

Town of North Hempstead
Board of Zoning Appeals
PUBLIC HEARINGS

Wednesday, November 20, 2024
10:00 a.m.

BOARD MEMBERS PRESENT:

Leslie Francis, Acting Vice Chairman
Patricia Goodsell, Member
Daniel Donatelli, Member
Jay Hernandez, Member

ALSO PRESENT:

Deborah Algios, Deputy Town Attorney
Virginia Wagner, Secretary
Steven Perrotta, Planner
Mariesel Berrios, Stenographer

1 ACTING CHAIRMAN FRANCIS: Good morning, everyone. Please
2 stand and join Member Donatelli in the Pledge of Allegiance.

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

4 ACTING CHAIRMAN FRANCIS: I see some veterans in the audience
5 who have appeared before us, but for those of you who have not, let
6 me just go through a few preliminary remarks. In terms of the order
7 of how we proceed, the applicant will present their argument before
8 us first. If there's anyone interested in the application other than
9 the applicant, either pro or con, you'll get three minutes to respond
10 to the application. After that, the applicant gets the last time
11 up to respond to your response, and then we can do one of four things.
12 We can reserve the application. We can grant it. We can deny it
13 or we can continue the application for additional information.

14 The other thing that's really important, because this is a
15 quasi-judicial proceeding and a record is being taken by the court
16 reporter, we need complete silence, so no crosstalk in the audience,
17 and I would appreciate it if everyone puts their phone on mute or
18 vibrate, so we don't get the Dancing in the Halls ringing when someone
19 is trying to give their application.

20 With that said, Ginny, are there any modifications to the
21 calendar?

22 SECRETARY WAGNER: Yes, Chairman. We have an adjournment of
23 Appeal #21631, Leroy Barroca; 71 Percheron Lane, Roslyn Heights;
24 Section 9, Block 538, Lot 15; in the Residence-AA Zoned District.
25 Variances from 70-22.3(A), 70-22.6 and 70-101.A to legalize a new
26 dwelling that is within the sky plane, having too much front yard

1 paving and a chimney that is too close to the side property line.

2 ACTING CHAIRMAN FRANCIS: If you're here for that particular
3 application, it will not be heard today. It will heard on December
4 18th.

5 Ginny, call the first case?

6 SECRETARY WAGNER: Just for the record, we are noting that Vice
7 Chairman is the Acting Chairman today.

8 Appeal #21628, Jeong Bae; 33 Short Drive, Manhasset; Section
9 3, Block 63, Lot 231; in the Residence-A Zoning District.

10 Variance 70-30.C to legalize a one-story portico too close to
11 the street.

12 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21613, Jeong
13 Bae. Is there anyone interested in the application --

14 SECRETARY WAGNER: No, Appeal #21628.

15 ACTING CHAIRMAN FRANCIS: I'm sorry, Appeal #21628. Sorry, I
16 picked up the wrong one.

17 Is there anyone interested in the application other than the
18 applicant?

19 Seeing no one, please give your appearance.

20 MR. GRAY: Chris Gray, architect, 2401 Capri Place, North
21 Bellmore, New York. Representing Jeong Bae at 33 Short Drive in
22 Manhasset. Good morning.

23 ACTING CHAIRMAN FRANCIS: Good morning.

24 MR. GRAY: I'd like to hand in some green cards.

25 MR. PERROTTA: Thank you.

26 SECRETARY WAGNER: Only have to do certificate. Doesn't have

1 to be return mail.

2 MR. GRAY: Oh, okay, good.

3 I'm here today, my client had constructed a portico some years
4 ago, and filing an application to do new work, it was discovered that
5 this did not have a permit, so application was filed to legalize this.

6 The issue here is the front yard setback. The required front
7 yard setback, including a five-foot permitted encroachment is 32.3
8 feet, and what is existing is 30.4 feet, so it's a -- this is extending
9 1.9 feet into the front yard over the allowable.

10 Just for the note, the way the planning examiner figured out
11 the average front yard setback. To my client's defense, there is
12 one neighbor that is to the west, it happens to be a food lot. The
13 front of the dwelling faces Old Mill Road, and the average front yard
14 was taken from the rear of the property. That particular setback
15 is quite large; pretty much about double what the others are for their
16 frontage. So had that -- if that was taken out of the equation and
17 I average the three properties that are within the 200 feet each side,
18 the average would have been 29.1. So what is presented would have
19 complied, but that one neighbor throws it off.

