. Yeah, I can bring this retaining wall closer to the house, so it'll reduce the footprint of the entire driveway, and just speaking to your other point about drainage, we did account for the runoff and the rainwater.

MEMBER DONATELLI: I see a dry well, but --

MR. PATEL: And that dry well accounts for the whole space. For the additional, I believe, the rain coefficient.

MEMBER DONATELLI: We originally had a flower bed --

MR. PATEL: Yeah.

MEMBER DONATELLI: Where you're proposing to expand the

driveway.

MR. PATEL: Yes.

MEMBER DONATELLI: So we're taking what had been contemplated as green area, and we're making it paved over. And, again, I think that runs contrary to what the Town Board has indicated it would like to see particularly in Residence A or Residence AA area. I mean, the whole point of an AA is that you meet or exceed the code requirements and that you get an extra bump up in square footage of the house. Now we're talking about granting variance where that has already occurred. So, again, I'm skeptical as one board member. I'm trying to listen and I'm trying to help you, but I also feel like that we need to greatly decrease that 645 square feet.

MR. PATEL: I think that's possible. I think I can bring this -- I can bring it shorter and reduce it, so I am able to at least park my truck and keep more of the planting area.

MEMBER DONATELLI: It's very small to see on the computer. What is the current width that you're contemplating right now?

MR. PATEL: Are you referring to the hash -- the garden area?

MEMBER DONATELLI: The garden area.

MR. PATEL: I believe that's about 12 feet wide.

VICE CHAIRMAN FRANCIS: There's no measurements.

MEMBER HERNANDEZ: There's no measurements, yeah. It's very hard to read because we can't see the measurements.

MEMBER DONATELLI: Yeah.

MR. PATEL: Yeah.

MEMBER DONATELLI: What is the length?

MR. PATEL: The length is approximately 40 feet; 45 feet to the tip of the triangle.

MEMBER DONATELLI: All right, so I see the front yard setback up to the main structure of the house is 53 feet.

MR. PATEL: Yes, it's 53 and a half.

MEMBER DONATELLI: Does anyone have any questions or comments?

VICE CHAIRMAN FRANCIS: No, we just continue this for right now.

MEMBER HERNANDEZ: Yeah, let him continue.

MEMBER DONATELLI: I would ask again that we continue this hearing. That you try to minimize your request for a variance and that you submit new plans based on your smaller request --

MR. PATEL: Sure.

MEMBER DONATELLI: -- and then we will review that. We can continue the hearing for today.

CHAIRMAN MAMMINA: Continue the hearing, and perhaps look at the character of the neighborhood and see how many other paved areas you can find that, you know, that are in that part of the world over there.

MEMBER DONATELLI: Again, everything that we do is done in context.

MR. PATEL: Right.

MEMBER DONATELLI: We're required by law to look at the Five Factors, and, you know, if something is clearly out of context for the neighborhood, that is one of the Five Factors that we're required to consider.

MR. PATEL: Okay. All right. Thank you for your time. I just

wanna clarify. So procedurally, I should be filing revised plans to the Building Department?

VICE CHAIRMAN FRANCIS: Correct.

MR. PATEL: And then --

CHAIRMAN MAMMINA: You may want to -- Ginny; maybe he gives it to us first?

MEMBER HERNANDEZ: No.

VICE CHAIRMAN FRANCIS: Should go to --

MEMBER HERNANDEZ: They need to confirm the overage.

CHAIRMAN MAMMINA: Okay. All right.

ATTORNEY ALGIOS: So in this instance, he's just reducing the size of the driveway. He's still going to need a variance.

(WHEREUPON, a discussion was held among Board Members.)

SECRETARY WAGNER: So you would just have to submit the plans to the Board of Zoning.

MR. PATEL: To the Zoning Board, okay.

SECRETARY WAGNER: You can upload them to the portal or email them to us.

MR. PATEL: Okay.

SECRETARY WAGNER: And then the board will take a look and determine --

MR. PATEL: What's appropriate. Okay, and in terms of --

SECRETARY WAGNER: Well, make a decision based on the revised plans.

MR. PATEL: Will I be coming back here?

SECRETARY WAGNER: No, and it's not necessarily granted or not

granted, but --

MR. PATEL: Of course.

SECRETARY WAGNER: -- it'll give you the opportunity to change it.

MR. PATEL: Okay.

ATTORNEY ALGIOS: And it's also possible the board may look at it and may want you to reduce further.

MR. PATEL: Okay.

ATTORNEY ALGIOS: That's another option.

MR. PATEL: At which point, they'll notify me via email or a letter?

SECRETARY WAGNER: We'll notify you.

MR. PATEL: Okay.

SECRETARY WAGNER: And that only happens at a hearing. So the next hearing is October 23rd. So in other words, they only would discuss it and make a decision after you submit the plans.

MR. PATEL: Oh, okay. I don't need to be here for the hearing --

SECRETARY WAGNER: No.

MR. PATEL: -- but they'll discuss it --

SECRETARY WAGNER: Right.

MR. PATEL: -- at the hearing or in chambers?

SECRETARY WAGNER: If you submit plans, we won't be able to tell you how they vote --

MR. PATEL: Until the board meets. They review and then render a decision, okay? Well, I thank you everybody for their time.

MEMBER HERNANDEZ: Thank you.

MR. PATEL: Have a good day.

SECRETARY WAGNER: So that's continued for revised plans.

CHAIRMAN MAMMINA: Yes.

SECRETARY WAGNER: Next Appeal #21599, Matt Prince; 15 Sycamore Lane, Roslyn Heights; Section 7, Block 225, Lot 23; in the Residence AA District.

Variances from 70-20.C, 70-21.A and 70-208.F to enclose a non-conforming carport that is too close to the side property line and the street and will result in the expansion of a non-conforming dwelling and to construct a second-story addition that is too close to the side property line.

CHAIRMAN MAMMINA: You've heard Appeal #21599, Matt Prince. Is there anyone in the room interested in the application other than the applicant? Seeing only the applicant, please give your name and address.

MR. MIGATZ: Bruce W. Migatz, Law firm Albanese & Albanese, 1050 Franklin Avenue, Garden City, New York. Good morning, Members of the Board.

MEMBER HERNANDEZ: Good morning.

VICE CHAIRMAN FRANCIS: Good morning.

MR. MIGATZ: I have submitted pre-marked Exhibits 1 through 5 in a binder. I submitted one for the record and one for each member of the board and for counsel.

The subject premises, 15 Sycamore Lane, Roslyn Heights, New York; Section 7, Block 225, Lot 23, Zoned Residence AA. Turning to

the exhibits. A little history of the house.

First, Exhibit 1 is a current photograph of the house.

Exhibit 2 is the C of O for the one-family dwelling with detached garbage issued in 1950.

Exhibit 3 is a certificate of completion for a rear extension.

The plans filed with that permit show that there once was a detached garage that was removed. The carport that is there today was constructed, and the one-story addition behind the carport that's there today was constructed. You can see those structures in that photograph of the house, and that was pursuant to a variance that was granted by this board in decision 7077, dated March 9, 1962, was granted side yard setback relief for the existing carport and the one-story addition to the house.

The applicant purchased the property in last year, July 5, 2023. What is proposed is to convert the carport into a garage, and to construct a second-story above the carport for a fourth bedroom. The application required three variances, such as 70-20.C. Front yard setback for the garage, and the average front yard setback is 40.19 feet. Proposed is 38 feet 1.5 inches.

The variance of 70-21.A, side yard setback for the garage. The required 15 feet. Proposed 10 feet 7 inches.

And third variance 70-21.A. Side yard setback for the proposed second-story addition. Required 15 feet. Proposed 14 feet 1 inch.

Weighing the benefit to the applicant versus a detriment to the community. Well, the benefit to the applicant is to modernize a house built in 1950; just has three bedrooms, and to have a fourth

bedroom for the family. This is probably one of the few houses in this neighborhood that hasn't been enlarged or reconstructed, either legally or illegally. This is one of the original constructions in this neighborhood. So the benefit to the applicant is to modernize this house would weigh that benefit and detriment to the community. Let me submit to you Exhibit 6, which is a marked-up, blown-up copy of the site plan.

MR. PERROTTA: Marked 6.

MR. MIGATZ: What is shown on that Exhibit 6, the red line is the required side yard setback. What is highlighted in yellow is the encroachment into that side yard setback. The proposed garage has the same front yard setback as the existing carport in the same front yard setback that is the existing dwelling. In fact, a portion of the dwelling has a shorter front yard setback. The proposed garage is at the same side yard setback as the existing carport, which was granted a side yard setback. We're seeking a similar side yard setback to enclose that carport.

And the second-story addition, you can see there's just a very minimal encroachment into that side yard setback. The benefit to the applicant to enclose the carport, as we all know, every day we hear about cars being stolen these days. The applicant would like to have the car in the locked garage.

So I think this exhibit demonstrates that the variances are minimal, not substantial, will not have an adverse impact on the community, where basically is only closing what is there as far as the garage, carport, and a slight setback variance for the second

story.

The benefit cannot be achieved by any method other than a variance. The application is a type-two application on the seeker that will not have an adverse impact on the environment.

And lastly, difficulty is self-created. As a matter of law, which is purchased property is subject to the zoning code, for which we are seeing a relief that is deemed self-created hardship.

The weighing of those factors, I will submit to the board that the benefit to the applicant far outweighs any detriment to the community.

Any questions?

MEMBER DONATELLI: No questions. Mr. Chairman, I'd just note for the record that the property flares out so that the side yard setback toward the front of the property may, in fact, require a variance, but as the property flares out in the back; apparently the premises does meet or exceed the side yard setback toward the rear of the property, so the property is unusual in that respect. It is not purely rectangular, and I think in my mind that would weigh in favor of the applicant.

I would also note out, as I review the application, as the applicant had said that the proposed garage will be on the same footprint as the carport that was previously approved. I would take issue with one thing, which is cars are safer in an enclosed garage than they are on the street. Three months ago, somebody ran into my garage at 60 miles an hour, destroyed the garage, and the two cars that were parked in the garage, so I don't know about that statement,

but I'm certainly -- there's certainly out of the elements, let's say, in an enclosed garage. So those would be the observations that I'd make.

Any other questions or comments?

VICE CHAIRMAN FRANCIS: No.

MEMBER HERNANDEZ: Just one question out of curiosity. The planned -- the enlarged and improved plans that you presented --

MR. MIGATZ: Yes.

MEMBER HERNANDEZ: -- shows an existing one and a half story wood framed house, but you're proposing a second-floor addition over the garage. Now, is there other work being done to the house at the same time that is not part of this discussion, or this is the only part of the work being done?

MR. MIGATZ: Not to my knowledge. The architect is here. I could double-check.

MEMBER HERNANDEZ: I'm just curious because now it would appear that this second-story addition would be taller than the one and a half existing house.

MR. MIGATZ: You want me to have the architect answer that for you?

MEMBER HERNANDEZ: Yes, just out of curiosity, yeah.

MR. MIGATZ: Pat Solar.

MR. SOLAR: Good morning, Patricio Solar. That's P-A-T-R-I-C-I-O. From Combined Resources & Design.

Yes, the applicant or the property owner is gonna have some more work that is not before you 'cause it doesn't require a variance.

MEMBER HERNANDEZ: Okay.

MR. SOLAR: Yes.

MEMBER HERNANDEZ: That is it. Thank you.

MR. SOLAR: Sure.

CHAIRMAN MAMMINA: Yeah, I think that the other thing that I see here, as well as when you look at the west elevation, that the addition of the second floor is pulled over; more in line with what that existing -- what that required side yard setback would be so that that second-story portion of that structure that is vertical basically hits it for all intents and purposes. It's about ten inches away from that, so if you look what was approved originally, even before I was born, and we look at the impact of what's there, yeah, I think there have been efforts made to respond, you know, to the point that's made by Member Donatelli that its impact, if this was rectangular, it would comply, but it's not rectangular. Uniqueness of a lot is something that we consider regularly, as we should, and I can see my way, you know, to, you know, a visional compliance based on the way that that addition is set up.

MR. MIGATZ: I also would note this. They're still well below the maximum FAR, which most houses in this neighborhood are pretty much maxed out.

CHAIRMAN MAMMINA: Pretty maxed out.

MR. MIGATZ: Overmaxed.

CHAIRMAN MAMMINA: Some of them.

MEMBER DONATELLI: Unless there's anything else, Mr. Chairman, I make a motion that we grant the application.

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

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Seconded by Member Hernandez. Ms. Wagner, please pole the board.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye.

MR. MIGATZ: Thank you.

CHAIRMAN MAMMINA: Application is granted.

SECRETARY WAGNER: Appeal #21600, Srikanth Nukala; 25 Kalda Avenue, New Hyde Park; Section 8, Block K09, Lot 4; in the Residence C Zoning District.

Variances from 70-51.A, 70-101.B to legalize a roof overhang that is too close to the side property line and too close to the front property line, and to legalize a roof over porch that is too close to the front property line.

CHAIRMAN MAMMINA: You heard Appeal #21600, Srikanth Nukala. Is there anyone in the room interested in the application other than the applicant? Seeing no one, please give your name and address.

MR. FILIPAZZI: Good morning, Chairman, Members of the Board. Andrew Filipazzi. Attorney with Harras Bloom & Archer, at 445 Broadhollow Road, Suite 127, Melville, New York.

I'm appearing today on behalf of the applicant owner, Srikanth Nukala. Property located at 25 Kalda Avenue, New Hyde Park; Section 8, Block K09, Lot 4; located in the Residence C District.

Applicant is seeking to maintain a roof over porch in the front yard. In doing so, applicant is to seek two variances, as stated in the notice of disapproval, dated July 15, 2024.

The first of those variances is for section 70-51, a side yard setback, and the second is 70-101, permitting encroachment into the front yard.

I do have a packet of exhibits that are numbered that I'll walk through that I want to hand up.

MR. PERROTTA: Thank you.

MR. SOLAR: So the applicant has owned this property since April 30, 2014, with his wife. The roof over porch in question has been existing since at least 2001. I don't have an exact date because this was, by all indications, done without a permit, but the first document that I provided to you is off of the Nassau County's Assessor's Office. That picture is dated, I believe, April of 2001 and shows the roof over porch in its configuration since that date. So without question, this was done by a prior owner not by the applicant’s current owner. The applicant was unaware of this condition when the home was purchased, and was only uncovered recently. Now that it has been discovered, the applicant is here

to seek variances to legalize this condition.

Starting first with the side yard. The roof overhang extends to match up with the existing one-story garage with the same setback of 2.9 feet to the side yard. That garage has had that same setback since its construction in 1955 shortly after the original construction of the home in 1949.

The second and third pages of what I handed up, marked number 2, is the property card from Nassau County showing 1955 construction garage in that same location and configuration.

Picture three, there's a photograph of the property current day, and shows it in the exact same configuration, design, et cetera, as it was in the first picture from 2001.

You'll also see that there is some rather tall landscaping along the common boundary line between 21 and 25 Kalda, providing some additional protection and screening between the house and the overhang, minimizing any impact on the neighboring property.

Moving to the front yard. Again, this has been in existence for at least 23 years. I venture it's been there much longer than that, but based on the information and evidence that I found, at least 2001.

This is a one-story overhang. Exceeding the permitted encroachment by 2.6 feet. While the bulk of the house, including the second story, are all within the permitted code of more than 25 feet from the property line, this small additional encroachment exists; however, it does not negatively impact the streetscape or the neighboring properties. It's existed again at least 2021

without issue or complaint from any of the neighbors. In order to bring this overhang into compliance, the applicant and owner would have to basically remove the entire front porch. This isn't something that can be done kind of piece meal and just shave it off, which would come with a considerable cost. As you can see in the picture, it's been designed to minimize -- both minimizing the impact and be incorporated into the design of the house.

Just in conclusion, I'll go through the Five Points of Town Law 267-B. I will submit that no undesirable change in the character of the neighborhood will be produced by granting the requested variance. These conditions have been in existence without issue for at least 20 years or 23 years at this point.

The benefit sought by the applicant cannot be achieved by any method other than the requested area variances.

I would submit the variances sought are not substantial. It's -- both are only slightly more than two feet.

No adverse impact on the environment will be created by granting the requested variances.

And that lastly, the requested variances are not self-created as this condition existed well before applicant's ownership of the property and was not performed by the applicant.

Lastly, before I conclude my remarks, I've attached a number of consent letters from surrounding neighbors, indicating their consent to support of this application to be included for the record. So I'll conclude my remarks requesting that the board grant these variances to allow this to be maintained.

If the board has any questions, I'll be more than happy to answer them.

MEMBER DONATELLI: I'm looking through the letters that you have submitted at the end of your exhibit. Do we have any from the neighbors that are directly adjacent?

MR. SOLAR: The applicant had indicated that he did speak with the neighbor next door, 21, who's immediately affected. She was uncomfortable signing anything, but indicated that she did not have any objection or issue with it. Again, as this is maintained, but for whatever reason, felt uncomfortable signing a consent letter.

MEMBER DONATELLI: When you say the neighbor directly adjacent; as you're standing on the street looking at the house, that would be the neighbor to the left?

MR. SOLAR: To the left, where the side yard variance is requested.

MEMBER DONATELLI: And one other question. The roof overhang over the garage, I'm not the architect on the board, but if -- I've never seen anything quite like that. Is the roof behind it, the call actually roof over the garage, is that a flat roof?

MR. SOLAR: It is.

MEMBER HERNANDEZ: It looks like a pitched roof.

MR. SOLAR: Oh, I'm sorry. I was looking at the 2001. I can't tell if it's just the angle 'cause if you look at the 2001 picture, it appears to be flat roof. I'm not sure if there was a pitch added on. If there was it's a -- I think a very slight pitch.

MEMBER DONATELLI: It just seems like everything that I've

heard about flat roofs are that they're problematic.

MR. SOLAR: And that may be the case that they added a slight pitch so that you don't have the water pooling on a flat roof. I'm not sure what time that was done, but again, that garage was constructed in 1955, so I wouldn't be surprised if there was some, you know, modernization to --

MEMBER HERNANDEZ: Your picture number 3 shows the pitch, but it's a very slight pitch, just to get the rain off the roof.

MR. SOLAR: Yes.

MEMBER HERNANDEZ: Which makes sense.

MR. SOLAR: Yes.

MEMBER HERNANDEZ: It's not meant to be a false step.

MR. SOLAR: No, not at all.

(WHEREUPON, a discussion was held among Board Members.)

MEMBER DONATELLI: So Mr. Chairman, as stated at the beginning of today's session, Member Goodsell, who is of course from New Hyde Park. I would like to have her input on this application. I would like to review it. Perhaps continue with the deliberations. So I don't think we've asked any further information from the applicant. I would just ask that we reserve this and allow Member Goodsell to have input.

CHAIRMAN MAMMINA: Yeah, I think we're all in agreement.

VICE CHAIRMAN FRANCIS: Yeah.

CHAIRMAN MAMMINA: So that's what we'll do.

MR. SOLAR: Okay.

CHAIRMAN MAMMINA: And I would guess, and I think I'm okay saying this that she would -- I mean, knowing how conscientious she is, she would be looking at this before the next hearing, I would think.

VICE CHAIRMAN FRANCIS: Oh, yeah.

CHAIRMAN MAMMINA: I'm not telling you that she will, but that's her. She's extremely conscientious.

MR. SOLAR: Understood, and no objection with having a full board review and make a decision, especially the board member in that area. If there's no other questions from the board, I thank you for your time.

CHAIRMAN MAMMINA: Thank you. Good job.

SECRETARY WAGNER: Next appeal, Appeal #21601, Ursula and Teddy Bernal; 11 Aberdeen Road in New Hyde Park; Section 8, Block 296, Lot 42; in the Residence B Zoning District.

Variances from 71-02.C(5)(a), 70-102.C(2)(a)[5], 70-100.2(C)(2), and 70-100.2(C)(4) to legalize a swimming pool that is too close to the rear and inside property lines covering too much of the rear yard. Pool equipment that is too close to the side property line. Pool enclosure fencing forward to the rear building line in the side yard and facing the street, and a raised patio that is too close to the side property lines and covers too much of the rear yard.

CHAIRMAN MAMMINA: You've heard Appeal #21601, Ursula and Teddy Bernal. Is there anyone in the room interested in the application

other than the applicant? Seeing no one, please give your name and address.

MR. KASHIR: Salvatore Kashir, Permits R Us, 338 Jericho Turnpike, Syosset, New York 11791.

Good evening, Chairman, Members of the Board. I'm here on behalf of Mr. and Mrs. Bernal, who reside at 11 Aberdeen Road in New Hyde Park. The property is located in the Residence B District. They're looking to maintain a pool with a rear setback of 7.8 feet, and a side yard of 9.5 and 6.9 feet, where the required is 10 feet. The pool equipment setback is 7 inches, where the required is 10 feet.

CHAIRMAN MAMMINA: Can you slow down a little bit because you're reading and the young lady is typing.

MR. KASHIR: Oh, sorry.

CHAIRMAN MAMMINA: That's okay.

MR. KASHIR: There's also a raised patio in connection with the pool, which abuts the rear property line. The rear coverage is 66.7 percent, with a total of 1194 square feet, where the required is 40 percent and 722.80 square feet.

The 6-foot pool forward enclosure toward the rear dwelling does not cause any line of sight issues. My clients purchased this home back in 2022. All of these items existed prior to them purchasing the home. The only difference was that the raised patio was raised deck, dilapidated; hired a contractor, and they were advised that because the deck was there, they didn't require any permits for it, so they built a raised patio as opposed to the raised deck.

I'd also want to point out that this is an odd-shaped lot; skews

in the back, which makes the rear yard smaller, which also creates the issues of the 40 allowable.

I'm also aware that there are some submittables from two of the neighbors. One of them being concerned of water running off from the patio. The patio is pitched to maintain any water run off onto my client's property.

As far as the other neighbor complaints stating that they should be penalized because they built this without a permit, this was not his contraction. The pool, the pool equipment, fence, everything was there prior to, like I said, except for the deck, which was there. It was a raised deck, and we altered it into a raised patio.

I'm open to any questions.

CHAIRMAN MAMMINA: What's the difference between a raised deck and a raised patio? Just so I understand it.

MR. KASHIR: Deck made out of wood typically.