20 So the portico itself is just not out of character on the short
21 drive street.

22 ACTING CHAIRMAN FRANCIS: This portico is open on three sides?

23 MR. GRAY: Yes, fully open.

24 MEMBER DONATELLI: You say the portico was built a while ago.
25 When was it constructed?

26 MR. GRAY: I would say, approximately ten years ago. The owner

1 had told me, and I don't recall exactly. He had filed application
2 several years ago, and it is an open permit that just simply died.
3 So that -- so we had let that go, and then we filed again recently
4 along with the application for the proposed work. So it has been
5 in existence for quite some time.

6 MEMBER DONATELLI: But was it let go because it violates front
7 yard setback?

8 MR. GRAY: No -- well, at the time when it was evaluated, there
9 was no issue with any kind of a -- no variance issue at the time.
10 So the plan examiner perhaps when they reviewed it at that time, did
11 not make it an issue. It was as of right. A permit was issued, but
12 he never closed it. That was the problem. So it's been such a quite
13 long time. Let that old application go, and then a new application
14 was filed along with the proposed work.

15 MEMBER HERNANDEZ: The house looks like it's under construction
16 now. The work has been done recently.

17 MR. GRAY: Well, there's a -- permits had been issued for new
18 work.

19 MEMBER HERNANDEZ: The portico was not part of the new work.

20 MR. GRAY: That's correct, it's not. It was not. Yeah, it is
21 not. The proposed work is a second-story addition over the garage,
22 as well as a one-story addition in the rear with a deck, so nothing
23 to do with the portico.

24 MEMBER DONATELLI: Do we have an estimate as to what it might
25 cost to make this portico compliant?

26 MR. GRAY: A dollar amount? I don't know, but it would be of

1 a hardship to cut it back, you know. It -- I don't know an exact
2 number, but it certainly would be a little bit of a hardship to do
3 that.

4 MEMBER DONATELLI: Are you able to estimate?

5 MR. GRAY: I would say, maybe, \$10,000 perhaps. Who knows? At
6 that point, it's probably, you know, maybe, it'd be wise to
7 reconstruct it rather than to chop -- to chop it up, so. That's a
8 question for a builder.

9 MEMBER GOODSSELL: It doesn't -- I mean, I drove the
10 neighborhood. There are other houses that do have porticos. It
11 doesn't scream I'm too close to the street, and it certainly doesn't
12 stand out as being way too big. I did see the property that you're
13 talking about with a very deep front yard.

14 MR. GRAY: Yes.

15 MEMBER GOODSSELL: Which obviously would skew an average because
16 it's right a house or two next to it.

17 MR. GRAY: Yes.

18 MEMBER GOODSSELL: I see that the client bought the house in
19 2006, so at least they're candid about saying yes, we didn't buy it
20 this way. We added it. They did attempt to get a permit, so as one
21 board member, I don't have a problem with this one.

22 MEMBER HERNANDEZ: Mr. Chairman, this particular part of the
23 neighborhood, does have a -- immediately near it within like a block,
24 there are several porticos that are larger and closer to the street
25 than they probably should be. Visually they appear that way. The
26 neighbor next door has a portico that is almost identical to this

1 one than to one side. So although I don't like when people build
2 things without permits and, you know, come after the fact. Although,
3 you say that they did apply for permit for whatever reason it was
4 let go. These are the kind of issues that come up because of it,
5 but in this particular case, it so happens that it's consistent with
6 the neighborhood. It doesn't look out of place or like Patricia
7 said, it doesn't hit you in the face as being way too close. It
8 doesn't stand out. It just sort of fades into the neighborhood. I
9 don't see a problem with it either. So unless anyone else has
10 anything else to say, I move that we grant the application.

11 ACTING CHAIRMAN FRANCIS: We have a motion. Do we have a
12 second?

13 MEMBER GOODSSELL: I'll second.

14 ACTING CHAIRMAN FRANCIS: Ginny, please poll the board.

15 SECRETARY WAGNER: Member Goodsell?

16 MEMBER GOODSSELL: Aye.

17 SECRETARY WAGNER: Member Donatelli?

18 MEMBER DONATELLI: Aye.

19 SECRETARY WAGNER: Member Hernandez?

20 MEMBER HERNANDEZ: Aye.

21 SECRETARY WAGNER: Acting Chairman Francis?

22 ACTING CHAIRMAN FRANCIS: Aye. Application is granted.

23 MR. GRAY: Thank you very much.

24

25 SECRETARY WAGNER: Appeal #21629, Kara Becker; 85 Ivy Way, Port
26 Washington; Section 5, Block 72, Lot 244; in the Residence-A Zoning

1 District.

2 Variance 70-202.1.C to construct retaining walls that are too
3 tall.

4 ACTING CHAIRMAN FRANCIS: You heard Appeal #21629, Kara Becker.
5 Is there anyone interested in the application other than the
6 applicant?

7 Seeing no one, please give your name and address.

8 MR. MASONE: Good morning, ladies and gentlemen of the Zoning
9 board. My name is Michael Masone, Masone Masonry, 182A East Shore
10 Drive, Manhasset, New York 11758.

11 I'm here today in representation of Kara and Jared Becker, 85
12 Ivy Way, Port Washington.

13 ACTING CHAIRMAN FRANCIS: Thank you. Go right ahead.

14 MR. MASONE: We are here today to request a variance to
15 construct a Cambridge Sigma 8 setback block retaining wall along the
16 property line -- the rear yard property line of 85 Ivy Way. The
17 highest point of the wall would be five foot, and then it steps down
18 from there. Unfortunately, the wall has commenced construction
19 because the wall that was there prior was a dilapidated wooden
20 retaining wall. During the beginning of construction, it was
21 discussed with the homeowners of raising the wall in order to level
22 the back yard out a little bit more. Unfortunately, the street that
23 they live on, the front yard has a very steep incline. The road has
24 a very steep incline, and with the rear yard being so slanted down
25 as it was, it was very difficult for the children to have anywhere
26 to play.

1 Since we've gone through all the paperwork and submissions, I've
2 since spoken with the rear yard neighbor who is directly behind them
3 a numerous amount of times, and I explained to him everything that
4 was going on. He was not able to furnish a letter for me to have
5 here today, but I certainly can have him type that up and get it over,
6 but his reaction was once I and, you know, explained to him what we
7 were doing, his reaction was pretty much that I'm not looking to take
8 any, you know, play area away from, you know, the Becker's kids, so
9 that was kind of, you know -- we're looking to put the wall up so
10 we can let the back yard a little bit more. It would be one of --

11 MEMBER GOODSSELL: That's the neighbor to the rear?

12 MR. MASONE: Yes, that's correct.

13 MEMBER GOODSSELL: And he would be even further down the slope;
14 is that correct?

15 MR. MASONE: So there were -- there would actually be a little
16 more slope. What's gonna happen is -- it's actually beneficial to
17 him in a way where all of the rainwater would now be withheld on their
18 property because of the dry well. The piping behind the wall that's
19 gonna take the water back to the dry well, as well as all of the gravel
20 behind the retaining wall system. So the pitch of that water that
21 used to just run over the top of the wooden retaining wall will no
22 longer exist.

23 MEMBER DONATELLI: How tall is the existing wooden wall?

24 MR. MASONE: The existing wooden retaining wall, it's tough to
25 tell. There were areas where it was three feet. There were areas
26 where it was 3.5 feet. There was one area, I think, maybe 10 or 12

1 feet long, that was maybe four feet. It did not exceed the allotted
2 height.

3 MEMBER DONATELLI: Five feet.

4 MR. MASONE: Correct. However, it really was doing nothing.

5 MEMBER DONATELLI: In your conversations with the neighbor, did
6 he realize that he was going to be looking at an 8-foot, 9-foot
7 retaining wall?

8 MR. MASONE: So my last conversation with him, which was I want
9 to say maybe about a week or so ago. He asked me what exactly is
10 it gonna look like, and I explained to him, if you look up to the
11 left side where the wall had actually been constructed, that is the
12 height of the wall. That is what it's gonna look like. His reaction
13 to me was, if it's not gonna be any higher than that and there's gonna
14 be trees up there, I have zero objection to it.

15 MEMBER DONATELLI: So you mentioned that the wall is already
16 being built. Is part of it already at 8.75?

17 MR. MASONE: That is highest point.

18 MEMBER DONATELLI: And that's already built?

19 MR. MASONE: Correct.

20 MEMBER DONATELLI: As we review the properties, we don't go into
21 people's back yards.

22 MR. MASONE: Totally understand. I know that.

23 MEMBER DONATELLI: So I'm trying to get a sense.

24 MR. MASONE: So if you look at the --

25 MEMBER DONATELLI: Can you give us an estimate as to what
26 portion of the retaining wall has already been rebuilt?

1 MR. MASONE: So if you have a copy of the survey, right here.
2 If you look at the survey, the wall that's been built starts at the
3 rear of the garage. It goes the straight back, and I would say, it's
4 maybe about 20 or 25 feet to the left, so just the L.

5 MEMBER HERNANDEZ: The space behind the garage has been
6 completely rebuilt going back and going across the back of the --

7 MR. MASONE: Roughly about 20 -- yeah, more or less.

8 MEMBER HERNANDEZ: The garage is roughly 20 feet wide.

9 MR. MASONE: Yeah, more or less.

10 MEMBER DONATELLI: I'm sorry. Can you describe again what
11 portion of the wall has already been?

12 MR. MASONE: Looking at the survey, if you go to the rear right
13 corner of the garage.

14 MEMBER DONATELLI: Yeah.

15 MR. MASONE: The retaining wall from the rear right corner
16 running straight back, and then approximately, 20 feet to left, that
17 portion of the wall has been built up to grade.