MEMBER HERNANDEZ: What is this made out of?

CHAIRMAN MAMMINA: Where's the elevation?

MR. KASHIR: This is a stone paver patio.

CHAIRMAN MAMMINA: Okay.

MR. KASHIR: It's solid rather than --

CHAIRMAN MAMMINA: Where is the elevation?

MR. KASHIR: I believe it's --

CHAIRMAN MAMMINA: Meaning elevation, like the front view. How high above the ground is that?

MR. KASHIR: I believe it's 18 inches but if you give me a second. You should have the plans there I believe.

CHAIRMAN MAMMINA: You should know the plans.

MR. KASHIR: I should. You're right. Let me see if we have it.

CHAIRMAN MAMMINA: We usually look for that. Let me see.

SECRETARY WAGNER: The top left of the plan has, I think, 1 foot 4 inches above grade.

MEMBER DONATELLI.: One foot 4 inches.

SECRETARY WAGNER: Yeah.

MR. KASHIR: Yes. Highest point is 18 inches off grade.

CHAIRMAN MAMMINA: I see.

MEMBER HERNANDEZ: So the pool is a 52 inch above grade pool?

MR. KASHIR: It's an above-ground pool.

MEMBER HERNANDEZ: So the patio is not at the top of the pool, it's on the ground.

MR. KASHIR: Correct.

MEMBER HERNANDEZ: Roughly 18 inches of --

MR. KASHIR: Correct.

MEMBER HERNANDEZ: -- elevation.

VICE CHAIRMAN FRANCIS: How much of the rear yard is covered by the pool and the decking? Percent-wise.

MR. KASHIR: Percentage-wise, you're required to have 40. Currently, it's 66.7 percent. So you're allowed 722.80 square feet, and we're at 1194. However, as I pointed out, the property is -- it skews in the back, so the rear yard is much smaller. Had this been a regular rectangular shaped lot, we probably wouldn't be having this issue.

MEMBER HERNANDEZ: According to the plan, the patio is 936, and the oddly shape pool is 258 square feet, so that's a lot of solid surface. Your grass area --

MR. KASHIR: The grass area is directly behind the pool.

MEMBER HERNANDEZ: Unfortunately, it doesn't have the square footage, but it's very tiny compared to the covered area.

MR. KASHIR: Yes, most of the back yard--

MEMBER HERNANDEZ: Regardless of shape.

MR. KASHIR: Most of the back yard that's currently there is covered, yes.

CHAIRMAN MAMMINA: Then the question becomes why can't it be corrected to something compliant or certainly a whole lot more that moves toward compliance because this is a -- I'll say, relatively, I don't know the date, addition to the ordinance by the Town Board. We don't create the ordinance. We don't decide what's good or bad in the ordinance. We look at what the Town Board says, and then we can vary it, you know, based on what's the intent or whatever, but it, you know, it just seems like if I went there, I'd say, yeah, the entire back yard is paved and it’s swimming pool.

MEMBER HERNANDEZ: You don't even see the grass area because it's behind the pool.

MR. KASHIR: Right, the grass area is the back section of --

MEMBER HERNANDEZ: Yeah, behind the pool.

MR. KASHIR: Behind the pool, correct.

MEMBER DONATELLI: Let me also add that for as long as I've been on the board, I know that some of our most difficult issues have been

issues where we have one, 2 feet of encroachment of a 10 yard -- of 10 feet, and this greater than that. This is more than -- this is outside of my comfort zone. It is a relatively large encroachment into the 10-foot setback requirement.

I would also point out that the fence -- in similar situations, we've also required the fence to the rear building line with the thought that there is a possibility a child or somebody who's inattentive might be out there and outside of the view of the pool on the side of the house and still be behind the fence, so they're safety issues that come to mind here that, you know, I would feel -- I personally, as one board member, not comfortable with this. In my mind, it is a safety issue.

Sir, do you have -- are you able to give us some sort of an estimate as to what the cost might be to make this pool compliant?

MR. KASHIR: Well, considering that all these issues with the exception of the raised portion of the patio, he had expenses to do it. The pool was there; existing. There was a raised deck. So client already went through cost to demo the deck that was there. Built the patio. The pool and the equipment was existing. The fence, everything was existing. What it would cost to bring this to compliance? I'd have to speak to the contractor to find out dollars and cents, but it will definitely be a substantial financial hardship. I mean, we can modify this with the fence issue, could be relocated to the rear side dwelling so that it's not all the way in the front by the side of the garage. I mean, the rest of the houses in that neighborhood all have fronting similar to this -- pretty much

in line to what's existing here.

MEMBER DONATELLI: This is an unusual shape property. My concern is, and I understand it's a substantial expense. That, unfortunately, is the problem with the installation of the pool without a permit. I mean, the code is set that way for a reason. The Town Board does not want to see less than 10 feet setback between a pool and a rear yard lot line. It does not want to see fences that are forward of the rear building line, so I think, as one board member, I would like to see some sort of an estimate as to what it might cost to make this pool compliant because this is one of the Five Factors. As you know, we're required by law to consider the Five Factors, and one of the Five Factors that we try to determine as we do our balancing act, what the cost is of making something compliant versus the cost of, you know, or the scope of variance being requested.

MR. KASHIR: Right, so if you look at the survey. To make this pool compliant, you would have to rip it out and put a very small pool in.

CHAIRMAN MAMMINA: We've had people rip the pool out and move it.

MR. KASHIR: Understood, but if you look at the size of the rear yard, in order to get 10, 10, and 10, I mean, it's a kiddy pool.

CHAIRMAN MAMMINA: Sometimes, you know, there's a Rolling Stone -- that maybe you're too young to remember; you can't always get what you want.

MR. KASHIR: Not that young, but yes.

VICE CHAIRMAN FRANCIS: I agree with --

MEMBER HERNANDEZ: Just commenting on the -- because you mentioned the -- that the pool -- the pool would fit. You're 3 feet too close on the right side, okay? And you are 2 feet 4 inches too close in the back. That pool could be pulled forward to the right side and pushed left the 3 feet, so it would fit, and it would give you more grass if you still wanted to keep it behind the pool. I find that, to be honest with you, it's just -- it looks like you're in a parking lot of pavers with a pool in the middle of it. You can't even see the grass.

MR. KASHIR: And my understanding that the -- if I have my client reduce the pool to comply, which would be ripping out the pool and proposing a smaller pool, which would comply with the 10, 10, and 10, the board is in --

MEMBER HERNANDEZ: You also have a fence that's in the front of the house that is really -- I don't even know why it was done at that angle, but it's really making it even closer to the street. It doesn't come out straight.

MR. KASHIR: So the fencing that's in front of the dwelling, just so we're all --

MEMBER HERNANDEZ: You have a concrete patio on the side of the house.

CHAIRMAN MAMMINA: The fencing in the front --

MR. KASHIR: Like I said, unfortunately, those were all there prior to my client buying the home. The fencing that's in the front yard, I have no objection asking them to step them back; however, just keep in mind, if you look at the neighborhood, the house directly

to the left and to the right, their fencing is butting up against this.

CHAIRMAN MAMMINA: Can you show us permits, though?

MR. KASHIR: Well, I --

CHAIRMAN MAMMINA: Well, that's -- you understand --

MR. KASHIR: Yes, 100 percent, I'm with you.

CHAIRMAN MAMMINA: Because we -- I'll use the would never only because I do remember one time when someone was across the street from a manufacturing warehouse that we gave them a fence in the front yard like that, but other than that, no fence is permit except for a four-foot fence at that back line of the house, and also, again, I'm going to go back to what Member Donatelli said, I've been on this board for three decades and change, and that fence always goes at that back line of the house, so that it can be easily supervised. I say this pretty much at every hearing, unfortunately, you'll see every summer at least one or two, you know, of child that ends up in the back yard unsupervised, and it turns into tragedy.

And then also part of -- I'll use the word burden because that's -- I'm not an attorney, but that's the word I hear attorneys say a lot. Your burden is to show why -- assuming that there was nothing there in the back yard, why can't you fit a swimming pool into there.

MR. KASHIR: As I said --

CHAIRMAN MAMMINA: Doesn't mean if they're looking for, you know, a 20 by 40 pool, doesn't mean they're going to get a 20 by 40 pool in there, but, you know, it's a very odd piece of property, so

you'd have to accept that you're going to have something that's going to compromise to that, you know, in there. So just as one board member, you know, I think that an estimate, you know, for what would need to be done here, you know, should be brought forward, you know, and then in consideration of everything that we've spoken about, you know, in terms of the amount of the paving, you know, that's back there, and, you know, the fencing, and I'm assuming that all your pool equipment is in a legal -- is it siding?

MR. KASHIR: No.

MEMBER HERNANDEZ: I don't see it on the plan. That's why I'm asking.

MR. KASHIR: The pool equipment, no.

VICE CHAIRMAN FRANCIS: It's too close to the side property line.

CHAIRMAN MAMMINA: That's what I would think. It surprises me if it is, but --

MR. KASHIR: No, the pool equipment is part of the hearing because it's too close.

CHAIRMAN MAMMINA: Okay.

MEMBER HERNANDEZ: But where is it on the plan? I don't see it on the --

CHAIRMAN MAMMINA: It might be in this back corner. See, it says pool --

MEMBER DONATELLI: Equipment, EQ.

CHAIRMAN MAMMINA: -- EQ.

MEMBER HERNANDEZ: Oh, that little one. Got it.

MR. KASHIR: Yes.

CHAIRMAN MAMMINA: What is F that's above that?

MR. KASHIR: Filter.

CHAIRMAN MAMMINA: Filter, okay. Yeah, and that obviously --

MEMBER HERNANDEZ: It's on the grassy area.

CHAIRMAN MAMMINA: And that obviously, you know, the intent of the Town Board is that you don't have that equipment running, you know, at somebody's rear line, and also, you don't have its overflow when you're washing it out, spilling into the neighbor, you know, that's adjacent --

MR. KASHIR: Right.

CHAIRMAN MAMMINA: -- to that. I'm also going to assume that the Building Department has deemed that the lack of drainage of the patio paver area is okay for whatever reason they decide. We're not the Building Department, you know, that's up to them, and then any other fences that are in the neighborhood, you know, please just try to come up with some evidence of those.

MR. KASHIR: So aside from --

(WHEREUPON, a discussion was held among Board Members.)

MEMBER DONATELLI: Just remember that whatever we decide with you can be used as precedent in other applications.

MR. KASHIR: Correct.

MEMBER DONATELLI: So one of the things that we're required to do when we do grant a variance is granting the minimum variance required. So as one board member, without prejudging this particular application, I would like to see a written estimate, what

it might cost to make a pool compliant, and that is part of what we weigh when we weigh the Five Factors, and if it is possible to make it compliant versus the variances you're asking for.

I mean, you're asking for, in one instance, it's 7.8. In one instance it's 9.5. In one instance it's 6.8. Is there some way, for example, the 9.5, that is a half a foot, so that is a less smaller variance than, for example, the 6.8. That is a rather substantial variance, so as we weigh the Five Factors, I would like to see a written estimate --

MR. KASHIR: Okay.

MEMBER DONATELLI: -- what it might cost to make the pool compliant and I understand that it might be a substantial cost, but again, that is the downside of installing something without a permit.

MR. KASHIR: Understood.

MEMBER HERNANDEZ: And the fences, if they are to be pool fences, they need to be at the back --

MEMBER DONATELLI: Right.

MEMBER HERNANDEZ: -- of the property line -- of the house, not the --

MEMBER DONATELLI: If they're not pool fences because we moved the pool fences back to the rear building line, then as the chairman said, the front fences have to be 4 feet pursuant to code. So, in other words, you can't use a return to the fence in the front of the property line to the front building line; it can't be 6 feet. It should be pulled back to the rear property line if it's a pool fence.

MR. KASHIR: Correct.

CHAIRMAN MAMMINA: And then the other thing that the ever smart Ms. Wagner pointed out to me is that there are two dry wells that are shown up in the front. They show some kind of what I will assume is a pipe that's moving back toward the pool -- toward the paving. It doesn't show that it's connected to the pool equipment.

MEMBER HERNANDEZ: The note says that it's 936 square feet --

CHAIRMAN MAMMINA: Yes.

MEMBER HERNANDEZ: -- of water.

CHAIRMAN MAMMINA: Right, but -- so I'm saying, though, it doesn't -- it's not shown connected, but it's also shown as going back into the area where PSEG has been contracted to bury the existing overhead wires, so there may be a distance separation that's required on that, you know, as well.

I'm just saying those are, you know, what we try to do, you know, is -- and some people say that didn't help me, but yes, we don't want something else to pop up --

MEMBER HERNANDEZ: Right.

CHAIRMAN MAMMINA: -- for you that might have nothing to do with the variance, but, you know, that PSEG might say, yeah, that's nice that we're lowering that for you, but you got these water lines going by it, so just --

MR. KASHIR: I understand PSEG was already out there, and they've already rerun the new line.

CHAIRMAN MAMMINA: Okay. That's all good.

MR. KASHIR: Yes.

CHAIRMAN MAMMINA: Good by me.

MR. KASHIR: So I will have a contractor write up an estimate to see what this will cost to relocate, you know, to get a new pool put in, take out the old one, and potentially shrink down the square footage of the pavers in the rear yard.

CHAIRMAN MAMMINA: Yeah, and the pool itself, you know, if you choose to do that. Whatever you bring back, I leave up to you, you know, but showing that we've reduced the variance as Member Donatelli has said, that is, if you read New York State Law on this, and I'm not saying that you should, you know, that we grant the minimum --

MR. KASHIR: Right.

CHAIRMAN MAMMINA: -- variance that we can.

(WHEREUPON, a discussion was held among Board Members.)

CHAIRMAN MAMMINA: Could you just verify the pool is 52 inches above the pavers? Just so we're certain. There's something referenced to a 52 someplace.

MEMBER HERNANDEZ: Yeah, on the plan.

(WHEREUPON, a discussion was held among Board Members.)

MR. KASHIR: It's a 52-inch pool, correct.

MEMBER HERNANDEZ: Semi-inground pool.

MR. KASHIR: Yes.

MEMBER HERNANDEZ: So 52 above grade.

MR. KASHIR: Correct.

CHAIRMAN MAMMINA: Okay.

MR. KASHIR: I will submit all of the contractor's information

once I have one.

CHAIRMAN MAMMINA: Thank you. We appreciate that.

MR. KASHIR: And I'm assuming we're not having a hearing on this.

CHAIRMAN MAMMINA: No.

SECRETARY WAGNER: We'll continue for that information.

MEMBER HERNANDEZ: Yes.

CHAIRMAN MAMMINA: Yes.

MR. KASHIR: Thank you. Have a great day.

SECRETARY WAGNER: Appeal #21602, Arthur and Lisa Lewis; 143 Primrose Drive, New Hyde Park; Section 8, Block 308, Lot 7; in the Residence B Zoning District.

Variances from 70-38 and 70-100.2A(4)(a) to construct a sunroom that covers too much of the property and to legalize fencing that is too tall.

CHAIRMAN MAMMINA: You've heard Appeal #21602, Arthur and Lisa Lewis. Is there anyone in the room interested in the application other than the applicant? Seeing no one, please give your name and address.

MS. MCHENRY: Good morning. Kathleen McHenry, PO Box 5, Center Moriches, New York, 11934.

Good morning. We're here before you requesting permission to construct a sunroom that covers too much of property and maintain fencing that is too tall. We're requesting a lot coverage of 1595.45, where 1500 square feet is permitted. In addition, we're

requesting to maintain a 6-foot fencing facing the street, where 4 feet is permitted, and to maintain 6-foot fencing along the side property line, where 5 feet is permitted.

Regarding the lot coverage. The relief we're seeking, we believe, is minor. We are proposing a sunroom to be placed where there's currently a wood deck. My client was actually hoping to build it a little bit bigger but is only proposing 12 by 18 to bring it a little closer into compliance. Unfortunately, he is not able to propose a smaller addition that would fall under the 1500 and still be a size that would be useful to his family members. He has recently been diagnosed with skin cancer and does look forward to being able to enjoy his back yard while still being in the shade.

Regarding the fencing. There's a small 5-foot section of wood stockage even with the rear foundation of the house, and is blocked by approximately 8 feet privacy hedges. It then runs along the side of the property to the rear. The other side of the house has 4-foot vinyl that does comply. It was there when the Lewis family purchased the property in 2021, and based on the fence, its condition probably has been there closer to 10 to 15 years, and there's been no issues from the neighbors. There's been no issues with obstructing the view of traffic.

It is our belief that maintaining the fencing would have no negative impact on the surrounding properties, nor would the sunroom addition. I have submitted for the Town's consideration pictures of the subject fencing. I welcome any questions the board may have at this time.

MEMBER DONATELLI: Is this prefab sunroom?

MS. MCHENRY: It is.

MEMBER DONATELLI: And do prefab sunrooms come in different sizes?

MS. MCHENRY: They do.

MEMBER DONATELLI: And are you able to tell me what the sizes are that are offered?

MS. MCHENRY: I'm not. Sunroof Enterprises is a separate company. I just do the permits, but I do know that he did make it a little bit smaller in anticipation of this to try to comply a little bit more, but in order for him to get under the 1500, it's a useless sunroof to him.

CHAIRMAN MAMMINA: It looks like it's 12 by 20.

MS. MCHENRY: I believe we revised it to 12 by 18.

CHAIRMAN MAMMINA: I see that in the dimension up to the steps. Could just be the way I'm reading the drawing because they're very small.

MS. MCHENRY: Yes, I have the plans here. Proposed square footage rear sunroom addition, 12 by 18, 216. It's a very small plot. Just a page of the plot plan for my reference, but I have them here.

CHAIRMAN MAMMINA: What is it that he does in that sunroom that makes it, I think the word you used was useless.

MS. MCHENRY: Well, like I said, I think everybody purchases a property on Long Island and chooses Long Island over like some places in the City because they wanna be able to sit outside, whether it's to read a book, to paint, whatever, but with a new diagnosis

of the skin cancer, it makes it dangerous and painful for him to be in the sun, which makes it more of a necessity for him than just something that he wants.

CHAIRMAN MAMMINA: They have motorized drapes that pull down, you know, over those between the metal or wooden portions that support, you know, the glass and that --

MS. MCHENRY: I think his hope was to have a three-season room. It is not going to be heated or habitable, but he wanted an actual sunroom to sit in and enjoy.

CHAIRMAN MAMMINA: Well, yeah, you roll it back and then you got a sunroom.

MS. MCHENRY: I'm not following what you're saying. Drapes somehow becomes a structure?

CHAIRMAN MAMMINA: You're going to have glass on top of it, yes.

MS. MCHENRY: (Nonverbal response given).

CHAIRMAN MAMMINA: Okay. So when you block the sun out, you flip the switch and it --

MS. MCHENRY: But it still has walls?

CHAIRMAN MAMMINA: Yeah, sure.

MS. MCHENRY: Then how does that bring us more into compliance? Because --

CHAIRMAN MAMMINA: No, I'm just addressing you saying that otherwise he has no use for this. Because of his skin cancer.

MS. MCHENRY: No, I'm just not following. We're here right now because of lot coverage. If we still have a structure, the only difference is it has an awning -- a more expensive awning that can

be rolled back. I'm just -- I'm trying to follow. That wouldn't bring us more into compliance with the 1500, would it?

CHAIRMAN MAMMINA: No, no, no.

MS. MCHENRY: Oh, okay.

CHAIRMAN MAMMINA: I'm trying to reach the why this is useless. Okay. You said that it's also the size, and also, he wants to be out of the sun. So I addressed the sun, and I guess -- I don't want to say what I was just thinking -- but what is it that he does in a 12 by 18 space? I can count off ceiling tiles, and you'll see how big --

MS. MCHENRY: I am aware. I've been doing -- I know how big it is. He sits outside with his family. Sometimes, on Sundays he has family over and likes to sit out after they have dinner. I didn't really go too much into detail with that, but I can find out if there's like a specific hobby other than just enjoying his family on the weekend.

CHAIRMAN MAMMINA: Honestly, I don't see any compelling, you know, argument in, you know, within that. Let's just make --

MS. MCHENRY: Having skin cancer and wanting to enjoy his back yard is not a compelling argument?

CHAIRMAN MAMMINA: What's stopping him from enjoying his back yard? And no, you, go to -- what you can do, you know, is you can go and into legal cases, and you'll find a zillion. Look for the ones that say, that speak to someone enjoying their back yard. It's not a test of law.

MS. MCHENRY: I apologize. I'm -- I have -- I do these in boards

all the way from South Hampton, Southold, out here, and that has often been a reasonable excuse to why somebody purchases a $500,000 home with a back yard.

CHAIRMAN MAMMINA: You're not going to find anything in the Five Tests.

MS. MCHENRY: Okay. So the skin cancer is really all I have on that one. He purchases the property; he wants to enjoy his back yard. He did not have the diagnosis when he purchased it, so he probably didn't look into the lot coverage at that time. Now, since this diagnosis, he's had some change in circumstances but still wants to maintain his quality of life. That's all I have on that one other than he did try to make it smaller.

CHAIRMAN MAMMINA: Part of the Five Tests is are there alternatives? Yes, there's a way that he can shade.

MS. MCHENRY: But I'm not following -- you're proposing a closed room?

CHAIRMAN MAMMINA: No.

MS. MCHENRY: With an awning?

CHAIRMAN MAMMINA: You talked to your -- to your --

MS. MCHENRY: Client.

CHAIRMAN MAMMINA: Not to your client. Talk to the company that fabricates. It's not my --

MS. MCHENRY: Oh, no, no, no. I'm not following how what you suggested bring us more into compliance. I'm more than happy to go back to them.

CHAIRMAN MAMMINA: Forget the compliance. You keep going back

to his --

MS. MCHENRY: So what am I suggesting to the sunroom company?

CHAIRMAN MAMMINA: -- to enjoy the back yard.

MS. MCHENRY: Okay. So what does the board suggest that I ask the sunroom company?

CHAIRMAN MAMMINA: I don't make suggestions. That's up to you. Are you the professional that prepares the documents or is it --

MS. MCHENRY: The --

CHAIRMAN MAMMINA: Michael Gratzer.

MS. MCHENRY: Joseph Gratzer, he is the architect.

CHAIRMAN MAMMINA: Okay, so that's up to --

MS. MCHENRY: So the board would like me to go to the architect and find something that complies --

CHAIRMAN MAMMINA: No, I'm --

MS. MCHENRY: I'm not following what you guys want.

CHAIRMAN MAMMINA: I give you no direction.

MS. MCHENRY: So the answer is no and --

CHAIRMAN MAMMINA: You do this all the time.

MS. MCHENRY: I do, and I never encountered this.

CHAIRMAN MAMMINA: Well, then --

MS. MCHENRY: Where there's suggestions thrown, and when I try to clarify them, there's no suggestions. I just make sure I'm --

CHAIRMAN MAMMINA: You know what, I've said enough. Thank you.

MS. MCHENRY: Okay. So where does this leave us?

CHAIRMAN MAMMINA: You can ask us to vote? I don't know what the other --

MS. MCHENRY: Does the board have -- I guess, the board doesn't make any suggestions, but --

CHAIRMAN MAMMINA: No, go through the Five Factors.

SECRETARY WAGNER: Yeah, go through the Five Factors.

CHAIRMAN MAMMINA: It's like what I like to say. It's not Let's Make a Deal, you know, I mean, you explain to us why you -- you've been here. You've heard, you know --

MS. MCHENRY: Yes.

CHAIRMAN MAMMINA: -- other people make very cogent arguments about why they needed what they needed.

MS. MCHENRY: Yes.

CHAIRMAN MAMMINA: Okay. Now, we granted a fence to some whose daughter had Alzheimer's.

MS. MCHENRY: That was a beautiful story, and I don't have that same story.

VICE CHAIRMAN FRANCIS: Autism.

CHAIRMAN MAMMINA: Autism. I'm sorry. So that's different. I mean, you know --

MS. MCHENRY: Would the board like me to go through the Five Points?

MEMBER DONATELLI: Please.

CHAIRMAN MAMMINA: Yes, go through the Five --

MS. MCHENRY: We believe that based on the fact that the fence has been there in excess of ten years that would be --

CHAIRMAN MAMMINA: Would you read us the Factor first and then give your --

MS. MCHENRY: Oh, I didn't get a copy of that.

VICE CHAIRMAN FRANCIS: It's right up there.

MR. PERROTTA: There's a copy in the podium. There's a list.

CHAIRMAN MAMMINA: And if you do this at every municipality in the world --

MS. MCHENRY: Whether an undesirable change --

CHAIRMAN MAMMINA: I cannot believe that nobody has asked you for the Five Factors.

MS. MCHENRY: Oh, I have them. I didn't know I had to read them first. I didn't know the rules.

Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties.

Based on the characteristics of the neighborhood in New Hyde Park and the fact that there are sunrooms and pools and accessory structures all over, I do not feel that it would be -- it would be keeping the nature and characteristics of the surrounding properties and would have no negative impact.

CHAIRMAN MAMMINA: Have any of them received variances for lot coverage?

MS. MCHENRY: I can -- I would more than happily go and actually research that for the board and give that to them.

CHAIRMAN MAMMINA: We will give every opportunity we possibly can. We're not here to say no.

MS. MCHENRY: Is there a radius, whether 200, 500, that the board would like to see?

CHAIRMAN MAMMINA: Whether it's 500, I would just think, you

know, for me, 500, I don't care what's 500 feet away.

MS. MCHENRY: Okay.

CHAIRMAN MAMMINA: What's in that area? It's the character of the neighborhood.

MS. MCHENRY: I do not believe based on the fact that the fence has been there for 10 to 20 years that it had -- will be -- it will be keeping with the nature and characteristics of the surrounding properties.

CHAIRMAN MAMMINA: Find legal ones.

MS. MCHENRY: Find legal, what?

VICE CHAIRMAN FRANCIS: Fence.

CHAIRMAN MAMMINA: If you're talking about the fences, you have to find other fences that were installed --

MS. MCHENRY: Oh, yes -- -

CHAIRMAN MAMMINA: -- legally.

MS. MCHENRY: Absolutely, I can do that as well. Whether the benefits sought by applicant can be achieved by a feasible alternative to the variance.

I did go over that. I think that you had an argument that I'm not quite understanding. I do not think that there's another way for him to enjoy his back yard without this sunroom. I think the fact that it's being -- it's not being heated or habitable. He's not trying to turn it into a room or something that, you know, somebody is gonna live in. He does just want to really utilize his back yard with his new condition. So I believe that there is no other way to get to this result without being before the board right now.

Whether the requested variance is substantial.

I guess that is a relative term. I think 95 square feet is not a lot based on the things that I normally do. Again, I have never been before this board before, so forgive me for my ignorance.

The fencing is 5-foot section at the rear of the house, and it has about 8-foot privacy hedges. So as the pictures that I submitted to the board show, you cannot even see the fencing. That's why one of the pictures shows it from the back because that's the only way that you can absolutely see it. And again, the fact that it has been there for so long.

Would the variance have an adverse impact on the physical environmental conditions of the neighborhood?

I absolutely do not believe that the fence that is existing will have any adverse effect on the environment, and the sunroom, there's a deck located there, so even if we were talking about clearing or impervious surfaces or all of that, we're still kind of keeping with that.

Whether the alleged difficulty was self-created.

The fence, as I stated on the record, was there when he purchased it. He has no physical attachment to the fence. The sunroom was really why he was here and the need from his family. The fence is something that if the board so wished and would be willing to grant the sunroom, he'd be willing to get rid of the fence behind the hedges.

CHAIRMAN MAMMINA: If he bought the house, the hardship is self-created.

MS. MCHENRY: I'm sorry?

CHAIRMAN MAMMINA: If he bought the house with a fence that is not permitted, then the hardship is self-created.

MS. MCHENRY: Yeah, I think that -- I wouldn't be in business if that was there. Attorneys don't advise people. Sometimes, they don't have lenders or mortgage companies that make them do title searches, and people fall into these situations where they really truly don't believe -- don't realize what they're stepping into, and sometimes, it's hard to believe when you see a huge detached garage, nobody asks for a CO on that, but 5-foot section of fence that he probably didn't realize was too high behind a hedge, I do believe it was not self-created.

If the board has any more questions, I'm very open to that; otherwise, I would look forward to researching the two things that we spoke about and getting that information to the board.

MEMBER DONATELLI: What I would like to bring the conversation back to is, you're proposing a 12 by 18 sunroom.

MS. MCHENRY: Yes.

MEMBER DONATELLI: Which according to my calculation is 216 square feet, which is 95 over the lot coverage.

MS. MCHENRY: Right.

MEMBER DONATELLI: So in a sense, it's almost double what is being asked for. What I would like to know is what use the applicant wishes to make of the sunroom and whether the applicant might be able to live with a smaller sunroom for whatever the purpose the applicant is seeking, which would decrease the amount of the variance that we're being requested to give. So for example, and that's why I opened

my comments with the questions as to whether or not this is a prefab. If there is, for example, I don't know, I'm just throwing this out as a hypothetical. If there's a sunroom that instead of 12 by 18 is 12 by 12, and that might suit the applicant's purpose then there might be some room as the chairman has said, one of the things that we're tasked to do is granting the minimal variance necessary that would meet the applicant's goals but still be a minimal or a smaller variance than what's being requested. We may not be able to do away with the variance, but we may be able to at least minimize the variance.

MS. MCHENRY: Understood.

MEMBER DONATELLI: So as you do your research, I would also ask that you look to the applicant to see what purpose he will be using the sunroom for and whether it's possible to have a smaller variance than what is now being requested.

MS. MCHENRY: Understood. So I have a few things to work on.

MEMBER HERNANDEZ: I just have one quick question because I don't see the number readily here on the plan. Do you know the size of existing wood deck? Because I don't see it here.

MS. MCHENRY: I believe I do because even if I have to go to the survey when I was first hired, I believe I have that; 12 by 19.

MEMBER DONATELLI: So roughly the size --

MEMBER HERNANDEZ: So basically –

MS. MCHENRY: Again, which is why I think when coming here, nobody thought this was quite an issue because we're replacing same

impervious service, same lot area. Really, all that's not counted, but theoretically, the lot area is still the same.

MEMBER HERNANDEZ: Well, a wood deck is -- it's a wood deck so rain goes right through it --

MS. MCHENRY: True.

MEMBER HERNANDEZ: -- so it's not the same.

MS. MCHENRY: I get what you're saying.

MEMBER HERNANDEZ: Thank you.

VICE CHAIRMAN FRANCIS: So we will continue your application to allow you to submit whatever documentation you would like to submit.

MS. MCHENRY: I appreciate that. You guys have a good afternoon.

MEMBER HERNANDEZ: Thank you.

VICE CHAIRMAN FRANCIS: Thank you.

SECRETARY WAGNER: So continuing that for additional information.

CHAIRMAN MAMMINA: Yes.

SECRETARY WAGNER: Appeal #21603, Ming Lin and Jin Dong Liang; 248 Glen Cove Road; Section 9, Block 60, Lot 67; in the Residence C Zoning District.

Variances from 70-100.2A(2)(a), 70-100.2A(4)(b) to legalize fencing that is forward of the front building line and to maintain fencing that is too tall.

CHAIRMAN MAMMINA: You've heard Appeal #21603, Ming Lin and Jin

Dong Liang. Is there anyone in the room interested in the application other than the applicant? Seeing no one, please give your name and address.

MS. EILEEN: Good afternoon, Board. My name is Eileen. I'm presenting the owner, 248 Glen Cove Road, Carle Place. We're looking to legalize fencing that's in the front of the building line, and maintain the fencing on -- at the side -- rear side.

So the location of the property is very unique. They are -- the map shows, they're in the corner of this two very busy commercial road, Glen Cove Road and Westbury Avenue, and around this area is all the commercials. Like 7-Elelven, Dunkin, all, like, commercial building. So the owner they have, like, four childrens, so for the safety -- in case, like, prevent, like, the safety, they build the fence around the corner.

MEMBER DONATELLI: When you say you're representing them, are you a friend? Are you an attorney, an architect, or just a friend?

MS. EILEEN: Just a friend, yeah.

CHAIRMAN MAMMINA: Make a good friend.

MS. EILEEN: Yeah, they do not speak English very well, so I'm, like, helping them.

MEMBER HERNANDEZ: Thank you.

MEMBER DONATELLI: I do acknowledge that this particular area is center of the universe. It's probably second only to Times Square in terms of traffic.

MS. EILEEN: Yes.

CHAIRMAN MAMMINA: There are more car collisions in that

intersection than any place else in Nassau County.

MS. EILEEN: Right.

CHAIRMAN MAMMINA: You're talking to a Carle Place boy, who had his office on Westbury area about half a mile down.

MS. EILEEN: Yeah, exactly.

(WHEREUPON, a discussion was held among Board Members.)

CHAIRMAN MAMMINA: You don't have to walk far to get your coffee from 7-Eleven.

MS. EILEEN: Yes, walking distance.

MEMBER HERNANDEZ: Now, what type of a fencing are you?

MS. EILEEN: It's, like, a white. It's a very typical fence.

VICE CHAIRMAN FRANCIS: PVC?

MS. EILEEN: Those white ones.

VICE CHAIRMAN FRANCIS: Yeah, PVC fence.

MS. EILEEN: Yeah.

MEMBER DONATELLI: Do you know how long the fence has been there; the existing fence?

MS. EILEEN: Since May 'cause they just purchase the property this May 2024.

MEMBER DONATELLI: But they didn't put the fencing up, so the existing fence that was there, right?

MS. EILEEN: No, they actually -- the owner, when they purchase the property, they build up the fence.

MEMBER DONATELLI: They build the fence?

MS. EILEEN: They did.

MEMBER DONATELLI: And I would just note for the record that

this house is actually on the corner, but it fronts Glen Cove Road. The driveway opens to Glen Cove Road.

MS. EILEEN: Yes.

CHAIRMAN MAMMINA: Do you want to hand up the type of fence?

MEMBER HERNANDEZ: PVC fence.

CHAIRMAN MAMMINA: Yeah, but does it have that basket weave on the top?

ATTORNEY ALGIOS: The top part of the fence. See where it's like a weave.

MS. EILEEN: Those?

ATTORNEY ALGIOS: Yes.

MS. EILEEN: Yeah, the material?

CHAIRMAN MAMMINA: No, the design.

ATTORNEY ALGIOS: Does it have that fence that they're --

MEMBER HERNANDEZ: Does it open?

MS. EILEEN: Yes, open.

MEMBER HERNANDEZ: Open at the top.

MS. EILEEN: Yes.

MEMBER DONATELLI: Ginny, can I ask you a question, please?

SECRETARY WAGNER: Yes.

(WHEREUPON, a discussion was held among Board Members.)

MEMBER DONATELLI: Just forgive us. We're just checking our records.

MS. EILEEN: Okay.

(WHEREUPON, a discussion was held among Board Members.)

MEMBER DONATELLI: Is the fence in front of the shrubbery or

behind the shrubbery.

MS. EILEEN: Strawberry?

VICE CHAIRMAN FRANCIS: Shrubbery.

MEMBER HERNANDEZ: The plants. The plants that are in front of the house.

MEMBER DONATELLI: The bushes.

MS. EILEEN: Plant?

VICE CHAIRMAN FRANCIS: Plants. The greenery.

MS. EILEEN: There is no --

MEMBER HERNANDEZ: All plants are gone.

MS. EILEEN: There is no plants in front of -- oh, you mean those like trees?

MEMBER HERNANDEZ: Yes.

MS. EILEEN: Yes, they're still there.

MEMBER HERNANDEZ: Where's the fence?

MS. EILEEN: Fence is behind the tree.

MEMBER HERNANDEZ: Between the trees and the house.

MS. EILEEN: Yes.

CHAIRMAN MAMMINA: That is what I thought.

MS. EILEEN: Yes.

MEMBER DONATELLI: As you know, the town code does not allow fencing in the front yard, and so we get many applications, and sometimes people seek to put fences in the front yard. Under certain circumstances, we are empowered to grant variances, and frankly, this is a unique property because it is in such a heavy traffic area, and we understand the applicant's desire to want to have this. At least,

I, as one board member, understand the applicant's desire to have some separation. When we do grant variances similar to this, we require almost always a condition that there be shrubbery shielding the fence from public view.

MS. EILEEN: (Nonverbal response given).

MEMBER DONATELLI: So it appears to be that that is the case that the shrubbery is in front of the fence; is that correct?

MS. EILEEN: Yes.

MEMBER DONATELLI: Any other questions or comments?

CHAIRMAN MAMMINA: For me, having in Mineola, just going to Westbury, the other way, and then Carle Place, Westbury Avenue going that way, you also get the red camera light there.

MS. EILEEN: Yes.

CHAIRMAN MAMMINA: That flashes almost incessantly.

MEMBER DONATELLI: Only if you're going through the light.

CHAIRMAN MAMMINA: I was wondering why I was getting all those letters.

MEMBER DONATELLI: All right.

CHAIRMAN MAMMINA: Very difficult.

MEMBER DONATELLI: It is a difficult location.

CHAIRMAN MAMMINA: Yes.

MEMBER DONATELLI: Having said that, I think this is readily distinguishable from many of the applications that we get. This is truly a unique property. If there are no other questions or comments, Mr. Chairman, I move that we grant the application.

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

you have a second?

MS. EILEEN: Thank you so much.

CHAIRMAN MAMMINA: We didn't vote yet.

MS. EILEEN: Okay.

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Second Member Hernandez. Please poll the board.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye. The application is granted.

MS. EILEEN: I want to also clarify, there was also fence at the rear side. Is also granted?

CHAIRMAN MAMMINA: Yes.

MEMBER DONATELLI: Yes.

MS. EILEEN: Thank you so much.

(WHEREUPON, a discussion was held among Board Members.)

SECRETARY WAGNER: Next appeal, Appeal #21604, Benedetta Vallone; 14 Shrub Hollow Road, Roslyn; Section 9, Block 623, Lot 11; in the Residence A Zoning District.

Variance from 70-102.C(5)(a) to legalize a swimming pool that

is too close to the side and rear property lines and to legalize a swimming pool slide too close to the rear property line.

CHAIRMAN MAMMINA: You've heard Appeal #21604, Benedetta Vallone. Is there anyone who is interested in the application other than the applicant? Seeing no one, please give your name and address.

MR. BRAM: Andrew Bram, 1924 Bellmore Avenue, Bellmore, New York 11710.

Good afternoon, Mr. Chairman, Ladies and Gentlemen. My name is Andrew Bram. I'm an engineer. I'm representing Benedetta Vallone and her husband, who's here in the audience with us today.

We're seeking to maintain an already installed inground swimming pool that was installed too close to the property line, 8.2 feet and 8.95 feet. As well as a slide that was installed too close to the rear property line. And what happened here is the homeowners hired me to design a pool and get them a permit, which we did, and once the final survey came, it was found out that the pool was installed too close. The pool was already installed. It would be a great cost to actually move this inground pool.

What happened was they did hire a licensed and insured contractor and all the correct approvals and inspections were done. And as I repeat, when they did the final survey, if you actually look at the survey, with the 8.2 and 8.95, the contractor mistakenly measured from a stoned wall that was like a curb that was actually on the neighbor's property.

CHAIRMAN MAMMINA: They didn't have a surveyor stake it out?

MR. BRAM: They didn't stake it. They measured it.

CHAIRMAN MAMMINA: I mean, that's.

MR. BRAM: So this contractor is no longer in business and out of state, so we're here seeking your approval to maintain this pool.

I do have letters of support from the neighbors here, if I may.

MR. PERROTTA: Thank you.

MR. BRAM: And the one neighbor that's most affected on the east side did give their support for that, and the neighbor that would be most affected by the slide, the applicant did make numerous attempts to get in contact with them, and one of the other neighbors told them that they're not home that often; however, they were dually noticed, and I don't believe they submitted anything or here today having any objections to that slide being too close to their rear property line there.

As far as the conditions that other applicants were reading to the board; I don't believe that is an undesirable change in the character of the neighborhood as this pool is in the ground and the variance being sought is not substantial. It's 10 feet is required, we're 8.2 and 8.95 where actually what's installed.

I don't believe it's self-created. Although, they did choose to put a pool in. They did not willingfully[sic] disobey the approved plans and the Building Department and this board.

And I believe there's no adverse impact on the physical environment, and the benefit to the applicant for them to keep the pool that they've been enjoying greatly, outweighs any detriments. And the board, if you’re so inclined to approve this application.

VICE CHAIRMAN FRANCIS: Do you have an idea how much it would cost to legalize the pool?

MR. BRAM: It would be -- the entire paving would have to come up. The entire pool all -- it would have to be -- the entire thing redone in the order of $75,000.

I am a licensed professional. I have designed over 2500 pools, and that number would definitely be considered accurate.

MEMBER DONATELLI: Would it be -- what would the cost be of making the pool smaller such then the dimension would be compliant? Would it be the same cost, or would it be less?

MR. BRAM: I don't think it would be $75,000, but the large majority of the pavers in that area would have to be done. The whole pool would have to be excavated; a new wall, a new liner, new piping. So that could be -- I don't wanna mislead anything; $35,000 to do that.

VICE CHAIRMAN FRANCIS: The pavers are not really before us, but it looks like the entire back yard is paved; is that true?

MR. BRAM: Do you want to come up?

MR. VALLONE: Yes, it is.

MR. BRAM: Just state your -- give your name.

MEMBER HERNANDEZ: Just give your name, please, for the record.

MR. VALLONE: Bendetta Vallone.

VICE CHAIRMAN FRANCIS: You said the entire back yard is paved?

MR. VALLONE: Yes.

MEMBER HERNANDEZ: That's filed in a separate application. Was that approved? Only because we just see it odd.

MR. BRAM: Right, I'm --

MEMBER HERNANDEZ: Usually, we don't see a complete back yard paved. You were here earlier probably when we had the other pool, and the issues that we raised.

MR. BRAM: So to answer your question, I am unaware if that's approved.

MEMBER DONATELLI: Just for the record. Let me just say that on the residential zoning analysis sheet that you submitted with the application and the portion that says rear yard coverage proposed just has a blank or a hyphen signed, so it's not filed in, which raises the issue. I mean, I don't know if you were here earlier for the other pool presentation, but it was the same issue that arose. You say that the pool installation company was from out of town?

MR. BRAM: No, they have -- they were here licensed and insured, but they are currently no longer in business, and the owner has moved out of town.

MEMBER DONATELLI: What was the name of the company?

MR. BRAM: Aqua Fiber Pools.

CHAIRMAN MAMMINA: When was the pool installed?

MR. BRAM: Either 2020 or 2021.

CHAIRMAN MAMMINA: When I'm looking at the survey, there are two survey dates on here, and please excuse the word that comes to me, it's incomprehensible that somebody would be installing a pool they're not staking, you know, where the pool actual goes, but we the world gets surprising every day.

VICE CHAIRMAN FRANCIS: (Inaudible).

CHAIRMAN MAMMINA: That's the surveyor.

VICE CHAIRMAN FRANCIS: Oh, the surveyor.

CHAIRMAN MAMMINA: But if he didn't call for a survey then --

VICE CHAIRMAN FRANCIS: Right.

MEMBER DONATELLI: You know, there are times we're presented for variances for a couple of inches because, over the last 50 years, surveying has gotten more exact than what used to be considered 3 feet is now calculated to be 2.95 feet or something like. This is very substantial. This is a substantial mistake, and I share the surprise that someone would make an error like this.

MR. BRAM: I'm agreeing with you. I'm not making excuses, but if you do look at the survey, and from what I was told that they measured from this -- on the survey it says E/S Curb 1.9 East, so when they put their tape measure out, they thought that was the property line, and that's what they did. This is what I'm being told. I'm just conveying.

CHAIRMAN MAMMINA: But if you look at the survey, I will agree; I have no idea what an E/S Curb means. There have been times that there are monuments, but again, you need a surveyor who's going to come off that line for you rather than just laying out a tape, and you know, when I look at the -- where the survey points are pointing to when I look at the 8.95, he's pointing to an imaginary line. He's not pointing to the fence. When I look at the 8.2, he's pointing to the property line, which for all intents and purposes, is an imaginary line, and not to the fence.

MR. BRAM: Well, Mr. Chairman, this survey is an as-built survey,

where the surveyor's job is to provide the location of the pool with respect to the property line.