18 MEMBER DONATELLI: So 20 feet and it's a 90-foot length?

19 MR. MASONE: Correct.

20 MEMBER DONATELLI: So it's about 70 feet that is still unbuilt?

21 MR. MASONE: More or less, yes. I mean, there's one or two
22 courses of block along those feet because as we climb we have to,
23 you know, we have to build layer by layer, but.

24 MEMBER DONATELLI: So I'm sure you realize that the town set
25 the five-foot limit, and, in fact, we come across this quite often
26 in Port Washington because it is hilly, but if you were to build five

1 feet and then setback five feet, and then build another retaining
2 wall for the difference, would you be able do that in that portion
3 behind the garage?

4 MR. MASONE: That was my only concern as to why I didn't do that.
5 There was two reasons why I didn't do that from the beginning. Reason
6 number one was, obviously, they were trying to get as much play space
7 for the kids as they could, and they still wanted to put a little
8 bit of shrubbery at the back, so right behind the cap of the wall
9 in order to make it not look so rough, so I dressed it up a little
10 bit. That was more so for the neighbor on the bottom because we're
11 gonna plant new emerald green arborvitaes once the wall is completed
12 to soften the area a little bit.

13 MEMBER HERNANDEZ: Where are you planting that? On the top or
14 on the bottom?

15 MR. MASONE: On top.

16 MEMBER GOODSSELL: So that's not softening the wall. That's
17 just giving privacy.

18 MEMBER HERNANDEZ: You still have a nine-foot wall with trees
19 on top of it.

20 MR. MASONE: Correct.

21 MEMBER HERNANDEZ: So you're not really hiding the wall in any
22 way.

23 MR. MASONE: That's correct.

24 MEMBER GOODSSELL: It's not as if you're building a five-foot
25 wall, you have a five-foot space with trees, and then another
26 five-foot wall.

1 MEMBER HERNANDEZ: And then the neighbor would see greenery in
2 that case, right? If the trees were in front --

3 MEMBER GOODSSELL: The neighbor would see five-foot wall --

4 MR. MASONE: Correct.

5 MEMBER GOODSSELL: And then greenery. This is --

6 MEMBER HERNANDEZ: Now, we keep talking about the neighbor
7 behind it. You haven't mentioned the neighbor next to the house,
8 which according to your plan is gonna have also a nine-foot wall on
9 that side.

10 MR. MASONE: So the neighbor to the right side is higher than.
11 The neighbor to the left side is lower, but the wall only extends
12 about 15 or 20 feet to the left there. It's the -- more so of the
13 wall is in the rear of the property than on the left-hand side. It
14 wraps the corner at nine feet, but then it steps down because the
15 grade of the property granularizes in -- the wall is gonna die into
16 the land on the left-hand side, so it's gonna be much more -- it's
17 gonna have much more visual effect on the rear neighbor than the
18 left-side neighbor.

19 ACTING CHAIRMAN FRANCIS: Now, is the height of the retaining
20 wall necessary to actually retain the earth?

21 MR. MASONE: The height of the retaining wall is necessary to
22 raise the grade to more of a level -- of the leveled area. In other
23 words, it's -- the grass line pitches off so low into the back yard
24 that to pick up the wall and then fill it in flat is what the retaining
25 wall is needed for.

26 ACTING CHAIRMAN FRANCIS: Could you -- is it possible to build

1 a step design retaining wall.

2 MR. MASONE: So it is possible to build a step design retaining
3 wall. My only fear with the step design retaining wall is that the
4 top retaining wall, the geogrid is gonna end up becoming mighty close
5 to the garage when we have to do the dig out because if I have a
6 five-foot wall, and a five-foot wall, I'm going to need a five-foot
7 or a six-foot depth for geogrid in the back.

8 MEMBER HERNANDEZ: So that's five, ten, 15, 6-21; you'll have
9 a 31-foot depth between the garage and the back. You'll have an extra
10 10 feet.

11 MR. MASONE: Correct. I mean, the --

12 MEMBER HERNANDEZ: It's too close?

13 MR. MASONE: The answer to the question is that it could work
14 as long as it's done very, you know, very gently and not roughly.
15 I believe in this case the customer is looking to gain as much space
16 in the back yard, if possible.