CHAIRMAN MAMMINA: That's why I asked is there another survey because one is from September of 2020 and one is from May of 2021. It would sound to me like one was done as a stack out, and the second one was done as an as-built.

MR. BRAM: I would say that extreme high probably there was no stake out survey done. I also just want to bring to the board's attention that I represent the homeowners who hired contractors to install a pool per approved plans by your Building Department, and that was their intention. They were extremely surprised when they got there -- when they went for the final inspection with the Building Department and the inspector said, hey, this thing's not installed where it's supposed to be, so there's no -- on behalf of the homeowners, no disingenuous intention. Just to repeat what I was saying earlier.

VICE CHAIRMAN FRANCIS: We don't believe that they did have any bad intentions.

MR. BRAM: No, not at all.

CHAIRMAN MAMMINA: The approved drawing, is that one of what's submitted here?

MR. BRAM: That would be what the denial was based upon.

CHAIRMAN MAMMINA: I'm saying where is -- where is the -- where is that document? The original one that showed it complies.

MR. BRAM: So that would be in the archives, I'm sure, of the town.

CHAIRMAN MAMMINA: But you don't have a copy of the --

MR. BRAM: I have a copy of the set that we created as an as-built reflecting the survey, which was used for the denial. So what happened was the plans were originally approved.

CHAIRMAN MAMMINA: Who filed for the pool?

MR. BRAM: We did. My company.

CHAIRMAN MAMMINA: And you -- I'm assuming you -- or filed after it was determined that it was not compliant?

MR. BRAM: No, no. We filed it --

CHAIRMAN MAMMINA: Where's that drawing?

MR. BRAM: So the only set that I brought with me today is the set that we filed after the Building Department said, hey, this is not compliant. We were directed to file a new set with the current conditions for a post-approval denial letter for the purposes of a variance to maintain the pool. So to answer your question, I don't have that drawing here.

CHAIRMAN MAMMINA: I hate to be a wise guy. Wouldn't that have been a good idea, so? To document what you filed originally?

SECRETARY WAGNER: Are you looking for the original?

CHAIRMAN MAMMINA: Yeah, the original.

SECRETARY WAGNER: Was that recently in the past couple of years?

MR. BRAM: It may have been just before you went electronic.

CHAIRMAN MAMMINA: Look. I guess it doesn't -- all I'm looking at is to compare --

MR. BRAM: I can show you here. May I approach with this?

CHAIRMAN MAMMINA: Yeah.

MR. PERROTTA: I can submit it.

MR. BRAM: So as you can see, it's currently at eight two and eight eleven. What we filed for is dimension of 10 feet. That's what that plan would look like.

CHAIRMAN MAMMINA: Okay. I just want to make sure because you're getting eight two, you know, from 10 feet, even if you measured to the fence, I mean, that's -- yeah, that's the drawing that we have. Okay. And I get it, and for Mr. Vallone's benefit, we're not questioning that he did anything wrong. He hired somebody in good confidence that they were going to do the right thing.

SECRETARY WAGNER: There was a permit application, and it was approved and then it's inspected so it had to be conforming.

CHAIRMAN MAMMINA: Yeah, but at the same time, again, for Mr. Vallone's benefit, the inspection is not the Town's or any other municipality's burden to make sure that they put it where the survey said, and that's why you have a final survey. If somebody walked out and inspected the hole in the ground, you know, I've been a building official in villages, you know, I kind of make it clear all the time. You know, the architect is still -- or the contractor is ultimately responsible, not the architect, for what gets built, but, you know, the contractor is responsible for following the drawing.

MEMBER HERNANDEZ: The hole's always bigger than the pool anyway, right?

CHAIRMAN MAMMINA: Yeah, right. That's what I'm saying. Nobody wouldn't be able to tell. You wouldn't be able to tell if

you looked at it.

MR. BRAM: Right.

CHAIRMAN MAMMINA: The owner wouldn't be able to tell if he wanted to look at it.

MR. BRAM: There are some villages that actually require a location survey of a pool before they backfill to prevent this type of issue.

CHAIRMAN MAMMINA: You're talking to a New York City boy. Every single thing that I do has to -- I have to -- I have to document that it's accurate, in my opinion, before the construction continues. That could be for a 20-story building or for a house, but, as far as I know, New York City is the only place that requires that, but pools would certainly make good sense; protects the homeowner.

MR. BRAM: Yeah. So in summary, we request the board approve this variance to maintain the pool knowing that it was not done intentionally. They did rely on approved drawings of licensed contractors that unfortunately installed the pool in the wrong location.

CHAIRMAN MAMMINA: What was their name? Aqua White?

MR. BRAM: It's Aqua Fiber.

CHAIRMAN MAMMINA: Aqua Fiber.

MR. BRAM: And that would be on the record also of that approved permit with the Building Department.

CHAIRMAN MAMMINA: Okay. Mr. Vallone, if it makes you feel better, which it won't, a good friend, colleague of mine who is an architect, got stuck where you are now, and it's tough. I can't

believe it. How did you -- he even gave the guy more money, and then the guy took off. That's so regrettable.

MEMBER DONATELLI: I think it's worth it to have some time to consider this.

CHAIRMAN MAMMINA: Yeah, I think so.

MEMBER DONATELLI: And so I would ask that we reserve decision.

CHAIRMAN MAMMINA: That's certainly valid. Okay.

MR. BRAM: They're going to reserve decision.

All right. Thank you.

MEMBER DONATELLI: Thank you.

CHAIRMAN MAMMINA: Thank you. We appreciate it.

MEMBER HERNANDEZ: Thank you.

SECRETARY WAGNER: So we're reserving?

MEMBER DONATELLI: Yes, reserving.

CHAIRMAN MAMMINA: Yes, reserving.

SECRETARY WAGNER: Appeal #21582, Xin Wei Xu; 3 12th Street, Carle Place; Section 10, Block 269, Lot 30; in the Residence C Zoning District.

Variances from 70-40.B, 70-41.B, 70-42, 70-42.6, 70-102.C(5)(a), 70-100.1(A), and 70-100.2(A) to construct a one-story addition that is too close to the street, a deck and louvered awning that are too close to the side property line, a second-story addition that is too close to the rear property line, paving covering too much of the secondary front yard, pool equipment that's too close to the rear property line, an inground swimming pool,

awning, barbecue, and pool barrier in the side yard (not permitted), and fencing that is too tall and being used as a pool barrier fence.

CHAIRMAN MAMMINA: You've heard Appeal #21582, Xin Wei Xu. Is there anyone in the room interested in the application other than the applicant? Seeing one hand -- two hands. You will have the opportunity to speak after the presentation. Thanks, everyone. Take it away, Mr. Munisteri.

MR. MUNISTERI: My name is Mark Anthony Munisteri, architect. My office is located at 1563 Bellmore Avenue in Bellmore. This afternoon I'm representing Mr. and Mrs. Xin Wei Xu, who are the owners and not presently occupants of 3 12th Street in Carle Place.

I submitted several pictures of some interior, just so some of the things I chat about would make a little bit more sense. My client would like to construct a second-story addition, reconstruct a small rear deck, as well as some proposed interior alterations, with a front porch, which would have a 3-foot foyer extension.

The proposed small 3 foot by 11 foot one story foyer addition will allow my clients to replace the existing top and bottom winder stair with a safer straight stair as well allow for a larger coat closet and an area for cubbies, shoes, jackets, backpacks. I've submitted two pictures, which one from the top of each one, one from the bottom. I've traveled up and down the stairs several times myself and they're very unsafe. Being that this is a corner lot located in a Residence B, a minimal of 25 feet is required for the secondary front yard, which is actually the front of my client's house. The proposed setback to the proposed one-story foyer

addition would be 22.4, instead of the required 25 feet, for which just 2.6-foot relief is requested. The porch itself meets the required setbacks.

I would also like to replace the existing -- I'm gonna call it side yard deck although it's actually their rear yard. This is a corner property, and I know you guys have gone through many of times, the way they zone some of these; the longer, shorter, you get it.

The existing deck presently sits at 3.94 feet to the property line, which I have also submitted pictures of that. On this corner lot, the required side yard setback is a minimum of 7 feet. The new side yard proposed for the attached deck, which is originally the -- under the three, would now be 5.05. Basically, we're cutting a foot off of it, and we're only asking for 1.94 feet of relief.

We would like to just note that this is deemed a side yard. This is really their rear yard, and as you can see, this is a relatively small rear yard; yard in general.

MEMBER HERNANDEZ: So this is where the proposed refabricated awning is going to be?

MR. MUNISTERI: Yes, sir. If you look actually from that picture there is -- either one of that, but that one, you'll see the prefabricated awning. Actually, past client -- past owners, I apologize, cover.

Now, for the required rear yard setback of 15 feet for the single-family residence, we are proposing a rear yard setback to the second-story addition of 11.2 feet. This addition is directly over the existing first floor, which the relief that we're asking is 3.8

feet. This is a non-conforming condition and it has no additional encroachments. The property --

MEMBER DONATELLI: Sir --

MR. MUNISTERI: I'm sorry, go ahead.

MEMBER DONATELLI: I'm reluctant to interrupt, but I do have a question.

MR. MUNISTERI: Sure.

MEMBER DONATELLI: Going back to that awning.

MR. MUNISTERI: Yes, sir.

MEMBER DONATELLI: Is that permanently attached?

MR. MUNISTERI: No, sir.

MEMBER DONATELLI: It's not.

MR. MUNISTERI: It's -- so it's semi-permanently attached. Meaning, it's screwed down. I don't consider that permanent. So on the legs it has like little screw holes that it can be screwed down, so the wind doesn't just take it. It does act as a sail.

MEMBER DONATELLI: All right. Thank you.

MR. MUNISTERI: You got it.

The property has proposed a front yard paving. This has been removed. It doesn't show on yours. The drawings that we've submitted and we're taking it out of the variance. We all gonna meet the 45 percent for the paving in the front yard for the circular driveway, so that's gonna be eliminated. This is a tricky spot. If anybody knows -- and I heard you're a Carle Place man. This is right by the school right there, and as anybody knows that's anywhere over by a school, certain days and certain times, the street gets very

trafficky, and it's usually loaded with cars. So they are just really trying to get it anywhere where they can get their cars off as well as when their parents come over.

MEMBER DONATELLI: So is that being withdrawn?

MR. MUNISTERI: It's being withdrawn. We're gonna keep it under the 45 percent; yes, sir.

CHAIRMAN MAMMINA: That's the asphalt that was there?

MR. MUNISTERI: Yeah, it's actually pavers, but you are correct, yes. It's a hardscape.

Mentioning that this is a corner lot, the zoned side yard is really the -- my client's rear yard. We're requesting to install a reasonably small 8 foot by 19 foot inground, what I call recreational pool. This is only 4 feet, so this is a true rec pool. The actual zoned rear yard is only 11.2 feet deep and provides insufficient clearance for a pool of any type. So again, I zoned this, if you look at the thing, it's a tiny little sliver in the back corner. It would be impossible to place it there, even though it is a tiny pool. The pool is located in the side yard based on the definition of a corner lot. However, if this was an interior lot with 12th Street as the frontage, the pool along the prefab -- with its prefabricated awning, the barbecue, and the pool barrier would be located in the rear yard thus not requiring this variance. We're also moving them from our original application --

CHAIRMAN MAMMINA: Can you repeat that one more time?

MR. MUNISTERI: I apologize.

CHAIRMAN MAMMINA: No, that's okay.

MR. MUNISTERI: I'll back it up.
CHAIRMAN MAMMINA: I just want to pop it into my brain.
MR. MUNISTERI: I'll back it up.
CHAIRMAN MAMMINA: I may -- to whatever extent we can -- not take a zillion hours doing it. Take a -- re -- just start with all those things that you kind of popped out there --
MR. MUNISTERI: Sure.
CHAIRMAN MAMMINA: -- in the beginning, just so that I can digest them and understand where they are in the drawing.
MR. MUNISTERI: I sure can. You got it.
CHAIRMAN MAMMINA: Thank you.
MR. MUNISTERI: I apologize.
CHAIRMAN MAMMINA: No, that's okay. No, no, no.
MR. MUNISTERI: The pool, in fact, is located in the side yard based on the definition of a corner lot; however, if this was an interior lot with 12th Street as the frontage, the pool, along with the prefabricated awning, barbecue, pool barrier would be located in the rear yard, thus not requiring the zoning variance.
We're also moving the proposed pool and barbecue from our last application to a 10-foot rear yard -- side yard setback. I apologize. To eliminate some additional variances for that.
Lastly, the swimming pool to have a 6-foot PVC fence as a pool --
MEMBER HERNANDEZ: Can --
MR. MUNISTERI: Yes, sir.
MEMBER HERNANDEZ: Before you go on. You're proposed inground pool has a 9.21.

MR. MUNISTERI: Not anymore.
SECRETARY WAGNER: No.
MR. MUNISTERI: The new application --
MEMBER HERNANDEZ: -- moving it back?
MR. MUNISTERI: Yes, sir, I slipped that back.
CHAIRMAN MAMMINA: It's on --
MR. MUNISTERI: Yes, so it's a 10-foot. Same thing with the barbecue.
CHAIRMAN MAMMINA: It's 10 and 10.
MEMBER HERNANDEZ: Okay.
MR. MUNISTERI: Okay. So the PVC pool barrier, which extends into the side yard, we're respectfully requesting the relief of the 6-foot fence, as only 5-foot is permitted. As well as the relief for the fence extending into side yard, as this is a corner property, and the property needs to be fully enclosed. So again, what that's saying is that we have two fences and gates. One of them, let me just locate that exactly, so it makes sense. I want to use north, east. In the southwest corner of the property, behind where the second-story garage is, that would be a 6-foot fence there. That would then run north along that area, which is mostly existing. That's also where we're gonna put behind that area, which is the 11 foot 2 setback, where we're gonna put the AC units and the heater and the pool equipment.
VICE CHAIRMAN FRANCIS: Mr. Munisteri, just one question.
MR. MUNISTERI: Of course.
VICE CHAIRMAN FRANCIS: Push that fence all the way to the rear

of the building line instead of having it in the front of the building.

MR. MUNISTERI: So I anticipated you saying that.

VICE CHAIRMAN FRANCIS: I knew you would.

MR. MUNISTERI: So what we could do if you would allow us -- because we would like to block that. That is a passageway for them. We can put a 4-foot fence there, but I still need my enclosure, and then I can move to the back of the structures, and I'll put the fence up in that location, so I'll take that one out.

VICE CHAIRMAN FRANCIS: Okay.

MR. MUNISTERI: The other one is a little trickier.

CHAIRMAN MAMMINA: The back of the fence should --

VICE CHAIRMAN FRANCIS: Yeah.

CHAIRMAN MAMMINA: -- at the back area.

MR. MUNISTERI: Yes, sir.

VICE CHAIRMAN FRANCIS: Yeah.

MEMBER DONATELLI: And then again for safety purposes --

VICE CHAIRMAN FRANCIS: Right.

MEMBER DONATELLI: -- more than anything else.

MR. MUNISTERI: I think both. Either way, it's a safety facet. You are right. The other one become a little bit trickier. So in order to move that one back, which would move west. That's the northeast corner of the property.

VICE CHAIRMAN FRANCIS: Right.

MR. MUNISTERI: In order to move that west -- well, first off to the back would be -- it just make that little triangle, that little 20 by 11 square. If I move it back any further, it comes into where

that deck is.

CHAIRMAN MAMMINA: Where is the 20 by 11 square?

MR. MUNISTERI: If the theoretical rear yard. That's what I'm saying. So you'd have to -- in order to get that out, I'd have to move that all the way back to the back of the structure, which would be that little rear corner.

(WHEREUPON, a discussion was held among Board Members.)

MEMBER DONATELLI: So I think originally we want a pool to be --

VICE CHAIRMAN FRANCIS: Right.

MEMBER DONATELLI: -- enclosed here.

VICE CHAIRMAN FRANCIS: Right.

MEMBER DONATELLI: But the enclosure is here.

VICE CHAIRMAN FRANCIS: I think that's okay.

MR. MUNISTERI: Correct. I kind of feel where you're pointing.

MEMBER DONATELLI: So the question is, again, you know, what if somebody is --

VICE CHAIRMAN FRANCIS: Right.

MEMBER DONATELLI: -- out of view over here.

VICE CHAIRMAN FRANCIS: Right.

MEMBER HERNANDEZ: But all of that is -- none of that is going to be solid walls, though, right? Right? None of that is solid walls? All of that --

MR. MUNISTERI: Well, six foot --

MEMBER HERNANDEZ: No, but I'm talking about the structure, like the prefabricated louver and the wood deck. None of that is solid, so that if a kid's walking around --

VICE CHAIRMAN FRANCIS: You'll be able to see.
MEMBER HERNANDEZ: -- should be able to see him.
MR. MUNISTERI: Yes.
CHAIRMAN MAMMINA: Why can't that slide back to the east of the proposed prefabricated louver awning and the proposed wood deck?
MR. MUNISTERI: So let's imagine that we do that. Besides the fact of accessibility, you're taking the tiniest of rear yards and literally cutting it in half. So I would have no problem about sliding it back but to fit it all the way back to there, that 6-foot fence, I don't think that that's protecting anybody that's inside the pool, so if the kids are playing in the pool and you're up on the deck, you really aren't getting a good visional of them.
CHAIRMAN MAMMINA: Why not?
MR. MUNISTERI: Why not? Well, for me 'cause I'm only 3 foot 9 that's first. Second, thing is I gotta be able see over there. Sorry, maybe a little taller.
CHAIRMAN MAMMINA: No, no, no. I'm saying staying -- line it up with that rear -- that rear projection of that one-story portion.
MR. MUNISTERI: There's deck --
CHAIRMAN MAMMINA: Keep that --
MEMBER HERNANDEZ: Split the deck.
MR. MUNISTERI: Split the deck?
CHAIRMAN MAMMINA: No, split the proposed prefabricated -- you're not splitting it. I mean, it's --
MR. MUNISTERI: At the edge of where the prefabricated louver awning is? Am I correct?

CHAIRMAN MAMMINA: Where the dimension of 6.85 is, just continue that line north.

MEMBER HERNANDEZ: Split the --

VICE CHAIRMAN FRANCIS: Oh, I see.

CHAIRMAN MAMMINA: So, yeah, maybe you're splitting the deck.

VICE CHAIRMAN FRANCIS: Yeah.

CHAIRMAN MAMMINA: Yeah, could be.

MR. MUNISTERI: It splits the deck.

CHAIRMAN MAMMINA: Yeah.

VICE CHAIRMAN FRANCIS: Yeah.

(WHEREUPON, a discussion was held among Board Members.)

MR. MUNISTERI: I would be willing, if it helps, to lower that fence if I can keep it in that location to a 5-foot fence. This way at least I have the legal enclosure, but we -- she'd like to keep the kids in the general --

CHAIRMAN MAMMINA: Let us think on it.

MR. MUNISTERI: Okay, that's fair.

CHAIRMAN MAMMINA: No, you shouldn't split that deck area.

MR. MUNISTERI: Okay. Now?

MEMBER HERNANDEZ: Barbecue.

MR. MUNISTERI: Yes, barbecued. Which is in side yard -- actually in the rear yard. We adjusted that so we have the 10 foot off the side yard property line. I believe it's --

MEMBER HERNANDEZ: You moved that one too?

MR. MUNISTERI: Yes, sir.

MEMBER HERNANDEZ: I have the old plans here.

MR. MUNISTERI: Well, I apologize about that. You should have the new one, no?

SECRETARY WAGNER: The revised plans are in there.

MEMBER DONATELLI: You'll find it. It's --

SECRETARY WAGNER: It says revised.

MEMBER HERNANDEZ: Oh, up here. There it is. I have the wrong one. Thank you.

CHAIRMAN MAMMINA: All right --

MR. MUNISTERI: You'll actually see -- again, I don't mean to cut you off. I apologize. You'll see one of the pictures I submitted to you. Also, there is actually the picture of what -- when they moved in what was there. They would like to put one back, but they moved it now back to the 10-foot mark.

I believe that covers everything. I can answer any questions.

CHAIRMAN MAMMINA: I guess, at this point then, what variances are still on the table?

MR. MUNISTERI: So we eliminated the side yard variance for the barbecue and the pool.

CHAIRMAN MAMMINA: Let's go to, what do you need a variance for?

MR. MUNISTERI: Second-floor addition.

CHAIRMAN MAMMINA: I don't want to get it confused in my head.

MR. MUNISTERI: No problem. I got it listed right on my drawings. You got it.

CHAIRMAN MAMMINA: So second-floor addition?

MR. MUNISTERI: Yes, sir. For rear yard.

CHAIRMAN MAMMINA: Which sheet is that on?

MR. MUNISTERI: What sheet? The scope of -- we'll, I'm talking A-0. Top right-hand corner, you'll see the scope of work of what's actually there.

CHAIRMAN MAMMINA: Yeah.

MR. MUNISTERI: You're asking where the variance part is?

MEMBER DONATELLI: That would be the secondary front yard setback --

MR. MUNISTERI: Correct.

MEMBER DONATELLI: -- on the 12th?

CHAIRMAN MAMMINA: Right. Then I want see where it is on the.

MR. MUNISTERI: I can read it off the disapproval, if you'd like?

CHAIRMAN MAMMINA: So where is that piece of building?

MEMBER DONATELLI: It's 22.4. Right here. Proposed foyer.

CHAIRMAN MAMMINA: Okay.

MEMBER DONATELLI: 12th Street, 22.4.

CHAIRMAN MAMMINA: So it's just that small piece.

MR. MUNISTERI: So that's the first one, which is the front foyer.

CHAIRMAN MAMMINA: Wait, I don't have my drawings. So that's on the first floor?

MR. MUNISTERI: That is on the first floor, yes, sir.

CHAIRMAN MAMMINA: Okay. For some reason I was hearing second floor.

MR. MUNISTERI: 'Cause that's what I said. I was working myself from the left to the right of my drawings. Let’s read it

directly.

CHAIRMAN MAMMINA: My kids will tell you, I'm very easily confused.

SECRETARY WAGNER: The second-story addition is too close to the rear property.

CHAIRMAN MAMMINA: Yeah, yeah, okay.

SECRETARY WAGNER: The other ones are too close to the front property.

MR. MUNISTERI: That's correct.

CHAIRMAN MAMMINA: I got the front.

MR. MUNISTERI: All right. That's at 22 versus 25. It's a relatively significant -- and it also is non-conforming condition. It's following straight up.

The next is the side yard setback for the attached deck, which is required to be seven. We're just over five, so that's just shy of 2-foot relief. That's an existing deck that's there. That's actually closer. A little bit more over a foot closer. We're cutting that back.

CHAIRMAN MAMMINA: Okay, so let me go back to -- I'm looking at the A-0.

MR. MUNISTERI: It's where that prefabricated louver awning is.

CHAIRMAN MAMMINA: And then what are we cutting back?

MR. MUNISTERI: So existingly, [sic] it's a little closer than 3.94 feet, I believe to the property line. We're gonna cut it back to 5.05 feet to the property line.

CHAIRMAN MAMMINA: Then, I guess, maybe I'm on an old because

I'm seeing something that says 4.06.

MR. MUNISTERI: You have an old one.

MEMBER HERNANDEZ: You have the old plans.

MR. MUNISTERI: You're looking at the old drawings.

VICE CHAIRMAN FRANCIS: Yeah.

CHAIRMAN MAMMINA: Okay.

MR. MUNISTERI: These are some of the changes we've made since.

MEMBER DONATELLI: Was the existing deck --

CHAIRMAN MAMMINA: I printed this out. I got the -- I'm going to leave this alone. I got the 5.05.

MEMBER DONATELLI: Was the existing deck, the one that's now being smaller, was that granted with a building permit?

MR. MUNISTERI: I don't believe so. If you look at the age of it also that's why I submitted that. You can see that's been there for a tremendous amount of time. They do want the deck. It's the access into the yard, but they're willing to cut it back -- to replace it of course, but to cut it back just over a foot, which will cut us back to the 5.05, instead of the seven.

MEMBER DONATELLI: And what is the width of that deck as proposed?

MR. MUNISTERI: Eighteen, and its overall is 18. Should be right above it.

MEMBER DONATELLI: Wait, I'm seeing eight in yellow.

MR. MUNISTERI: You're seeing eight in yellow?

MEMBER DONATELLI: No, no, I'm saying to the side yard lot.

MR. MUNISTERI: It's yellow because that's what's been changed

since our last.

MEMBER HERNANDEZ: It's 5.05.

MEMBER DONATELLI: No, it's 5.05 from the end of the deck to the side yard lot line. My question is, what is the width of the deck as proposed? So maybe the question, is 13.05 minus 5.05 is the 8 feet.

MEMBER HERNANDEZ: So it's 13 minus five, yeah.

MEMBER DONATELLI: Got it.

MR. MUNISTERI: I apologize. I was looking left to right.

MEMBER DONATELLI: It's okay.

MR. MUNISTERI: Okay.

MEMBER DONATELLI: We're talking three dimensional dimensions, so got it.

MR. MUNISTERI: Should I move to the next item?

MEMBER DONATELLI: Yes, please.

MR. MUNISTERI: Okay, good. Required rear yard setback for the second-story addition; again, this is the one I was explaining. It's required of 15. We're requesting 11.2, which is what the existing condition is today. This so happens to be non-conforming because of zoning. That's a relatively small request.

MEMBER HERNANDEZ: That one is going straight up on the ground floor -- on the first floor.

MR. MUNISTERI: That one is going straight up from the first floor, yes, sir.

CHAIRMAN MAMMINA: First floor to the second.

MR. MUNISTERI: The next one we have eliminated, which is the

paver, where we originally put 46.7. We're gonna keep it at the 45. We trimmed a couple square feet off of it and brought it back down to 45 percent, so that's off.

Inground pool, which again, the pool equipment is being setback to the 10 feet, where it was originally 8.2, so we've eliminated that one. We still have the pool equipment, though, which is behind or you know, the most west of the property.

And then of course of what they're saying accessory structure. I think the accessory structure would be the louver awning because there's nothing else back there, which is what they're calling for the accessory structure shall be located in the rear yard. This is their rear yard. It's the inground pool, the awning, the barbecue.

MEMBER DONATELLI: Well, it functions as the rear yard.

MR. MUNISTERI: Yes, yes. That is what I meant, yeah.

And then last of course, which we just made adjustments on is the fencing, which I've eliminated. The one along the west -- the southwest corner. Going to make that a 4 foot, which is permissible, and then we're gonna slide the 6 foot to the back just before the pool and just after the equipment. That'll be where the 6 foot with a thing, and then a 4 foot in front of that, and then to the northeast, we're gonna put a 5-foot fence there, which is permissible, by the way. It eliminates that one as well.

MEMBER HERNANDEZ: Don't you need to have a 6-foot fence to consider it a pool enclosure, though?

MR. MUNISTERI: No, minimum required will be 5 foot.

CHAIRMAN MAMMINA: No, five.

MEMBER HERNANDEZ: Five?

MR. MUNISTERI: Five, yes. So those are the four or five of them that we eliminated.

CHAIRMAN MAMMINA: Okay, get ready for this one.

MR. MUNISTERI: Uh, oh.

CHAIRMAN MAMMINA: No, and it's something that we're extremely consistent on.

MR. MUNISTERI: Sure.

CHAIRMAN MAMMINA: The neighbor that will be to the west of you.

MR. MUNISTERI: Okay, yes, sir.

CHAIRMAN MAMMINA: It might be the most impacted in this entire application for one -- for one reason. When you put that second-story in there, okay, and you make that a gable end, they're looking at a wall that's 30 feet high, and what we have done many, many times, and even if you went down Westbury Avenue to the corner of -- excuse me. If you went down 12th Street to the corner of Jamaica, and you look to the north of that corner, you're going to see that the roof gable ends were flipped into hips, and because it completely diminishes the impact of that entire height, and when I -- there when I look at the character of neighborhood -- character to especially that neighbor, you know, that's behind. That's an awfully tall wall, you know, in there.

MR. MUNISTERI: Mr. Chairman, I see exactly where you're going. I have no problem turning that into a hip. No problem whatsoever.

CHAIRMAN MAMMINA: Okay.

MR. MUNISTERI: I think it may even add something to it.

CHAIRMAN MAMMINA: Right, might even add something to it. Okay.

SECRETARY WAGNER: What are we making hip to?

CHAIRMAN MAMMINA: Over here. For an elevation in here.

MS. WAGNER: Is that looking at the house from 12th Street?

CHAIRMAN MAMMINA: That's looking at the house that's on Titus.

SECRETARY WAGNER: So the rear yard setback.

MR. MUNISTERI: It would be the rear yard setback, yes, ma'am.

CHAIRMAN MAMMINA: Right.

ATTORNEY ALGIOS: Mr. Munisteri?

MR. MUNISTERI: Yes, ma'am.

ATTORNEY ALGIOS: The town code requires 6-foot fencing as a barrier, a pool barrier.

MR. MUNISTERI: Let's say on here as 5 foot? I think on your objection.

ATTORNEY ALGIOS: You said you were going to reduce it to 5 feet, but that was --

MR. MUNISTERI: Yes, but think --

MEMBER HERNANDEZ: The northeast corner you were going to remove -- I thought you needed a six.

MR. MUNISTERI: Ah, so I apologize. So I'm sorry, and I mixed that up. It says used as pool barrier. I apologize.

ATTORNEY ALGIOS: That's okay.

MR. MUNISTERI: So I'm gonna go back to that.

MEMBER HERNANDEZ: Go back to six.

MR. MUNISTERI: The northeast corner, we're gonna keep as a

6-foot fence for the pool barrier. Thank you. Would've got me in trouble.

ATTORNEY ALGIOS: You're welcome. You threw me with that one.

MR. MUNISTERI: Well, you threw me back. Good job.

SECRETARY WAGNER: You want to hear from the neighbors.

CHAIRMAN MAMMINA: We do have two neighbors that want to speak.

MR. MUNISTERI: Sure. I'm gonna leave the drawings up here.

SECRETARY WAGNER: Did you finish everything?

MR. MUNISTERI: Say it again?

SECRETARY WAGNER: Did you finish everything?

MR. MUNISTERI: No, I'm pretty good. I learned enough to shut my mouth after a while.

SECRETARY WAGNER: You talked about the portico.

CHAIRMAN MAMMINA: I don't want to get ahead of myself, but the reason why I asked you to go back to the beginning was I wanted to understand the things that still require a variance.

MR. MUNISTERI: Sure. I'm going to leave the drawings up here for the neighbor.

CHAIRMAN MAMMINA: There is no variance required for those. I wanted to be able to wrap my head around that.

(WHEREUPON, a discussion was held among Board Members.)

MR. HORAN: Good afternoon, Members of the Board.

CHAIRMAN MAMMINA: Pull that microphone up for you.

MEMBER HERNANDEZ: You don't have to lean down.

MR. HORAN: Thank you. My name is Bill Horan, H-O-R-A-N. I live at 284 Rushmore Avenue in Carle Place, and by the drawings here,

I guess, my house would be considered the side yard. It's on the Rushmore side, obviously, as opposed to the Titus side. Basically, the house in question has been vacant for 23 months. It was sold 23 months ago. No one has been in there. We, the neighbors, have had to kind of watch over it, and actually call the Town of North Hempstead to have the grass mowed. It got to heights 3 feet. At one time, there were either burglars or vandals on the roof of the house. This was in April of this year. I called 911 and asked them to send somebody over because on a Friday night at 10:00, you're not doing something good on the neighbor's house, when you're standing there and walking around on the roof.

CHAIRMAN MAMMINA: Fair to say.

MR. HORAN: So it's been poorly handled, and even when people came over to do work, they were in unidentified cars, et cetera. It's only about this last week or two that we've seen either landscapers or somebody come over and really tried to clean up the place.

Being in the side house, if I'm gonna take a step forward, this distance from my hand here to that table is about the distance from the fence -- my fence to the their -- I don't know what you call it, deck, I guess, out in the back yard. It's very close as it is now. I don't know if technically that's incorrect, but if gets closer, obviously, you can just about reach over and doesn't seem to be the best thing for good neighbors.

From what I understand, several of these things have been asked for by other neighbors. This is the talk of the neighborhood, and they were turned down for some variances, et cetera, over the years.

We're, of course, right near the school, and for the buses to get out and a make turn on that street is very difficult, especially if there's a car parked in -- when the school has special, either -- I don't know if they're called teachers or sections in the school. Some of the people park there. I guess, they're not allowed to park in the parking lot, and those blocks become very crowded and very difficult.

And just, obviously, there was, I think, more in this one application than in the first nine that came before us, at least originally. These will be setting precedent that somebody mentioned. This is basically self-created. The people came and bought the house this way, and now want to make all these changes. So more or less in a nutshell, that's what I have say about it. I don't know if there's any questions that you will have for me.

MEMBER DONATELLI: Sir, when you say you can almost reach out with your hand and touch their deck.

MR. HORAN: It would be about two arm lengths to be honest. I don't know if I described it properly.

MEMBER DONATELLI: So is the deck that's proposed is it overlooking your fence? Can you see them when they're on the deck?

MR. HORAN: Yeah, I could see people on the deck, but in the past it's never been a problem. The neighbors were nice neighbors. They played cards or talked or had a barbecue or something. I don't know -- we really -- no one in the neighborhood has met the new neighbors. In 23 months, we tried if we've seen anybody there. We saw one man with a weed whacker. We thought that was the new

neighbor, and he was just annoyed that nobody mowed the grass. He tried to do it, and his weed whacker broke and he got annoyed and left, and then he came back. So we would, like, kind of meet them eventually, but we've never had that opportunity.

MEMBER DONATELLI: But in other words, somebody using that deck would kind of be looming over your yard?

MR. HORAN: I don't want to use the word looming to be very fair. Very close to our yard, yes. Like I said, within five or six feet. If I reached over the deck, if I doubled my arm length, I'm -- if I reached over my fence --

MEMBER HERNANDEZ: Shake hands.

MR. HORAN: Yeah, I would be touching the deck.

MEMBER DONATELLI: Understood.

CHAIRMAN MAMMINA: It's proposed at five. It was four before they took another foot from it, but --

MEMBER HERNANDEZ: It's actually also a little short than it is now.

MR. HORAN: Right, that's what I'm saying. So it would be even closer if I understood --

CHAIRMAN MAMMINA: The other way.

MEMBER HERNANDEZ: It's not getting closer to you. It's proposed shorter. Not as close to the fence.

MR. HORAN: Oh, not as close, okay. Maybe I misunderstood what was said.

MEMBER HERNANDEZ: Further away.

MEMBER DONATELLI: By like a foot.

CHAIRMAN MAMMINA: So 7 feet is required, and they're proposing five. Before they were proposing --

MR. HORAN: Well, five would be less, wouldn't it? I mean, I think it's about --

CHAIRMAN MAMMINA: Seven is required as of right.

MR. HORAN: Okay.

CHAIRMAN MAMMINA: Then they don't have to come here. Originally, he had that yard as four, and they cut another foot off of their side. Whereas off of their deck, and, you know, whatever, I guess they're calling it a deck. So they moved it away one more foot, just for your understanding.

MR. HORAN: Thank you. Appreciate it. Basically, that's what I have to say. Unless you have questions for me?

CHAIRMAN MAMMINA: No.

MEMBER DONATELLI: Thank you.

MEMBER HERNANDEZ: Thank you.

CHAIRMAN MAMMINA: Thank you for coming. It's important.

MEMBER DONATELLI: Any other comments?

CHAIRMAN MAMMINA: Sir, yes.

MR. RULE: Good afternoon, Board.

CHAIRMAN MAMMINA: Good afternoon.

MEMBER DONATELLI: Good afternoon.

MR. RULE: I just would like to say --

MEMBER HERNANDEZ: Your name and address, please.

MR. RULE: Paul Rule, 39 Titus Avenue, Carle Place, 11514.

Just to back up with what Mr. Horan has told you. Not to be

negative. I don't want to take anything away from anybody that's trying to improve their home and raise the value of my house for argument's sake or anybody else's as improvements are done. Just kind of seems to me, this guy's trying to put five pounds in a two-pound bag. It's overwhelming the lot. I think that he would serve himself better to move it along 'cause there are houses south of his on 12th Street.

It seems like the corner properties become regular lots. It's not cut and dry, square forward facing lots. Depending on the position of the house on the lot, lends itself to the possibility of having a reasonable swimming pool put in. There's two homes across the street, both corner lots. They both have built-in pools, tastefully done, and the house -- I mean, there's about a mile and a half of houses in Carle Place, levered built colonials that are all identical. The only thing that creates a difference is a corner property where the house is positioned differently, and lends itself more to having a built-in pool. I can't imagine how this is -- a built-in pool is gonna work out with the way the property is.

But just to say, I back up Mr. Horan. Just here for moral support. And like I said, I don't want to take away from anybody trying to do a property improvement. But it's just, you know, it's a little mind-boggling to figure out how they're gonna make all of this come to pass. I'd like to just leave it at that.

CHAIRMAN MAMMINA: Understood.

MR. RULE: Have a good day.

VICE CHAIRMAN FRANCIS: Thank you.

MEMBER HERNANDEZ: Thank you. Anybody else?

MR. MUNISTERI: Can I comment?

MEMBER HERNANDEZ: Anybody else?

CHAIRMAN MAMMINA: No, think that was all.

MR. MUNISTERI: I appreciate both gentlemen. I've spoken with Mr. Horan several times. I was the one that postponed the last hearing, so that I can chat with the neighbors. I made contact with them several times. Sent them the drawings. Made contact via email several times. I never got anything back. I tried to ask them what it is.

And I will tell you through my clients and through my years, I do a lot of variances across Long Island. There are times -- Virginia, please don't get insulted with what I'm about to say. That sometimes when the paperwork comes in for what the variance is, it sounds like you're building a Jiffy Lube on your front lawn. It's very confusing to an average homeowner. Every one of these is minuscule; is tiny. We're talking a foot, just over 2 feet here or just under 2 feet there, and a little there. Perfect example, Mr. Horan didn't even understand. We're actually backing away from this property. Multiple things we're pulling away from the property. Six-foot fence would even give him more privacy.

And I apologize that they never met the clients. They don't live close. It's a difficult combination to meet on a certain day. They also have very busy schedule besides that. That's all I have to say.

MEMBER DONATELLI: Can I ask --

MR. MUNISTERI: Of course.

MEMBER DONATELLI: With respect to the deck and the point that I was making before. It's showing from the side of the house to the side yard lot line; it's showing 13.05 feet.

MR. MUNISTERI: Yep.

MEMBER DONATELLI: From the end of the deck to the side yard lot line is showing 5.05 feet, and the number in yellow is the width of the deck, which is 8 feet.

MR. MUNISTERI: Yes.

MEMBER DONATELLI: Is it possible to bring that back to either 7 feet, which would be compliant for the side yard setback, or something less than the 8 feet that is now being asked for?

MR. MUNISTERI: So again, this is the first thing that I tried in cutting it back, and I figured that the 8 foot is at least some form -- once I start to cut it back more, it becomes -- the best way I can say it, a walkway. It becomes less than even being able to put any kind of couple of chairs around and let someone walk by. So once I cut that back to that 6-foot mark, besides the fact what happens with the awning. How the awning gets pulled into the house, even though it kind of overlaps the house right now. It starts to get pulled into the house. Am I making sense, Mr. Donatelli?

MEMBER DONATELLI: You are, but I think that a six foot wide deck would also be quite usable. I mean, there are times, for example, we understand a 3 foot wide deck is not usable.

MR. MUNISTERI: If that's what's gonna --

MEMBER DONATELLI: You may get a chair or two.

MR. MUNISTERI: -- save it. I understand exactly. If that's gonna hopefully make the neighbors happy and the board, my client are very -- absolutely.

MEMBER DONATELLI: What I would suggest is this. You have shown a great deal of resilience and cooperative atmosphere in terms of how this plan has evolved, where you relocated the pool, where you relocated the barbecue, and I appreciate that. I personally have expressed on more than one occasion that we always encourage applicants to work with board members -- I'm sorry, with neighbors.

MR. MUNISTERI: I agree.

MEMBER DONATELLI: Because that makes for good neighborly --

CHAIRMAN MAMMINA: Relation.

MEMBER DONATELLI: -- relations going forward, so we appreciate that. My question is, I personally, I've heard Mr. Horan indicate that, you know, the two arm lengths or something, and while I appreciate you're pulling it back from the existing, my question is, can it be pulled back a little bit more so as to address that concern? Because after all, that is what the side yard setback rule is all about.

MR. MUNISTERI: And I don't disagree with that side yard setback. I understand it. Besides the fire safety, the factor of sheer privacy, and it's privacy for my clients as well. Don't get me wrong. On a deck, you're now on a stage, which I could use, and you know, over-prying into someone else's -- and I agree with it 100 percent. And I did try and cut it back, so I did pull it back that foot. Is it fair to -- we'll cut it back to the 6 foot. We'll

eliminate that altogether out of the -- which takes the louver awning -- well, it doesn't keep the louver awning because it's still in a side yard, right? Correct?

MEMBER HERNANDEZ: Yeah.

MR. MUNISTERI: But it would take out the side yard setback. We'll cut it back to 6 feet.

MEMBER HERNANDEZ: You have all the side yard issue that you have to do, but not the setback issues.

SECRETARY WAGNER: So the awning will be moved or just on the side?

MR. MUNISTERI: Yes.

SECRETARY WAGNER: And the deck would be compliant?

MR. MUNISTERI: 'Cause I'm gonna slide that off the 7 foot, or just gonna wind up keeping the 7-foot setback.

MS. WAGNER: So you're going to comply with the side yard setback with the deck.

MR. MUNISTERI: And the awning. 'Cause the awning theoretically is part of it.

SECRETARY WAGNER: So it still will be on the side --

MR. MUNISTERI: Yes.

MEMBER DONATELLI: Just so the members of the public understand. Mr. Horan, the point that you had raised, the applicant is now proposing to make that compliant, 7 feet back from the property line, and I appreciate that offer.

MR. MUNISTERI: You got it.

MEMBER DONATELLI: Anyone else have any comments?

CHAIRMAN MAMMINA: No.

MEMBER DONATELLI: So I think we discussed quite a bit.

CHAIRMAN MAMMINA: Got to think about this.

MEMBER DONATELLI: I would like to see revised plans with the changes that we discussed, and anyone else?

VICE CHAIRMAN FRANCIS: No, I agree.

MEMBER DONATELLI: So I would ask that we continue.

SECRETARY WAGNER: For revised plans.

MEMBER DONATELLI: And again, I thank you for your flexibility, and I thank members of the public for coming.

MR. MUNISTERI: Thank you, guys. Have a great afternoon.

MEMBER DONATELLI: Thank you.

VICE CHAIRMAN FRANCIS: You too.

SECRETARY WAGNER: Appeal #21605, Anthony Scaccia; 130 Magnolia Street, Westbury; Section 10, Block 278, Lot 5; in the Residence B Zoning District.

Variances from 70-102.C(1), 70-102.C(2)(a)(5), and 70-102.C(5)(a) to construct a swimming pool too close to the rear property line and within a front yard, to legalize pool equipment too close to the rear property line and within a front yard, and to install and legalize pool barrier fencing in the side yard and in the front yard.

CHAIRMAN MAMMINA: You've heard Appeal #21605, Anthony Scaccia. Is there anyone in the room interested in the application other than applicant? Seeing no one, please give your name and

address.

MR. CAPPUCCI: Nicolas Cappucci, C-A-P-P-U-C-C-I. I work with Todd O'Connell Architect, 1200 Veterans Highway, Suite 120, Hauppauge, New York.

Good afternoon, Gentlemen, Members of the Board. So I'm here with the homeowner Kimberly Scaccia. She's here with me if you have any questions for her or if anything I can't answer. We're here looking to propose an inground pool. The inground pool does not meet the rear yard setback of 10 feet. We're proposing 6 feet. As well as the pool equipment, we're proposing 7 feet when it should be 10 feet. Also, with the pool, we are on a corner piece of property, and the corner really doesn't yield us with a large back yard, so we have to move the pool closer into that secondary front yard, which we're utilizing as our rear yard, and then along with that, the pool, with the inground pool, we have the 6-foot fence barrier that's required. Right now, there is the existing fence there into the front of the house, where we're requesting to keep that fence as we have it. The property is heavily screened.