17 MEMBER HERNANDEZ: I can appreciate --

18 MR. MASONE: If possible, yes.

19 MEMBER HERNANDEZ: But I am more concerned, to be very honest
20 with you, that you're putting a nine-foot wall in the neighbor that's
21 gonna have maybe an eight-foot, 10-foot tree on top of it, and behind
22 those trees, you're putting in a basketball court so that the
23 neighbors are gonna be hearing thump, thump, thump, thump, any time
24 the kids want to play. I have kids, of course, all right, and my
25 kids played in my back yard, but I'm also very conscious of kids making
26 noise in the back yard, and you are putting it behind the garage,

1 so your garage is gonna provide noise protection, I guess, for the
2 homeowners because it's gonna block the sound, but it's also gonna
3 bounce right back to the neighbor behind them. That's what I'm
4 thinking of. What the impact it has on the two neighbors? I mean,
5 you keep saying that the one -- you're calling it the left I'm assuming
6 because you're looking out from the house to the neighbor on the left
7 because you look out from the house. According to your plan, the
8 wall's various heights that exceed five feet, 8.75 feet high along
9 the northwest, 7.9 to 4.9. It is coming down, but it's still a fairly
10 high wall.

11 MR. MASONE: Yes.

12 MEMBER HERNANDEZ: And on top of that, you're gonna have a
13 basketball court and you're gonna have trees, so you have basically
14 an elevated platform for the neighbor --

15 MR. MASONE: Well, the basketball court is on the right side.
16 So the neighbor on the right-hand side if I'm looking at the house.

17 MEMBER HERNANDEZ: Yes.

18 MR. MASONE: The basketball -- that neighbor is higher. So the
19 basketball court is gonna be more so level with that neighbor.

20 MEMBER HERNANDEZ: Okay. Why do you have a retaining wall on
21 that side?

22 MR. MASONE: Because we have to retain the neighbor's property.
23 So the neighbor's property is up here. Our property is down here.
24 The basketball court is going to be off the retaining wall. In other
25 words, it's not gonna -- the basketball court is not gonna be touching
26 the retaining wall. The retaining wall is gonna be -- as it's drawn

1 in the plan, and the court is gonna be -- there's going to be a foot
2 or two of dirt between the wall and the basketball court, but I still
3 have to retain the neighbor's dirt so that doesn't, you know,
4 obviously, fall onto the basketball court.

5 MEMBER HERNANDEZ: Okay, so you're --

6 MEMBER GOODSSELL: There are times like this that I wish we could
7 ring the door bell and go back and walk the property --

8 MR. MASONE: Come on. Let's go.

9 MEMBER GOODSSELL: -- to do that. This is -- we're relying on
10 your testimony.

11 MR. MASONE: No, I 100 percent understand.

12 MEMBER GOODSSELL: I did not see from the street.

13 MEMBER HERNANDEZ: So you're planting -- okay, so the hill
14 goes -- let's go -- let's say it's going this way.

15 MR. MASONE: Correct.

16 MEMBER HERNANDEZ: So you're curving into this hill, right?
17 And you're putting in a retaining wall here. To keep the neighbor's
18 land from --

19 MR. MASONE: No. So follow me for a second --

20 MEMBER HERNANDEZ: Okay.

21 MR. MASONE: The wall in the back is a straight line.

22 MEMBER HERNANDEZ: Okay.

23 MR. MASONE: From the house, the earth pitches down, so what
24 we're doing is we're raising the earth in the back to make it more
25 level.

26 MEMBER HERNANDEZ: Correct.

1 MR. MASONE: That's what this wall is for.

2 MEMBER HERNANDEZ: Correct.

3 MR. MASONE: This side, the left side, if I'm looking at the
4 house forward.

5 MEMBER HERNANDEZ: Yes.

6 MR. MASONE: The left side, that neighbor is lower. So yes,
7 when I come around that corner, it's gonna be nine feet, but then
8 it's gonna die down as I come back --

9 MEMBER HERNANDEZ: According to your -- not your drawings, I'm
10 sorry, the architect drawings.

11 MR. MASONE: Yes.

12 MEMBER HERNANDEZ: According to the architect's drawings, as
13 I look at the house, okay, the neighbor that has the retaining wall
14 is the one behind it.