I do want to submit some photos to the board, and also, I had the homeowner go and speak to her neighbors, and we have letters of consent or signatures.

MS. WAGNER: So the photos will be Exhibit 1, and the consents Exhibit 2?

MR. CAPPUCCI: Sure. As you can see on the actual first photo, it's just a Google photo of a plan view, and you can see it's heavily shrubbed and heavily bushed around it.

And then, the next following photo, you'll see the elevation. That you'll see where they -- the front fence that we're asking for and the front property line of the house has those shrubs, and the fence will be behind those trees. They're actually evergreen giants, quite massive and tall; tall as the house. They've been there for quite a while on the property.

We do, right now, have a permit on the property. We are doing interior alterations as well as other stuff to the property that the Town has been there, inspected, and we have an active permit, and we are working on this property as we speak.

The third photo, the last photograph is just an overall picture of the neighborhood.

So to get right into the Five Points. That this pool or this application if granted will not have an undesirable effect on the neighborhood. It does kind of match what's going on in the neighborhood. A lot of these corner lots have their pool in their secondary front yard, just to utilize and have a really large rear yard for function and for activity.

The benefit sought by the applicant can be achieved as a feasible alternative to the variance? No, not really 'cause again, within this corner lot, there really is no rear yard, and we need an area for the kids to play. She has a large family. They have five kids ages from three to 15, so they're very active. Very active in the schools, and in sports, and everything that they do, so they need some room in the back yard to utilize and play.

As I said before, this really is not a substantial request.

It's kind of three minor variances we're asking for here. The variance will not impact the neighbors 'cause as you can see on most of the photographs from the above shot that I took, you'll see very common scenarios. One of the most common ones is that I believe recently permitted is the one directly across the street from her, which the address is 123 Cherry Lane -- I'm sorry, 329 Cherry Lane. 329 Cherry Lane has a pool directly in that side yard. They're on like a peninsula lot, where they have three front yards, and it looks like that one was permitted, under construction, and approved to be in that front yard. As well, I did look at a couple more in the area.

VICE CHAIRMAN FRANCIS: Are you talking about the round pool?

MR. CAPPUCCI: Correct. Right across the street. That was recently permitted and approved to be --

MEMBER HERNANDEZ: That never came in front of us.

VICE CHAIRMAN FRANCIS: Because that would need -- they still need a variance for that.

MEMBER HERNANDEZ: I wouldn't --

MS. WAGNER: Is that in town?

CHAIRMAN MAMMINA: Was that in a village? Is that in Westbury?

MEMBER HERNANDEZ: It might be in the village.

CHAIRMAN MAMMINA: Because I know --

MR. CAPPUCCI: I know to the right -- well, actually I have to -- on that is to the village, but after speaking to the homeowners, we're pretty sure they're in the town that had the permit with it. The ones that I know that are in town, are the some that we did look up, which similar status with the pools in the corner, on the corner

lot in that front yard. There's corners of 12th Street and Titus, corners of 12th Street and Rushmore, 12th Street and Apple, 10th Street and Peachtree. Those are some examples that have pools in the rear yard -- I'm sorry, that have pools in the front yard on a corner lot.

CHAIRMAN MAMMINA: Only cause that's my neighborhood.

MR. CAPPUCCI: Yes, I understand.

CHAIRMAN MAMMINA: I don't think any of them are legal, but not bothering any --

MR. CAPPUCCI: But that's something that we can kind of investigate more --

CHAIRMAN MAMMINA: Yeah.

MR. CAPPUCCI: -- and submit to show if they are legal or not. Or again, just staying with the characteristics if you do a Google search or you do that zoom out and you see the whole neighborhood as a whole. You see how most of these corner lots, the only place to put this pool is in these kind of areas.

(WHEREUPON, a discussion was held among Board Members.)

CHAIRMAN MAMMINA: You're saying Magnolia and Carle Road --

MR. CAPPUCCI: Yes.

CHAIRMAN MAMMINA: -- got a permit for that right -- I don't know, I'm guessing. Three feet, four feet back from the -- from the corner --

MEMBER HERNANDEZ: Yeah, right up against the fence.

CHAIRMAN MAMMINA: Yeah.

VICE CHAIRMAN FRANCIS: And right up against the fence.

CHAIRMAN MAMMINA: Right up against the fence, yeah.
MEMBER HERNANDEZ: Definitely did not come anywhere near us.
VICE CHAIRMAN FRANCIS: I'd like to see that.
MEMBER HERNANDEZ: All right. Okay. That's all right.
MR. CAPPUCCI: Again, just to touch base again on last one, Number 5; was it self-created? Yes, this is self-created 'cause we are proposing this at this time, but it is something that we kind of need in that location. Just again, with the large family that she has, we just kind of need room away from the house to put the pool, and then can't really put it on the side yard 'cause we want area for a grass area as well as drainage is going on the secondary front yard.
(WHEREUPON, a discussion was held among Board Members.)
MR. CAPPUCCI: The pool is going to be inground vinyl pool. It's 16 by 24, and will have the pavers all around it. The pavers will be impervious surface affixed. They are permanent pavers, so there will be all sand underneath it. We are providing the proper required drainage for the pool and the patio as well. I will answer any questions you may have.
(WHEREUPON, a discussion was held among Board Members.)
MR. CAPPUCCI: Yeah, so as you can see, too, from most of those photographs the green giants do screen that whole back yard.
MEMBER HERNANDEZ: Yeah.
MR. CAPPUCCI: So there definitely will be no kind of impact on the neighborhood.
CHAIRMAN MAMMINA: There's a character to Carle Road, you know.

They're screening out the traffic and the school. It's very lovely.

MR. CAPPUCCI: Yes, it would kind of meet that standard of the neighborhood characteristics.

(WHEREUPON, a discussion was held among Board Members.)

MR. CAPPUCCI: The pool will be equipped with an automatic cover for safety reasons as well as all the alarms and everything will be met.

VICE CHAIRMAN FRANCIS: Are there any electrical lines going across the property in the back?

MR. CAPPUCCI: No, there's not. There's nothing along Carle Road. Magnolia, there's nothing. There is a pole to the west side corner, west-south side corner behind the shed, but it does not run near the pool at all. That's also another reason why we wanted to put the pool on this side because there is no overhead wires or anything to interfere.

MEMBER DONATELLI: I'm looking at your Page A-1.

MR. CAPPUCCI: A-1.

MEMBER DONATELLI: And I'm questioning the placement of the pool, and I see that there's an outdoor kitchen barbecue, I guess, area.

MR. CAPPUCCI: Correct.

MEMBER DONATELLI: U-shape. Is that already existing? Is that in place already?

MR. CAPPUCCI: No, everything is proposed.

MEMBER DONATELLI: Is there a reason why the pool can't be moved further to the left and perhaps relocated that outdoor kitchen and

put it in the vicinity of where you're proposing the pool right now?

MR. CAPPUCCI: Well, the -- this area directly behind the house is right off the kitchen, so as we come down from the mason steps into that little bumped out area --

MEMBER DONATELLI: Right.

MR. CAPPUCCI: -- is where the kitchen -- so we want the kitchen to have -- the outdoor kitchen to going out for entertaining. We'll probably have an outdoor patio functioning table in that area as well to sit. Kick it further right. Also, we wanna move away from the wires as much as we can. There are wires coming -- there's a pole on the corner of the property to the east side -- west side -- west south side of the property that extends to the house with the wires. We want to try and move everything away from that.

MEMBER HERNANDEZ: So the wires run over the propose shed?

MR. CAPPUCCI: Correct.

MEMBER HERNANDEZ: That's why the shed is underneath?

MR. CAPPUCCI: Yeah, that's why I thought we kept everything there. Move the pool on that side. And also, drainage fits there. Kind of works out for the position of where the pavers are and everything else.

MEMBER DONATELLI: I don't see this dimension on your plans. What is the distance between the outdoor kitchen and the edge of the pool?

MR. CAPPUCCI: Outdoor kitchen to the edge of the pool?

MEMBER DONATELLI: Yeah.

MR. CAPPUCCI: Well, the edge of the pool, if you see right next

to my secondary door is 15 feet to the edge the pool.

MEMBER DONATELLI: I'm looking. I'm sorry, I don't see it.

MEMBER HERNANDEZ: It's from the house to the pool.

VICE CHAIRMAN FRANCIS: Yeah, it's from the house.

MR. CAPPUCCI: From the house to the pool.

MEMBER HERNANDEZ: From the front --

MR. CAPPUCCI: So from the bump out --

CHAIRMAN MAMMINA: Where the steps are.

VICE CHAIRMAN FRANCIS: From the outdoor --

MR. CAPPUCCI: The bump out to the step out to the -- oh, going in that direction?

MEMBER DONATELLI: Yes.

CHAIRMAN MAMMINA: Yes.

MEMBER DONATELLI: Going side, yes.

MR. CAPPUCCI: I would say it's mostly in common with where my drywall is, so it's about 13 feet. Probably a little less.

VICE CHAIRMAN FRANCIS: Yeah, that's --

MEMBER DONATELLI: Oh, I see the dimension.

VICE CHAIRMAN FRANCIS: Yeah, he has it there.

MR. CAPPUCCI: And again if we were to take the table and place it in that portion, it eats up that whole room from where the outdoor counter is to the pool.

(WHEREUPON, a discussion was held among Board Members.)

MR. CAPPUCCI: And that's really the main direct correlation between an indoor kitchen and an outdoor kitchen. You want to make that kind of one big space there. We got big swing doors that open

up to the common spaces indoor, outdoor.

MEMBER HERNANDEZ: And if you have the electrical wire running overhead, you can't put the pool underneath.

MR. CAPPUCCI: Correct. We want to stay as far away from that as possible, and again, there's no wire. There's no electrical disturbances on that east side.

MEMBER DONATELLI.: I guess my point is and we've had several pool applications today.

VICE CHAIRMAN FRANCIS: Today was pool day.

CHAIRMAN MAMMINA: Pool day.

MEMBER DONATELLI: If you've been here since this morning, we tend to have these applications in waves. Today tends to be pool day, I think.

MR. CAPPUCCI: Yeah.

MEMBER DONATELLI: Pardon the pun. Why does the pool need to be setback 15 feet from the rear of the house?

MR. CAPPUCCI: As you can see, it's 15 feet from the house, but now, if we come in and I have my 3-foot platform for my stairs to get in, which I need about two or three risers to get into the house from that rear door, which will act as -- when you enter that door, there'll be a little mudroom to clean up from getting out of the pool.

Now, with that step being at least 3 feet, now you're 12 feet to the pool, and the closer you get, you start undermining the foundation of the house, and just trying to keep a little more distance there, too, just for a little more entertaining purposes. And again, if we want to change or redirect or re-orientate an outdoor

patio or table or something, it could go in that spot. As well as that other spot that's why I need at least -- it's good to have at least 12 to 13 feet of space around the table and the pool for chairs and walkway.

MEMBER DONATELLI: Right, but on the, I guess, it's the south end of the property, we have a setback of 6 feet, whereas ten is required.

MR. CAPPUCCI: Correct.

MEMBER DONATELLI: So that is a 4-foot deficit. It's a four-foot encroachment, so if we have between the house and the pool 15 feet, it's seems to me that we might be able to do away with the variance entirely at least on that portion of the pool, if we take away space from the top of the pool to the house. So in other words, if we locate the pool slightly more centrally, then you might be able to bring -- actually make it compliant at least in that one spot, and bring it 4 feet closer to the house. You see what I'm saying?

MR. CAPPUCCI: I understand the movement of bringing up to the north corner a little more because the closer we are to the house, the more difficult or showing up, we will need to build the pool as well as -- it's not truly 15 feet from the house 'cause we have the 3 foot walkway, 3 foot platform and steps.

MEMBER DONATELLI: So again, and I'm not trying to give you a hard time. If you've been hearing the discussions from earlier today, in our opinion, we really look at the 3-foot setback as a safety kind of thing. God forbid some teenagers or something were to hop over a fence, I think the theory is that we at least want a 10-foot

strip of land that they can hop over, you know, land on something solid instead of a pool -- falling into a pool.

Now, I don't have a pool, but I know that the town code is really drafted with those kind of things in mind, so it's really a safety feature, the 10-foot setback. So I'm just trying -- and I understand your argument about wanting to place furniture and the access to the outdoor kitchen straight from the steps, but I don't understand why the pool can't be moved up a few feet closer to the rear of the house.

MR. CAPPUCCI: I mean to, I guess, go on your point too. The 6-foot fence in the rear yard will be there; that yields to protection.

MEMBER DONATELLI: That's required, right.

MR. CAPPUCCI: There's also heavy landscape in the rear that both neighbors have, both of them; my client, as well the neighbor directly behind her, have these 20 foot large evergreen giants that will be there, and really, it's really, more of a construction-wise of why it's so far off the house, and also, a little more safety to keep it away from the house, so. I know as I was a child or a teenager, I'd be jumping roofs into pools. So we keep this away from the house so there's none of that going on.

MEMBER DONATELLI: Whether it's 10 feet away from the house or 15 feet away from the house, I think we've seen pools that are 10 feet away from the house. In fact, I think we've seen them actually closer to the house.

CHAIRMAN MAMMINA: Yeah.

VICE CHAIRMAN FRANCIS: Yeah.

MEMBER DONATELLI: But my point is another. It's the 10-foot setback from the lot line is really the key in my mind, the safety feature that we're required to address, so that if we grant a variance, we really have to be concerned with the adjacent property owners. Presumably the owners of the house themselves will know that the pool is there, and it's less likely that something will happen if the pool is 5 feet closer to the house.

MR. CAPPUCCI: And just to, I guess, to push on your point. Even at a 6-foot distance away from the fence, even if anyone was to jump over, you don't jump over a fence and go out 6 feet. That gives you ample enough room for safety and distance as well.

MEMBER DONATELLI: Well, it's not our job to substitute our opinion for what the town code provides.

MR. CAPPUCCI: Correct.

MEMBER DONATELLI: We're empowered to grant variances under certain circumstance, but one of the things we have to look at is whether or not there are reasonable alternates to what is being proposed. And, you know, I just as one board member, I've been here now for numerous years, and I know that is something that I would take seriously. And that's not to say that we don't grant variance, but it is to say that we have to consider a variety of factors, and I don't see why the pool can't be made closer to the house, so that we do away with the need for a variance or at least decrease the variance that is granted.

MEMBER HERNANDEZ: I'd like to follow --

MEMBER DONATELLI: I'm sorry, just one other point. And again,

I'm not trying to give you a hard time, but anything that we decide with respect with one application can set precedent for other areas of the town. And if you've been here this morning, you know that many people request these kind of variances, so we have to be very careful when we decide things so we don't create an unintended precedent. I'm sorry, Jay.

MEMBER HERNANDEZ: That's okay. This property, as you pointed out before, has lovely greenery all around it, including between this house and its neighbor. On your drawings there are no markings for the greenery whatsoever, so therefore, when you have something called an existing neighboring fence PVC, which is 6 feet away from this pool, is that your client's fence? Is your neighbor's fence? And is the greenery in front of that fence? Is the greenery going away? Like where's the greenery going to be compared to where that fen -- in that 6-foot section?

MR. CAPPUCCI: Great question. So originally, on the plan as I submitted, where the line of trees on her property are gonna be removed. But we had a discussion and they may just remain as we want them. The neighboring fence, they have their own fence. Part of this application is to install a new 6-foot PVC fence on her property. So it's gonna be two fences and two lines of landscape, evergreen giants.

MEMBER HERNANDEZ: So you're going to have -- so you have -- so this fence is not on your property line?

MR. CAPPUCCI: No.

MEMBER HERNANDEZ: So the trees are outside of this fence?

MR. CAPPUCCI: There's two sets of trees. There's trees that are on my property, and there are trees that are outside of my property, correct.

MEMBER HERNANDEZ: Because I'm trying to figure out now -- because green giants take 5 feet of depth, you know, once they grow to the height of these trees.

MR. CAPPUCCI: Of the depth.

MEMBER HERNANDEZ: Yes.

MR. CAPPUCCI: Width-wise.

MEMBER HERNANDEZ: Yes. They grow up between four or five feet wide. So if you have 6 feet and you have a 4-foot, 5-foot green giant in there, there's no space at all between your pool and the trees for people to walk on by. Is what you're proposing?

MR. CAPPUCCI: It would be minimal space there, but yes, that's what we would desire, correct.

CHAIRMAN MAMMINA: Anything else?

MEMBER HERNANDEZ: No.

MR. CAPPUCCI: I do just want to make a point. Yeah, after listening to some, a lot of them we're asking for the 8-foot setbacks that were already built. Again, we're coming to you not built. Proposed application here to try to, you know, show you what we have. Show you how it could work. This is a corner lot. It is kind of abnormal or a different lot than most of the neighborhood character, so it is a little kind of special circumstance in a way of what we are proposing. Understand the precedents of corner lots and stuff to hold pools in the front yard, but again, just working through what

we've done, it really is the best location for the pool.

CHAIRMAN MAMMINA: Okay.

MEMBER HERNANDEZ: I think we all understand that the problem with the corner lot, and the fact that part of your pool will be a defined front yard. I think we all kind of accept that. I for one I'm willing to go there. I don't have a problem with that. Where I have a problem is where you're telling me that there's a 6-foot space in which you're going to have a green giant and a fence and then you're going to start the pool because now you're telling me that you have a foot, a foot and a half, or two for someone to walk around that pool to clean it, to maintain it, or to just run around like kids do run around the pool.

Again, it's a safety issue when you have no space around the pool, so -- and I appreciate you coming in front of us beforehand before you do it, but you're asking for a big ask. That's a 40 percent deduction in the required width; 4 feet out of 10. That's 40 percent reduction. That is a huge reduction and a huge -- and a terrible precedent to set because how do I tell the neighbor across the street, which we did not. That round big pool that is a foot and a half or two away from the fence, I guarantee you, we did not sign off on that.

MR. CAPPUCCI: So --

MEMBER DONATELLI.: Sorry, go ahead.

MR. CAPPUCCI: Well, I could say, if anything, we can find a little more evidence by doing FOIL searches with the town, and see what pools were permitted in that area to kind of give you a little more guidance.

MEMBER HERNANDEZ: There's a bunch of pools permitted in the area. I assure you nothing is at 6 feet away from the fence approved by us.

VICE CHAIRMAN FRANCIS: As an alternative to moving this pool, the proposed pool closer to the house, what about making the pool smaller?

MR. CAPPUCCI: Yep, I mean, these are conversations I can have with my client. She's here today. I don't know how much.

CHAIRMAN MAMMINA: You don't need to do that today.

MEMBER HERNANDEZ: Yeah, you don't have to do it today.

CHAIRMAN MAMMINA: Now, we have a lot of here to --

MEMBER HERNANDEZ: To go over.

CHAIRMAN MAMMINA: -- to look at because we want to make sure we do the right thing, you know. We're all taxpayers. We all pay lots of taxes. There's the lady before was talking about the enjoyment of her home, swimming pool, you know, sure.

VICE CHAIRMAN FRANCIS: Are we continuing this, too?

CHAIRMAN MAMMINA: Yes. Please don't jump to any decisions.

MR. CAPPUCCI: Well, after a quick consultation with the owner here, we're willing to move the pool closer to the house and give it an 8-foot setback for a 20 percent reduction, which I think will be a little more reasonable. I know the past projects that came in here just before even today were pools that were already built requesting for 8-foot or a little larger than 8-foot setback.

CHAIRMAN MAMMINA: That's true. Let us consider it. I mean, we look at every application really carefully.

MR. CAPPUCCI: Yep.

CHAIRMAN MAMMINA: Because we want to make sure we're doing the right thing, and also, that whatever decision we make because, I like to say, we do a balancing test, you know, here, and we want to be consistent with that, and we try our best to do that. So I think, therefore, for today reserve any decision, you know, on this.

VICE CHAIRMAN FRANCIS: Did he say he was submitting -- he was doing a FOIL request?

CHAIRMAN MAMMINA: He said he might look at some of the other pools and things.

VICE CHAIRMAN FRANCIS: We would have to continue.

CHAIRMAN MAMMINA: We can maybe continue.

VICE CHAIRMAN FRANCIS: Are you going to submit additional information to us? I heard you mention FOIL request.

MR. CAPPUCCI: Sure, I can do that.

VICE CHAIRMAN FRANCIS: I mean, we're not saying that you should do it. If you want to do that, then it's going to change how we hold your application.

MR. CAPPUCCI: If it's gonna be reserve, I could submit --

MEMBER HERNANDEZ: Well, you can't if we do reserve. We would need to continue it.

VICE CHAIRMAN FRANCIS: We'll continue it if you're going to submit some documentation.

CHAIRMAN MAMMINA: Continuing permits a dialogue.

MR. CAPPUCCI: Oh, okay.

ATTORNEY ALGIOS: You know you may -- I'm not sure you talked

about moving the pool closer. I don't know if you want to speak to your client and perhaps revise plans.

VICE CHAIRMAN FRANCIS: Yeah.

ATTORNEY ALGIOS: Maybe consider making the pool smaller. I think you can hear the way the board feels, so continuing it will leave the record open, and it will allow you to submit revised plans.

MR. CAPPUCCI: And the other FOIL information.

ATTORNEY ALGIOS: Yes.

MR. CAPPUCCI: So yeah, let's continue it if that's an option.

CHAIRMAN MAMMINA: That's a good decision.

MR. CAPPUCCI: Very good.

CHAIRMAN MAMMINA: We will continue the application. We'll say without date. When we say without date, that doesn't mean it goes on and on forever. We just don't want to say, okay, for a date certain, which is the next hearing.

MR. CAPPUCCI: Okay.

MEMBER HERNANDEZ: But you get us the information as soon as you have it.

MEMBER DONATELLI: Right, as soon as you can get it to us.

MR. CAPPUCCI: Very good.

MEMBER HERNANDEZ: You don't have to come back in person again. You can just submit it to the --

MR. CAPPUCCI: To Virginia, yep. Thank you very much.

VICE CHAIRMAN FRANCIS: You're welcome.

MEMBER HERNANDEZ: Thank you.

(WHEREUPON, there was a recess taken in the Proceedings.)

SECRETARY WAGNER: Appeal #21606, HPIII New York 1010 LLC; 1010 Northern Boulevard, Great Neck; Section 2, Block 347, Lot 4; in the Business A/Residence C Zoning District.

Appeal for determination or in the alternative variance from 70-103(A)(1) to construct interior alterations converting office space (Suites 300, 410, 412 & 418) to medical office space with insufficient off-street parking.

CHAIRMAN MAMMINA: You've heard Appeal #21606, HPIII New York 1010 LLC. Is there anybody in the room interested in the application other than the applicant? Seeing one hand, you will have the opportunity to speak after the presentation.

MR. MIGATZ: For the applicant; Bruce W. Migatz, with the law firm Albanese & Albanese, 1050 Franklin Avenue, Garden City, New York.

Good afternoon, Members of the Board. I have pre-marked Exhibits 1 through 4, a binder. A copy for the record and copy for each member of the board and counsel.

With me this afternoon is William Schmergel, who is the property manager for the property at 1010 Northern Boulevard in Manhasset. Also with me, Aaron Macthay, who as you know is a traffic engineer, VHB Engineering, and he will give testimony on this application.

Subject property, 1010 Northern Boulevard, Great Neck; Section 2, Block 347, Lot 4, Zone Business A. It is a four-story office building with on-grade parking and three levels of below-grade parking. There's a total of 667 parking spaces. The building was constructed pursuant to plans approved in 1983, and those plans

showed both medical and general offices.

The present application is for the conversion of four vacant general offices into four medical offices. Three of them are what we call white box that'll be developed once a medical tenant is located. Then the fourth one in Suite 410, which is leased to Dental Care Alliance. Dental Care Alliance, the principal dentists are Dr. Cooper and Dr. Marcus. They were unfortunately in the building 1025 Northern Boulevard that was destroyed by fire, and ever since then, they have been scrounging for space here and there, you know, borrowing dental chairs. They signed a lease with 1010 Northern Boulevard some time ago with the belief that the conversion to medical office was as of right. They have been severely prejudiced and further delayed. They hired people. They have bought equipment. They wanted to be here. I tried to get them here, but it's like pulling teeth. Bad joke.

CHAIRMAN MAMMINA: I got that one.

MR. MIGATZ: I got someone to laugh. I had to pay them before to come here. It's so important to them that their attorney is here, Anthony Racanelli to lend what he can lend to the application.

The four proposed medical offices would occupy 9,110 square feet, and the conversion from general to medical requires 15 additional parking spaces. General office is 1.200. Medical 1.150, so the conversion unifiers is 15 more parking spaces.

Now, the notice of disapproval cites a need for a parking variance. If you decipher it, it's alleging there's existing parking deficiency of 37 spaces, and the conversion that requires

15 more spaces raises the deficiency to 52 spaces. We, the applicant seeking a determination that the disapproval notice is in error, and that a parking variance should not be necessary.

The parking calculations on the site plan are at the direction of the plans examiner 'cause the architect originally did not include the core area of the building, which is 12,152 square feet. The plans examiner rejected that. We had to revise the calculations according to the plans examiner's opinion, but that's not our opinion. That's the plans examiner's opinion.

Now, the core area consists of elevator, lobby, four elevators, stairs, corridors to get to stairs, men's and women's bathrooms, janitor closets, mechanical vents, electrical and telephone rooms, security alarm office, a stair to the parking garage. That's 12,152 square feet according to plans examiner requires one per 200 parking calculation, which is 61 parking spaces for core area alone. If the core area is not included, 758 parking spaces are required for the existing offices and the proposed medical offices, and there are 767 spaces provided, so it's actual excess parking.

Now, we submit that the plans examiner included the core area. Why? Well, as I say, buckle up and try to stay with me on this one. Exhibit 1 is prior to zoning code sections of gross floor area and definition of a parking space, and those sections established that it was on December 15, 1985, that the code was changed to calculate a parking space -- sorry, to calculate the required parking spaces based upon gross floor area as opposed to net floor area. Now, the plans examiner has taken the position -- 'cause I inquired what the

basis for determining now that this building is going to have to be -- that parking had to be calculated on gross floor area.

When the building was constructed, and that's Exhibit 2, in 1983, prior to the changing the code, the approved plan was based upon on the net floor area. It did not include the core area.

I filed a copy of that online. I don't know if you blew that up or I have a blown up copy that I can give you if you want to see it. Would you like to see that?

VICE CHAIRMAN FRANCIS: Yes. Good.

SECRETARY WAGNER: This is a copy of the exhibit?

MR. MIGATZ: Yes, this is just a large copy.

CHAIRMAN MAMMINA: Is that everything that you had submitted because I printed all that out in my office.

MR. MIGATZ: Yes, it's enlarged.

VICE CHAIRMAN FRANCIS: Yes, easier to read.

MR. MIGATZ: Let me keep one for myself. So the zoning computations you can see did not include the core area of 12,152 square feet. It's based upon net floor area. There's actually a typo graphical error on that. The net floor area did include corridors. It says not including corridors, but it did include corridors, and on this application we did include the corridors when we submitted originally, but we did not include the core area. So when I asked the plans examiner why now are you changing the way the parking calculations are performed for this building, his response was the change to medical is increasing the parking demand, and that was in an email to me. I'll give you -- I'll have this as Exhibit 5

if I can.

SECRETARY WAGNER: Thank you.

MR. MIGATZ: Now, he said it's increasing the parking demand, but he does not cite any section of the code to justify his opinion that you are increasing the parking demand.

Now, this disapproval notice goes back and says that the existing general offices and the existing medical office are now insufficient to parking. But the demand for those offices has not changed by the proposed application. I can see him saying that -- I don't agree with him, that the demand for the proposed offices is increasing, but not for the existing offices. How do we increase the demand for parking for the existing offices that justify going back in time and saying now you're non-conforming? And that's the key here. What is the non-conformity?

Now, neither the disapproval notice nor the email from the plans examiner cites what the non-conforming is. It does not cite section 70-290F that states a non-conforming building shall be extended, altered, enlarged, replaced, or moved only if such extension, alteration, enlargement, replacement or move does not increase the existing non-conformity, and is in accordance with the provision of 70-209, actually it's 70-208F, not 29, let me correct that. He did not cite that. In the disapproval notice there's no basis for why now this building has insufficient parking.

Now, zoning laws that are in derogation of a common law are strictly construed. Now, if you're gonna say a building is in violation of a section of the code, you have to cite that section

of the code. The disapproval notice fails to do that. But the key is -- and he did not cite 208F correctly. Correctly, he did not cite that. 'Cause what is the non-conformity. The non-conformity is not that there was a change in how the ratio of parking applies. They didn't change one per 150 to one per 100 and now you're non-conforming. They changed the calculation for restaurants, and now a lot of restaurants are non-conforming. They did not change the calculation for the parking ratio.

What is non-conforming here? What is non-conforming is how you measured the building. That's the non-conforming. Prior to 1985, you measured the building using net. Post '85 you measured the building using gross. The non-conforming is how you measured the building. That's not changing. We're not changing the size of the building by doing interior alterations and changing general to medical. The building stays the same. The gross floor area stays the same. The net floor area stays the same. There's no increase in the non-conforming. If you're putting on a fifth floor, that's a different story, right? Then I would certainly say okay, now, you gotta go back and now you gotta use today's measurement of gross. But we're not changing how the building is measured. We're not changing the core of the building. So there is no non-conforming that is being increased.

As applied to the white boxes, there's no change at all. There's no alteration. Not even tenant's improvement. Hypothetically, if you had a psychiatrist office and now you put in an internist office with five waiting rooms, you're increasing the

parking demand, but the code doesn't say you now have to have more parking. It's still 1.150. So this -- you're increasing the parking demand does not exist in the code. There's no code section to support that, and history doesn't support it.

The original construction in 1983 had 17,641 square feet of medical office. Since then, 5,693 square feet of general offices were converted to medical office, and the C of C for that is Exhibit 3. Those calculations were based on the net floor area.

Mr. Schmergel has been the property manager here since the building was built. He knows every nook and cranny. He knows every application. That was based upon net floor area. The plan examiner then did not go back and say we're gonna change it to gross floor area.

Exhibit 4 is a decision and a site plan for this board, Appeal #13906. That was decided in 1986. That was when an application was made for conditional use permit to add the cafeteria. That was post 1985. Post when it changed of how you define gross floor area in a parking space was adopted, and the plans examiner at that time and this board at that time went back and used the original 1983 net floor area, and I have blown that up for you as well so you can see those computations. This is from the BZA file.

SECRETARY WAGNER: Thank you.

MR. MIGATZ: So historically this building has been -- parking has been based upon net floor area as it was when it was first constructed.

Now, I can't believe Mr. Norjen's not here, but.

VICE CHAIRMAN FRANCIS: I'm sure he'll be here shortly.

MR. MIGATZ: Yes. A building official, not Mr. Norjen, but a current building official has told me on other inquiries that consistency is important, Bruce, in our interpretation of the zoning code. I think Mr. Mammina remembers Freddy Goldsmith. Freddy had one of his best lines, and he had many, was Bruce, I may be wrong, but I'm consistently wrong. And consistency is critical. 1010 Northern Boulevard signed a lease with Dental Care Alliance based upon past interpretation when we converted the medical space for a dermatology office, they used net, so I don't have a parking problem. We built the cafeteria. They used net. I don't have a parking problem. He relied on that. Mr. Schmergel relied on that. He signed a lease with Dental Care Alliance, and now the rug pulled out from under them. It's not right. You have to be consistent. Consistency is important.

I submit to you that based upon documentary I submitted that the building official committed error, and now for the first time using gross floor area to calculate parking. Now, I know this board is hesitant to overall the Building Department, but this is important to this applicant because now they are handcuffed in trying to rent medical space. You can't sign a lease if you have to go for a variance, and it takes a lot of time, and a lot of business owners, dentists, doctors, we're not gonna wait around to go through this very long process before we can sign a lease. So it's important that this owner knows whether or not I have to come back for a variance or I can sign a lease now.

There's only about 5,000 square feet, so you don't -- I don't want you to think you're opening a Pandora's box that now you're gonna be flooded with medical offices here. There are nine extra -- if you use the net floor area, there are nine extra parking spaces. That only allows a little less than 5,000 square feet of general offices to be converted to medical, and then this owner would have to come back for any other conversions. So we're not opening a Pandora box. It's just another 5,000 square feet that the owner wants to know that I can rent that out for medical office space. I can advertise it without having to go through this very long process. So it is important. It's also important to this Dental Care Alliance that they get into that space as soon as possible.

As I always do, in the alternative, applied for a parking variance. An area variance weighing the benefit to the applicant against a detriment to the community. The benefit to the applicant is being allowed to rent this space obviously for medical offices. Right now there is lesser demand for general offices. A lot of people are working from home. But there's still -- doctors can't work from home for the most part. A dentist can't work from home, and there's an increasing demand for medical office.

What's the detriment to the community? Will there be an undesirable change in the character of the neighborhood or adverse impact on neighbors? We have submitted to you a traffic report by VHB. Aaron Machtay is here to summarize that report for you to demonstrate that there's ample parking for these medical offices. Bear in mind the core space is using 61 spaces, hypothetically, and

those people who are using the core space are the same people who are in the offices. So you really, the parking calculations using gross floor is counting these people twice. You're requiring parking for the office workers when they're in their office, and you're requiring parking for them while in the elevator to get to their office or while they're in the men's room or the ladies' room. They're counting the parking twice.

Now, whatever the rationale was for changing that code, it certainly doesn't work a four-story office building with 12,000 square feet of core because that rational just doesn't work. You're counting parking twice for the same people.

May I have Mr. Machtay summarize his report for you?

VICE CHAIRMAN FRANCIS: Yes.

MEMBER HERNANDEZ: Sure.

MS. MACHTAY: Good afternoon, Chairman and Members of the Board. For the record, Aaron Machtay, with VHB Engineering. Office is 100 Motor Parkway in Hauppauge, New York.

From my perspective, this is actually a fairly simple application. I know there's obviously a lot of complexities from the legal perspective, but hopefully I can summarize this. I did produce a parking study for this application, which has been submitted for your purview.

Basically, we have an existing office building. It's mostly occupied, and it's generating activity. And we're just looking to change the mix between medical and general office from what it is to favor more medical office. So naturally, the first thing that

we do is we go out and we take a look and we see what the parking demand being generated by the existing office space is, which we did. We did that in January of 2023. We recorded somewhere around 341 parked vehicles for the existing application. From there, we know that there's a certain amount of vacant space that was provided to us by the operator of the office, and we know what the mix that they're looking to occupy the vacant space between general office and medical office, which we understand is a little bit more intense. So knowing that mix of space, we referenced our ITE Parking Generation Manual, and we came up with, you know, the parking demand that would be generated by reoccupying that space in the manner that's being sought by the applicant. In this case, it would generate another 93 parked vehicles, bringing our total of 434, which we can more than adequately support.

In this case, because this building actually provides quite a lot of parking relative to a lot of the office buildings that you guys hear, and of course that I study, what I actually also did is I looked at theoretical how much of the space within the building could be based on the ITE data, supported by that parking provided onsite could be medical office. And what I found is the answer is all of it could. If we took 100 percent of the gross area -- so regardless of how we're calculating the building. If we're saying all of the building area as medical office, we look at the highest demand rates, the 85th percentile demand from ITE. We'd still provide enough parking onsite to satisfy the demand generated by the entire building operating as a medical office.

So with that in mind, again, I understand that there's a lot of complexities to this type of thing, to me this application should be granted because there's gonna be more than adequate parking to support the operation of this use. So regardless of how you guys view.

I'm happy to elaborate or answer any questions.

VICE CHAIRMAN FRANCIS: Thank you.

MS. MACHTAY: Okay.

MR. MIGATZ: Just to finish the balancing test. Is the variance substantial? I commit to you, no. Percentage deviation is only six percent, but that's really a key anyway, and when you have 767 parking spaces and you're allegedly short 15 to convert these four offices, that's not substantial. There's no other means to get this benefit other than seeking a variance.

The application is an unlisted action, but it's strictly a parking variance, and I know this board has determined parking variances have given them negative declarations on many, many applications.

And the difficulty is not self-created. One of the rare cases when the difficulty is not self-created because when this building was constructed, it was constructed pursuant to the 1983 code, which based parking on net floor area, and then the code change, so it's not self-created. Even if it was, as you know, that's only one of the factors to be considered.

I understand Nassau County Planning Commission did render a negative declaration. So you are in a position today to render a

decision, and that is very important to Dental Care Alliance 'cause, like I said, they have hired people. They have bought equipment, and they need to get into this building as fast as they can. So I hope you have enough information to make a determination. Significantly, no one from the Building Department is here to voice opposition to my argument.

ATTORNEY ALGIOS: Bruce, can I just ask you to clarify exactly what determination you're asking the board to make?

MR. MIGATZ: That the building official committed error in basing parking calculations on gross floor area as opposed to net floor area.

ATTORNEY ALGIOS: So just for this building? Just for this building?

MR. MIGATZ: Yes.

ATTORNEY ALGIOS: Are you asking them to make a broader --

MR. MIGATZ: No, no, no.

ATTORNEY ALGIOS: -- determination or just limited to this building?

MR. MIGATZ: This building because when this building was built, the parking was based on net. When it went before the zoning board to build a cafeteria, which was after the change in the code, the Building Department and this board based parking on net. When an application was filed to convert office space to dermatology office, the Building Department based the calculation on net. Now, they changed the way of doing things. You can't do that. And they don't cite a section of the code. I mean, to me that's a fatal defect

in their disapproval notice. You have to cite a section of the code that says what is causing you your non-conforming. Why do you need a parking variance? The disapproval notice does not cite a section. That's a fatal flaw. Grounds to overturn that disapproval notice.

(WHEREUPON, a discussion was held among Board Members.)

ATTORNEY ALGIOS: You mean, you're saying it should've cited other than the Section 103 for insufficient parking.

MR. MIGATZ: It doesn't say why now all of a sudden we're insufficient. If you read -- the disapproval notice only cites you have insufficient parking. Doesn't say why you have insufficient parking.

ATTORNEY ALGIOS: But it normally only, right? Normally, only --

MR. MIGATZ: No, no, no. They cite 208F all the time. If you have a prior non-conforming parking situation, they will always cite 208F and rightfully so, but they didn't cite 208F because we -- the non-conforming, and this is why I said buckle up, stay with me. The non-conforming is not that now the ratio for packing has changed. The non-conforming is how you measure the building. We're not changing the building.

ATTORNEY ALGIOS: No, I understand that, Bruce. What I'm saying is, you know, they change calculations all the time, right? They do for restaurant right? It used to be based on seats and now it's based on square footage. So normally they're just -- he measured what there was and he found there was insufficiency based on the definition now, so I don't know why would he cite another

section.

MR. MIGATZ: 'Cause he's saying that the building is non-conforming. He says there are 52 -- he says -- read this disapproval notice. He said 52 parking deficiency that includes 37 for the existing offices, and 15 for the new, but he doesn't say -- he doesn't cite a section of the code that says why is the existing offices non-conforming to parking. He doesn't say why, and he can't cite 208F. He knew that. I give him credit for that because we are not increasing non-conforming. A non-conforming is how you measure a building. We're not changing the building. And my application is limited to this building because it's grandfathered in as to how you calculate the floor area.

(WHEREUPON, a discussion was held among Board Members.)

ATTORNEY ALGIOS: Bruce, so the board members have some legal questions. They want some legal clarification. So we're going to go in the other room and we're going to go off record for a moment.

MR. MIGATZ: Sure.

MEMBER DONATELLI: I move we go into executive --

MR. MIGATZ: There is somebody who raised their hand. I don't know if --

SECRETARY WAGNER: Oh, there's someone who wants to speak --

CHAIRMAN MAMMINA: Oh, we should do that first.

VICE CHAIRMAN FRANCIS: Yes.

MEMBER HERNANDEZ: Let's do that first.

VICE CHAIRMAN FRANCIS: Yeah, let's do that.

CHAIRMAN MAMMINA: All right.

SECRETARY WAGNER: Sir, did you want to speak?

MR. MALAYERI: Just come up?

CHAIRMAN MAMMINA: Please.

SECRETARY WAGNER: Give your name and address for the record.

MR. MALAYERI: Good afternoon. My name is Raymond Malayeri. I own 3 and 5 Cherry Brook Place, which I think is to the west of their building. I actually have some objections as far converting any of this spaces to medical offices. What I heard today is that doing so is not gonna change the demand. I heard about hypothetical situation that they have enough spaces, and I was actually sending email to Mr. Migatz, but what I wanna say is we have about 18 houses. I live in Cherry Brook Place. We have about 18 houses. Each house has its own driveway, and we cannot park the car on the street, because we have a cleaning; however, I can show it on my Ring recording that from 8:00 to 2:00 I have five cars parked in front of my house. Both sides of Allen Drive, which is -- off of Northern Boulevard is packed with cars, which I'm gonna get into that, and both side of the Northern Boulevard is packed, so I need someone to explain to me where these cars they come from.

This thing has substantially had adverse effect on me and my family. This thing has changed the character of the neighborhood. This used to be a residential. I feel like I'm living in Fort Apache. I have drug reps that come and park their cars over there. New Jersey license plate all over the place, and they hop from one building to another building. That's what they don't count for. I have patients that come three hours early. They block my driveway, and

I have to call the cops 'cause I cannot get out of my driveway. They have double booked patients that come and park because they don't want to go or they booked or valet is booked or whatever that is. Basically, as I said, the other part is also hazardous, which they don't consider.

Cherry Brook Place is uphill. When I come uphill, there is no stop sign. People don't stop, especially if they are late for their appointment. When the both side of Allen Drive is parked, I cannot see. My mom is 84 years old. She can't see. I almost got into an accident once a week almost. You can't because by the time you pass the first one and try to stick your head to see what is car coming, the other from the other side may hit you.

Unless the Town of North Hempstead wants to put on a sign that they cannot park cars over there from 8:00 to 2:00, put some stop signs, then we can talk about this. I heard about everything about the safety of the residents of that area. What happened? I've been living there for 20 years. What happened to us? Why do I have to be worried about my mom get into an accident? Why do I have to be worried about that somebody park in my driveway? Why do I have to change, alter my quality of life because of this? It's so many medical offices already.

ATTORNEY ALGIOS: I'm sorry, I just have a question.

MR. MALAYERI: Sure.

ATTORNEY ALGIOS: Do you know the cars that you're seeing parking in front of your house that they're coming from this building?

MR. MALAYERI: They are from multiple buildings. They're from

1000. They're from another blue building across, and their building I think was Merrill Lynch over there for a while, but that's gonna contribute to this, too.

ATTORNEY ALGIOS: We're just looking, though, on GPS, and it looks like this building is not near your road. Near Cherry Hill.

MR. MALAYERI: I have another one for you. They actually, there was another school, I think, is behind them. People even cut the fence and they're walking down the hill through the dirt road. I have a picture of them in my phone.

ATTORNEY ALGIOS: But is there access from that building to Cherry Hill?

MR. MALAYERI: Oh, yeah. They're going through -- I have to show you the picture. They cut the fence. One second.

ATTORNEY ALGIOS: Just let the record show that the resident is showing his phone.

MR. MALAYERI: They actually walking in the dirt, and they cut the fence to go to that school and go to the back of their building.

ATTORNEY ALGIOS: I don't know what this is that we're looking at, and show counsel.

MR. MALAYERI: See, this one is the fence. See, they cut the fence.

ATTORNEY ALGIOS: So this is the house?

MR. MALAYERI: No, this is some kind of school. The school is behind them.

ATTORNEY ALGIOS: So what's on the other side? This is the applicant's parking lot?