15 MR. MASONE: Correct.

16 MEMBER HERNANDEZ: And the neighbor to the right, not the left,
17 which is behind the garage.

18 MEMBER DONATELLI: Also to the left.

19 MEMBER HERNANDEZ: Yeah, but I'm concerned about this guy with
20 basketball court.

21 ACTING CHAIRMAN FRANCIS: Oh, yeah.

22 MEMBER HERNANDEZ: I'm asking about this wall. Behind the
23 garage.

24 ACTING CHAIRMAN FRANCIS: Yes, behind the garage.

25 MEMBER HERNANDEZ: Behind the garage, you have two retaining
26 walls. The one going across the back.

1 MR. MASONE: Correct.

2 MEMBER HERNANDEZ: And one going from the garage to the back
3 line.

4 MR. MASONE: Because that neighbor is higher than us.

5 MEMBER HERNANDEZ: So you're curving into the land to retain
6 that neighbor's land, right, so that it doesn't collapse into -- you
7 must be curving into the land; otherwise why would you need a
8 retaining wall? You're either curving or you're filling; one of the
9 two.

10 MR. MASONE: I have some pictures of that wall.

11 MEMBER HERNANDEZ: Please.

12 MR. MASONE: That might help.

13 MEMBER HERNANDEZ: Please, absolutely. If you mail them to --

14 SECRETARY WAGNER: You have some that were submitted. Do you
15 have additional?

16 MR. MASONE: I probably do.

17 MEMBER HERNANDEZ: We can look at the pictures.

18 SECRETARY WAGNER: Can you send them -- email them to us?

19 MR. MASONE: All right, so, here is --

20 SECRETARY WAGNER: Can you email them to us?

21 MR. MASONE: Of course. What would the email be?

22 SECRETARY WAGNER: You can send them to my email;
23 vwagner@northhempsteadny.gov, and I'll send them to the board
24 members.

25 (Whereupon, a discussion was held amongst the board members.)

26 SECRETARY WAGNER: I just sent you photographs.

1 MEMBER HERNANDEZ: Thank you.

2 MEMBER DONATELLI: Email?

3 SECRETARY WAGNER: Yes.

4 MR. MASONE: So if I can clarify?

5 MEMBER HERNANDEZ: Yes.

6 MR. MASONE: The retaining wall on the right-hand side of the
7 garage --

8 MEMBER HERNANDEZ: Behind the garage.

9 MR. MASONE: Behind the garage.

10 MEMBER HERNANDEZ: Yes.

11 MR. MASONE: Is more so from an engineering structurability
12 standpoint so I can sleep at night. That wall -- the geogrid is
13 actually running into our property that we're constructing on. When
14 you build the setback retaining wall systems, having that corner
15 return and extending it as far as you can, gives you the most
16 structurability. So the blocks are actually -- the blocks are
17 actually buried with the face facing the neighbor that they're not
18 going to see. Realistically, if I was picking up the grade, there're
19 architects, engineers, contractors that would say that wall might
20 not have been necessary. I feel that because the rear wall is
21 nine-foot tall that return stretching to the garage makes my rear
22 wall that much stronger.

23 MEMBER HERNANDEZ: Thirty-one feet.

24 MR. MASONE: I mean --

25 MEMBER HERNANDEZ: Thirty-one feet. That's a lot of
26 cinderblock.

1 MR. MASONE: It could of been 20, but. The issue is once I'm
2 running the sigma block on the rear, I can't tie a cinderblock to
3 it, so I can't exactly switch from a sigma block on the corner to
4 an 8-inch CMU block running back to the garage because there's no
5 way to interlock them. These blocks are built or manufactured to
6 have step back and to be interlocked together with the geogrid system,
7 so it only made sense -- yes, I probably could have eliminated a decent
8 portion of that, but the reason that it's there is so that I can sleep
9 at night knowing that this wall is never gonna fall.

10 MEMBER DONATELLI: I understand your point. I'm certainly
11 familiar with these engineered retaining walls. Getting back to the
12 town code. The town has said in its building plans -- that in its
13 building regulations, it does not want retaining walls more than five
14 feet. That they do want it stepped, and I understand that your client
15 is trying to maximize yard space, whether it's for basketball court
16 or for whatever other reason.

17 The problem is that much of what we do sets precedent going
18 forward. I know that about a year ago we had another application
19 also in Port Washington where someone wanted to build a retaining
20 wall that was nine feet high and -- in that case, we had another
21 neighbor who said look, I'm okay with this. The problem is that there
22 may be a neighbor who's not okay, or this person who says he's okay
23 with this can sell the property a year from now, and somebody -- and
24 then you may discover for the first time that whoever wants to buy
25 it, doesn't want to be looking at an 8.75-foot tall retaining wall.

26 So while I'm sympathetic with your client's desire to have a

1 flat yard, our problem is that we're not just voting on this
2 application. We'll be voting on a similar application that may come
3 before us in the future. While I understand that your client is
4 looking to maximize the yard space, I don't see how we can justify
5 granting a variance for a good 80 percent more than what the town
6 code allows.

7 MR. MASONE: So my question to you is, if you look at the picture
8 that I had emailed over, the retaining wall is going to meet the height
9 of the black chain link fence that used to be there. It's not going
10 to exceed that.

11 MEMBER HERNANDEZ: Not supposed to be six feet. Not supposed
12 to be any taller than six. If it's taller than six, it's not legal.

13 MEMBER DONATELLI: Right, that's another issue.

14 MR. MASONE: It was a four-foot fence. No, it was a four feet
15 that was there previously, but because of the grade of the yard, the
16 fence was lower.

17 MEMBER DONATELLI: Okay, so it's a separate issue. Fences are
18 supposed to be no taller than six feet on the rear lot line. Getting
19 back to the retaining wall. If there are other possibilities that
20 your client can do. For example, terracing can be quite beautiful,
21 and still your client can -- it is a large backyard. Your client
22 can still accomplish much of what they want, even if there is some
23 terracing.

24 So again, we are empowered to grant variances under certain
25 circumstances, but here, your client does have a viable path forward
26 under existing code.

1 Let me ask a simple question. How much land does your -- because
2 it's difficult for me to tell from the survey. How much land does
3 your client own beyond the retaining wall behind the proposed
4 retaining wall?

5 MR. MASONE: Towards the neighbor or --

6 MEMBER DONATELLI: Towards the neighbor.

7 MR. MASONE: I would have to check. I'm not 100 percent.

8 MEMBER DONATELLI: Because it wasn't really clear from the
9 survey. You can't tell.

10 MR. MASONE: I would have to site measure and get you that
11 measurement.

12 ACTING CHAIRMAN FRANCIS: Let's go back and revisit the step
13 design. For one, is it feasible to do that, and two, how much would
14 it be in terms of additional cost to do that?

15 MR. MASONE: It's very feasible to do it. As far as additional
16 costs though? I mean, most of the wall is probably going to be
17 reusable. Most of the material is probably gonna be reusable. It's
18 just -- it's gonna probably end up being -- the wall will end up being
19 two five-foot walls at that point.

20 MEMBER HERNANDEZ: You need a separate foundation for the other
21 wall.

22 MR. MASONE: Correct. I mean, it's probably a 30 to 40 percent
23 cost, you know, to terrace back the wall.

24 ACTING CHAIRMAN FRANCIS: That would also make it compliant
25 with the law.

26 MEMBER DONATELLI: With the code.

1 ACTING CHAIRMAN FRANCIS: You'd have two five-foot walls.

2 MR. MASONE: Correct.

3 MEMBER HERNANDEZ: Out of curiosity. You said the property
4 drops back but it also drops sideways, right? And from the --

5 MEMBER DONATELLI: That's the way it looks.

6 MEMBER HERNANDEZ: Yeah, when you look at the pictures, it looks
7 like the property is sort of going -- so the house is sort of built
8 on a hillside.

9 MR. MASONE: It is.

10 MEMBER HERNANDEZ: It's going sideways and it's going back.

11 MR. MASONE: Correct.

12 MEMBER HERNANDEZ: So therefore the -- again, if it's
13 going -- and I may be wrong but if it's going to my left, all right;
14 then the highest point to the retaining wall should be the left
15 corner, right? If it's --

16 MEMBER GOODSSELL: Yes. What is the highest point of the
17 retaining wall? Standing in the street looking at the house, which
18 corner is the highest point in the retaining wall?

19 MR. MASONE: The highest point of the retaining wall is -- well,
20 no, because it drops on left side and right side.

21 MEMBER HERNANDEZ: Drops on both?

22 MR. MASONE: There was a wooden retaining wall where the
23 basketball court is going. There was a wooden retainer wall there
24 retaining the neighbor.

25 MEMBER HERNANDEZ: L-shape?

26 MR. MASONE: Yeah, so it -- well, the wall -- the dilapidated

1 wall ran the whole property.

2 MEMBER HERNANDEZ: On the back.

3 MR. MASONE: Yes, and on the garage side.

4 MEMBER HERNANDEZ: And on the garage side.

5 MR. MASONE: So it pitched back, and then drops off. So the
6 house is almost like -- it's almost like a crown, right? And then
7 the house is in the center, and then it goes in three directions.

8 MEMBER HERNANDEZ: Except that one neighbor is higher?

9 MR. MASONE: Yes, and the reason for my thought of the
10 basketball court on that side was because it was closer to the right
11 side neighbor who is higher who does have a full background paradise
12 back there, so they're making the same noise while the kids are
13 playing basketball; you know what I mean? So it's one of those things
14 where if someone's jumping around and, you know, playing in the back
15 yard, I feel like, you know, that's the right place to put it.