MR. MALAYERI: Yes, they're on this side. This behind them.
ATTORNEY ALGIOS: And what's on this side?
MR. MALAYERI: It's us.
ATTORNEY ALGIOS: Is this Cherry Hill?
MEMBER DONATELLI: Deborah?
MR. MALAYERI: Cherry Road it goes like this.
ATTORNEY ALGIOS: Okay.
MR. MALAYERI: What I'm basically trying to say --
ATTORNEY ALGIOS: You want to see this, Bruce, the picture he's showing?
MR. MALAYERI: Here. This is the end of the Cherry Brook Place. You see the walk-through, and see the fence, they cut it off, and on top of it -- I mean, I have no problem.
MR. MIGATZ: You have to put your phone into evidence.
MR. MALAYERI: Oh, I know. I will.
SECRETARY WAGNER: We always make that joke.
MR. MALAYERI: I know that's good. So I have no problem taking pictures. Actually, I went -- I don't have a printer. I can take pictures, and he was kind enough -- I was going back and forth with him over the email and tried to explain to me as far as the amount of spaces that they have, but realistically, that's not the case. I've been living there for 20 years. I need somebody to explain to me why cars park in Allen Drive both sides. Where these cars come from? Fifty cars a day. Where? If everybody has enough space, why would they park over there? I'm begging you guys, just drive the Northern Boulevard on the way back over here at 9:00, and see in front

of their building and cross the street why it's packed with the cars. Where these cars come from?

MEMBER DONATELLI: What is the number of your house again?

MR. MALAYERI: I own two houses; number three and number five; 3 North Cherry Brook Place, 5 North Cherry Brook Place.

MEMBER DONATELLI: And you say cars are parked on Allen as well as Cherry Brook Place?

MR. MALAYERI: Correct.

MEMBER DONATELLI: And in front of three and five?

MR. MALAYERI: Correct.

MEMBER DONATELLI: In front of one as well?

MR. MALAYERI: One, two, yes. My house is number three is probably grayed out in the Google map, but.

MEMBER DONATELLI: Well, you know, I do see the proximity to the applicant's building. I also see another building, which is right on the corner of Allen Drive and 1000A.

MR. MALAYERI: 1000, yes.

MEMBER DONATELLI: And then there's --

MR. MALAYERI: Another blue building across the street from it.

MEMBER DONATELLI: Another building across the street, and then there's First Baptist Church.

MR. MALAYERI: Nah. The Baptist Church is only Sundays that doesn't bother us, but I know already that those two buildings that you just mentioned, they are so far the culprit, and I know once you add additional medical offices, that's going to add to it because that's what they do. I see them. They come, they park, they took

their bag. I know they are medical reps. They hop from one building to another building to another building to another building, and I see patients comes in. Double book patients. Come three hours earlier. I don't know what they do, but. If according to all this data is enough parking, why they park in front of my house? Why they park in Allen Drive? Park in the parking lot.

MEMBER DONATELLI: You mentioned having to call the police. Did you have any police reports that evidence this?

MR. MALAYERI: No, no. It didn't get to that stage because people moved it. Police doesn't want to get really involved in this. They are fully aware of this. I call them a few times that it's blocked. I can't see, but they come, and they said, I think, they only have a sign they can't more than an hour or two, but that's not gonna do us any good. Most doctor's office is open 8:00 to 2:00.

Unless Town of North Hempstead is willing to put a sign in there, God bless them. Do whatever -- you guys know better than me. If you want to give them variance, give it to them, but I need a sign over there that nobody can park over there from 8:00 to 2:00 in Allen Drive and Cherry Brook. I don't want my quality of life to be changed.

MEMBER DONATELLI: And I understand. Loud and clear. We're all sympathetic to that. Have you approached your town council person to speak about this?

MR. MALAYERI: I have, and there's another problem with that. They say -- yes you to death until the election comes, and you see somebody else comes, and they have to start over again. I've been

through that route. I've been through that route. I have a light in front of my house, which three of the bulbs are rusted and broken, you know, the street lights?

MEMBER DONATELLI: Yes.

VICE CHAIRMAN FRANCIS: Yeah.

MR. MALAYERI: And when I call the Town of North Hempstead, he's telling me my ticket was like 3,000. This thing can fall down and kill somebody. What do you mean 3,000? They don't care. Nobody wants to do anything, and at this point, I'm not happy. I'm not happy.

I haven't heard a single word okay, how's it gonna affect the neighbor? I heard everything about the tenants. I heard about it doesn't affect the square footage. I heard about they have enough spaces. I heard all of that. But what about -- I live there. I don't know how many of these gentlemen live there. They're all gonna go home. I live there. I see it. My mother is there next door. I have to take her to St. Francis Hospital when her blood pressure goes up. So I live there.

MEMBER DONATELLI: Thank you for your comments.

MR. MALAYERI: No problem. I appreciate. Thank you for hearing me.

VICE CHAIRMAN FRANCIS: Thank you.

MR. MIGATZ: May I? I did have several email exchanges with this gentleman, and Mr. Schmergel invited him to come to inspect his parking layout and parking garage. That invitation was not accepted. Mr. Schmergel is well aware. He sees the people parking

on Allen Drive and Cherry -- I forgot the name of the street, and they are going to the other office buildings that may not have sufficient parking. He sees them walking across the street to the other side of Northern Boulevard. He sees them walking toward 1000 Northern Boulevard. They walk to 1010 Northern Boulevard is certainly not convenient. Maybe some do that on occasion? Probably. But that's, you know, that's certainly not the normal. There is, as Mr. Machtay testified to, there's ample parking in this garage and on grade. Can you stop people from parking on the street 'cause maybe it's more convenient? No. I don't see how parking on Allen Drive is more convenient to go to 1010. But the answer is to put No Parking signs there. That's the answer. This applicant has no objection to that. This applicant doesn't think those people are going to their building, so they have no objection posting signs. I can sympathize with this gentleman. I don't know how severe the problem is. No other neighbors are here. Normally, you get the whole block to come out when people are blocking their driveways, but if they're blocking one driveway, it's too many. We recognize that. We'll certainly support a petition that this gentleman or neighborhood wants to make to have No Parking signs put up. Now, there's ample parking for this building.

MEMBER DONATELLI: Thank you. Deborah, may I ask you a question?

ATTORNEY ALGIOS: Yes.

MEMBER HERNANDEZ: We're doing an executive session, right?

MEMBER DONATELLI: Yeah.

ATTORNEY ALGIOS: Okay, so does somebody want to move to go into executive session?

MEMBER DONATELLI: So I'll make a motion that we go into executive section to discuss a legal issue.

VICE CHAIRMAN FRANCIS: Yeah.

CHAIRMAN MAMMINA: We can either do that and backward just down the hall.

VICE CHAIRMAN FRANCIS: I'll second the motion.

MS. WAGNER: All in favor?

BOARD MEMBERS: Aye.

MR. MIGATZ: Just for the record, I want to make sure nobody else will join in that meeting via phone or in person or by email?

ATTORNEY ALGIOS: That's correct.

MR. MIGATZ: Thank you.

(At this time, there was a pause in the proceedings for an executive session.)

MEMBER DONATELLI: I make a motion that we come out of the executive session.

CHAIRMAN MAMMINA: Do we have a second?

VICE CHAIRMAN FRANCIS: Second.

CHAIRMAN MAMMINA: Seconded by Vice Chairman.

MR. MIGATZ: May I just correct something in the record? I was just informed that I misspoke. The parking spaces that we are 767, and once or twice, I got those numbers wrong, but it's on the record that there are 767 existing parking spaces.

CHAIRMAN MAMMINA: Okay, duly noted.

(WHEREUPON, a discussion was held among Board Members.)

MR. MIGATZ: After discussion with my client, Mr. Chairman, 'cause it is critical that Dental Care Alliance gets into this building, and I can appreciate that you need more time to digest what I threw at you about the determination, so if it's amenable to the board, if the board is agreeable to granting the variance, the applicant will withdraw the request for determination without prejudice to resubmitting that argument on a future application.

CHAIRMAN MAMMINA: Yes, board agrees to that.

VICE CHAIRMAN FRANCIS: Yeah.

MEMBER DONATELLI: So Mr. Chairman, I've listened very carefully to the comments of the gentleman from the neighborhood, and I think all of us as residents of the Town of North Hempstead, we are mindful of your concerns. I know I personally asked you whether or not, sir, you had approached your council person, and you said you had in the past. I would urge you once again to contact, I think, it's Christine Liu is your council person. I am told that she's quite responsive to this.

It occurs to me in reviewing this application that there are many potential sources of your problem. You mentioned from 8:00 A.M. to 2:00 P.M. That is very much in my mind indicative that it may be the school or that it may be other buildings, as you yourself mentioned maybe not 1010, maybe 1000 that may have a different parking situation, so I don't want you to believe that I am not hearing you. I'm hearing you. I'm very concerned about it. I know that we don't want to have traffic issues in front of our houses, and yet, as a

board, we're required to consider this application with this parking situation and not in a more general sense the area that we live in.

I personally would urge you once again to contact your council person to address this problem with her, and I understand that sometimes people get frustrated because they don't see government working as quickly as we might hope, but I understand that she is very responsive to her constituency, and I think that your problems would be better addressed by the Town Board if you ask them to put up No Parking signs, particularly from 8:00 to 2:00 or whatever hours that may be of difficulty.

Having said that, and on the strength of this application, I make a motion that we grant the application -- that we grant the variance requested.

CHAIRMAN MAMMINA: Okay, we have a motion, Member Donatelli, to grant the variance. Do we have a second?

VICE CHAIRMAN FRANCIS: Second.

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

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye. Application is granted. Approved

the variance.

MR. MIGATZ: Thank you very much.

MR. MALAYERI: Okay, thank you. The only issue is we have those -- I think it's called -- I think it's Ron -- (inaudible)

MEMBER DONATELLI: I suggest you do it again.

VICE CHAIRMAN FRANCIS: Yeah. No, really.

MR. MALAYERI: And I'm telling you guys --

MEMBER HERNANDEZ: It's unfortunate, it's not within -- we can't do anything about it because the right thing to do is to put a No Parking sign on those streets to prevent people from parking. And you're right, it's probably a salesman --

MR. MALAYERI: Oh, I know it's them.

MEMBER HERNANDEZ: -- who parks the car in the middle, who goes one way, and then goes the other way, and then goes home.

VICE CHAIRMAN FRANCIS: And Mr. Donatelli is correct. You really need to restrict it to a certain time period so that it doesn't affect you --

SECRETARY WAGNER: Yes.

VICE CHAIRMAN FRANCIS: -- when you're having a party --

MEMBER HERNANDEZ: Right.

VICE CHAIRMAN FRANCIS: -- and people need to park in front of your house.

MEMBER HERNANDEZ: Or on the weekends when you have friends.

VICE CHAIRMAN FRANCIS: Or on the weekends, right.

MR. MALAYERI: None of us need to park on the street. We all have driveways that can accommodate at least four or five cars.

VICE CHAIRMAN FRANCIS: Okay.

MEMBER DONATELLI: I'm very mindful of your situation. We're trying to help you solve it, but we're trying to help you solve it the right way.

MR. MALAYERI: Okay, I'll try. I'll go to the IC, right?

VICE CHAIRMAN FRANCIS: Yes.

MEMBER HERNANDEZ: Yes.

MR. MALAYERI: All right. Thank you.

VICE CHAIRMAN FRANCIS: Best of luck.

CHAIRMAN MAMMINA: Thank you.

SECRETARY WAGNER: Next appeal, Appeal #21609, First Class Collision; 542 Main Street, Westbury; Section 11, Block 7, Lot 5; in the Industrial B Zoning District.

Variances 70-103(A) to legalize an expansion of an existing automobile body repair shop with not enough parking.

CHAIRMAN MAMMINA: You've heard Appeal #21609, First Class Collision. Is there anyone in the room interested in the application other than the applicant? Seeing no one, name and address, please, sir.

MR. AVERTIN: Good afternoon, Mr. Chairman, Members of the Board. Appearing for the applicant, Howard Avertin, 2116 Merrick Avenue in Merrick. I have some green cards and envelopes.

MS. WAGNER: Thank you.

MR. AVERTIN: This is the application of First Class Collision One, Incorporated for a parking variance in connection with its

operation of an auto body repair shop at its premises in Westbury. The premises on their application is located on the northwest corner of Main Street and Hopper Street in Westbury. Its street address of 542 Main Street. It's also on the Section 11, Block 71, Lot 5 through 8 on the Nassau County Land and Tax Map. The parcel has dimensions of 100 feet in width by 100 feet in depth and a lot area of 10,000 square feet. The premise is developed with a 5,440 square foot one-story commercial building utilized by the applicant as an auto body repair shop. The property Zoned Industrial B District, where the auto body repair use is permitted.

The applicant originally began utilizing a portion of the premises as a tenant in 2016. In September of 2023, the sold shareholder of the applicant acquired the property and ownership was maintained in separate entity.

In 2016, under Appeal #20130, this board granted several variances including a parking variance to utilize -- to authorize and legalize the auto body repair shop of the applicant, as I indicated before, as a tenant, which utilized a portion of the building. The remainder at that time was utilized as warehouse space.

The applicant now seeks to utilize the entire building for its auto body repair shop business. Please note that the use of the entire building is not to expand the business, it is to provide ample room. The formal lease and space was insufficient. Plus, the fact that with renovations and ADA compliance with respect to bathrooms, corridors, et cetera, more space is required, but it's not

anticipated that this is going to result in additional business for the auto body at the site. The modification increase is the parking requirement under the code, and therefore, the need for a new parking variance.

The current calculation, 16 spaces is required and six provided. I believe though that originally when the variance was granted in 2016, the variance was seven spaces required -- excuse me, eight spaces required, and seven were provided, but the code requirement for a body shop was one per 600 at that time, and there was a code amendment in 2018 or 2019, I'm not exactly sure which, where the parking requirement for a body shop became one per 300, so that exacerbated the parking variance that we're seeking today.

That essentially sums up the proposal. I have Rebecca Goldberg from IMEG Engineering that's formerly known as Cameron Engineering to present a summary of the parking and traffic analysis that has been submitted as part of the application. Unless the board has any questions of me at this time?

MEMBER DONATELLI: Very briefly.

MR. AVERTIN: Sure.

MEMBER DONATELLI: You mentioned that we had granted the auto body and warehousing. The warehousing was of what? What was the warehouse?

MR. AVERTIN: I believe it was glass blocks.

MEMBER DONATELLI: Glass block?

MR. AVERTIN: Yes.

MEMBER DONATELLI: And so now it's being used -- or the proposal

is to use what?

MR. AVERTIN: To utilize the entire building for the auto body repair shop use.

CHAIRMAN MAMMINA: Okay.

MS. GOLDBERG: Good afternoon, not quite good evening yet. My name is Rebecca Goldberg, professional engineer, senior transportation engineer with IMEG, formerly known as Cameron. Same business address, which is 177 Crossways Park Drive in Woodbury. I prepared the traffic and parking report that was submitted to the board in September, and I'm just going to summarize the key points very briefly.

As high level summary, maintaining the auto body shop use of the entire building will not change the use or intensity of the space and will not actually generate any additional traffic or additional parking demand compared to what happens today.

The site context -- actually, I have an aerial photograph if you'd like to see. So this is a heavy industrialized area. The site is over here, the southwest corner of Main Street and Hopper Street. The end of these north, south streets, these streets dead end just to the north, then Northern Boulevard to the south. So this entire area is completely industrialized. No residential or recreational uses at all.

All roads here are typical two lane town roads. Low operating speeds uses in this vicinity include multiple other auto body shops, material suppliers, contractors. There's one deli that's across the street and about a block to the east.

Operating hours here are not going to change, and they're typical of other auto body shops, so weekdays 8:00 to 5:00, and Saturdays from 10:00 to 2:00.

Site access is also not going to change with flush aprons on both sides of the property. Site lines are also generous in all directions. All of the streets here are straight and relatively flat. And again, they operate at very low speeds.

For existing traffic, which is equal to the future traffic, the numbers are minimal. So at most, if every employee and maybe one or two customers were to arrive or leave at one time, that would mean fewer than 15 trips per hour, which is in line with Institution of Transportation Engineers or ITE Trip Generation Manual Data, which calculates 12 to 17 trips for the existing building, and that's also in my report.

There are almost never customers at the property, except for maybe periodic short duration visits when someone is dropping off a vehicle, picking up a vehicle, waiting for the rental car if it's needed. Drop-offs tend to peak in the morning, roughly 9:00 or at 10:00 in the morning, and pickups are prearranged in advance, so there is no line of people waiting to come and retrieve their vehicle. Most of the activity during the day, again, typical of other body shops comprised of employees moving cars within the property and to the indoor service space, and this is my experience at other body shops, and it's in line with my observations at the property.

Typical occupancy in the building is comprised of two or three office staff and five to six mechanics during the week, and on

Saturday, it's only office staff, so nobody's working on cars on the weekends. Office staff do typically carpool. It's a family business. So operationally, it results in a need for about six or seven spaces, maybe eight because one or two spaces for office staff and up to six spaces for the mechanics. Mechanics do often park along the street, where parking is permitted as well, and that's the nature of the entire area. Other businesses are seen -- have been observed to do this.

The important point for the application is that if conditions accommodate this applicant's parking today, and it does, then the future condition and granting this application parking will continue to be accommodated. It's not going to create any negative impact.

I conducted onsite, what they call onsite vehicle storage counts on a Tuesday morning, roughly 9:30 in the morning. Again, peak time for customer activity, and saw that there's also room for 12 vehicles accommodated around the building in secure lot areas, so this is in addition to the six spaces that are shown on the site plan, so the total onsite storage is actually 18, which is above the 16 spaces the town code requires. There is also street parking generally on the south side on Main Street in the area closest to the property. There was observed room for at least two or more cars along the site frontage on Main Street as well. So the total operational available parking is more in the range of 20 to 22, which again exceeds the 16 that's required by town code.

The other part of the relief being sought is for spaces that are smaller than 10 feet by 20 feet. So again, the site typically

functions more like a valet operation, where employees have full access to any vehicle that's being worked on. They can move cars as necessary. And then when it comes to the parking stall sizes, two spaces are 8 feet by 17, and four spaces are 9 foot 10 inches by 23 feet long. So the 9 foot 10 inch by 23-feet, it's two inches shy of the 10 by 20 foot requirement; definitely accommodates any standard vehicle, even a larger vehicle. Similarly, 8 foot by 17, will also accommodate a standard or SUV. We do a lot of vehicle turning simulation for our work, and usually something like a Honda Accord or a CRV for an SUV is a little narrower than 7 feet wide, roughly 6 foot 10 by 16 foot 10 in length, so the spaces can accommodate what's needed. And then also, since there are almost never four customers at a time, customers have access to the two to four spaces that are in front of the site on Main Street, and that's a common place for them to park.

That summarizes my report. I'll be happy to answer any questions that the board may have. Thank you.

VICE CHAIRMAN FRANCIS: One of the things you said confused me just a little bit. Are you making a distinction between parking and storage?

MS. GOLDBERG: Correct, because the real parking demand is -- it's a small number of spaces for employees and customers, but the real demand is cars that are waiting to be serviced.

VICE CHAIRMAN FRANCIS: Okay, because we're only really going to make a decision based on parking, not storage.

MS. GOLDBERG: Well, the spaces can be accommodated on the site,

and because the function is more employee only -- I equate it to being like a valet operation, so you're storing a car, and you're not creating any offsite impacts because the employees have the keys. The cars and the vehicles are in secure lot areas, so it's not a space per se because it's not striped at 10 by 20, but it's storing the vehicles that need to be stored in addition to the cars that are inside as well.

VICE CHAIRMAN FRANCIS: Okay, thank you. Anyone else? Thank you.

MS. GOLDBERG: Thank you very much.

VICE CHAIRMAN FRANCIS: Yes, sir.

MR. AVERTIN: Just in summary. I'm sure the board is familiar with this part of the town. It's highly -- high concentration of industrial there. As Ms. Goldberg indicated many, many auto body repair shops, contractors, yards, and the culture of that part of town is such that they start early and it's empty by 4:35 P.M., with no activity whatsoever. They lock up. They secure their properties and then repeat the same the next day.

Importantly, this type of use has a small demand really for actual parking as pointed out by Ms. Goldberg because it is a -- being a body shop, damaged cars come there for repair, and the activity of customers is usually dealt with insurance and alike, so customer need is limited. They pick up a vehicle or they drop off a vehicle. We believe that under the facts and circumstances of this case, we would respectfully request that the variance be granted as proposed.

VICE CHAIRMAN FRANCIS: Mr. Avertin, just for the record, can

you go through the Five Factors for us?

MR. AVERTIN: Of course. The first, of course, is the balancing test. The benefit to the applicant as balanced against any potential negative impact. The first of the five elements is the character of the neighborhood. The character of the neighborhood we've already gone through. It's highly industrial. The use is not in question here.

So the question is, is there sufficient parking, and will the deficiency impact the surrounding area? I would respectfully submit that it would not.

Is the variance substantial? The variance numerically might be considered substantial, but on the facts of this case, I would respectfully submit it is not substantial because of the fact that the relief we're seeking does not create adverse impact as demonstrated by the testimony.

Is there an impact to the environmental aspect of the area? Clearly not. Industrial area, and the notion that having this use there with this parking configuration would result in environmental negative impact, I would respectfully submit it does not, and that a negative declaration be adopted here.

And finally, is the use self-created, or is the hardship, I should say, self-created? It is self-created in the sense that by acquiring the property and needing the expansion, we needed a parking variance, but unlike a use variance in an area variance context, a technical self-creation does not mandate denial of an application, and we believe under these circumstances that the applicant has made

an investment in this community, an investment in buying the building. He's going through all the right channels to improve his property by obtaining permits and getting all the necessary approvals, and he's been a positive impact for the community since 2016.

VICE CHAIRMAN FRANCIS: Thank you, sir.

MR. AVERTIN: Thank you.

VICE CHAIRMAN FRANCIS: Any questions?

MEMBER HERNANDEZ: No.

VICE CHAIRMAN FRANCIS: Mr. Chairman, I make a motion that we grant the application.

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

MEMBER DONATELLI: Second.

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

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye. Application is granted. Thank you.

MR. AVERTIN: Thank you very much. Have a wonderful rest of the day.

VICE CHAIRMAN FRANCIS: Good luck.

SECRETARY WAGNER: Do we want to adopt SEQRA.

CHAIRMAN MAMMINA: Do we have a motion to adopt SEQRA?

VICE CHAIRMAN FRANCIS: I will make a motion.

MEMBER HERNANDEZ: Second.

SECRETARY WAGNER: All in favor?

BOARD MEMBERS: Aye.

SECRETARY WAGNER: SEQRA adopted.

(WHEREUPON, the Proceedings concluded at 3:41 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 5th day of December, 2024.

Mariesel Berrios

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MARIESEL BERRIOS