16 MEMBER DONATELLI: Let me suggest this. I would really like
17 your applicant or your client to get a full opportunity to be heard.
18 If the neighbor is willing to submit a letter in support, I would
19 like to see that.

20 MR. MASONE: Of course.

21 MEMBER DONATELLI: So my suggestion to the Chairman -- to the
22 Vice Chairman might be to continue this hearing for purposes of that
23 letter, and then --

24 MEMBER HERNANDEZ: Should be two letters, right?

25 MEMBER DONATELLI: Well, whatever letters you want to submit.

26 MEMBER HERNANDEZ: Yeah, whatever letters you can get.

1 SECRETARY WAGNER: Consent letter from the neighbors.

2 MEMBER DONATELLI: Consent letter from the neighbor.

3 MR. MASONE: From the rear neighbor, correct?

4 MEMBER DONATELLI: From any neighbors that are affected.

5 MEMBER HERNANDEZ: Any neighbor affected.

6 MEMBER DONATELLI: Yes.

7 MR. MASONE: Okay.

8 MEMBER DONATELLI: It can only help your case.

9 MR. MASONE: No, I understand.

10 MEMBER DONATELLI: And submit those. I would suggest that we
11 continue it for those letters, and then we take it from there.

12 MR. MASONE: Just for clarity. I don't not like the tiered
13 system. In fact, we do them all the time. My only concern with the
14 tiered system is that now, we're gonna take the 90-foot property,
15 and I'm gonna make it 80 foot by tiering a retaining wall on both
16 sides. And now, I'm gonna take the depth from house to property line
17 and bring that back another 10 feet.

18 MEMBER GOODSSELL: That may be.

19 MEMBER HERNANDEZ: Five, not ten.

20 MR. MASONE: Well, two walls.

21 MEMBER HERNANDEZ: Five this way and five this way, so it's not
22 10 feet. Five this way and five this way.

23 MR. MASONE: You're right. I'm sorry; five, five, five; yeah,
24 okay, no, you're right. Yeah, five in the back. Ten on the sides.

25 MEMBER HERNANDEZ: Yes, correct.

26 MEMBER DONATELLI: I would just like to expand a little bit on

1 what I said earlier. We always encourage all applicants to submit
2 whatever documentation they can.

3 MR. MASONE: Of course.

4 MEMBER DONATELLI: Letters from the neighbors in support.
5 There might be other things. That is not necessary determinative
6 of our decision.

7 MR. MASONE: Understood.

8 MEMBER DONATELLI: We're bound by, you know, the Five Factors
9 that we're required to consider by law, but again, whatever you want
10 to submit in addition to that we will consider it as we make our
11 decision.

12 MR. MASONE: Okay.

13 ACTING CHAIRMAN FRANCIS: And one of the other things that we
14 have to do is -- to the extent that we can mitigate the need for a
15 variance. If you can discuss the step design with your clients and
16 give us their response to that, whether or not they will be fine with
17 it.

18 MR. MASONE: So I --

19 ACTING CHAIRMAN FRANCIS: And I'm guessing that already you
20 probably have some reason for not, but I think you can tell what the
21 tenure of the board is with regard to the present plan.

22 MR. MASONE: And I totally respect it. I've had the
23 conversation with Mrs. Becker, and I don't -- I mean, I can do it
24 again, but I don't believe that she's gonna go for the, you know.

25 ACTING CHAIRMAN FRANCIS: Yeah.

26 MR. MASONE: The whole idea was to try and gain property space.

1 ACTING CHAIRMAN FRANCIS: Yeah.

2 MR. MASONE: You know, now, we're going back to kind of where
3 she is at now.

4 ACTING CHAIRMAN FRANCIS: Well --

5 MR. MASONE: And I get it. I get it.

6 ACTING CHAIRMAN FRANCIS: I guess the alternative is gain
7 property space or gain no property space --

8 MEMBER HERNANDEZ: Gain nothing.

9 ACTING CHAIRMAN FRANCIS: -- by having your application denied.

10 MR. MASONE: Understood.

11 MEMBER HERNANDEZ: Again, it's all visual. It's one thing if
12 you saw -- if you're putting the retaining wall on your side of your
13 property where you're looking at the retaining wall, and you don't
14 feel that nine-foot retaining wall is a problem, and you want to live
15 with it, then you're only affecting yourself. When you're putting
16 that wall to a neighbor, okay, it changes everything.

17 MEMBER DONATELLI: And as you have these discussions with your
18 client perhaps you can find out exactly how much space is behind the
19 proposed retaining wall and your clients lot line. As to whether
20 or not it's feasible to plant some sort of shrubbery, arborvitae,
21 or something similar, so that you might soften the visual impact on
22 the rear neighbor.

23 MR. MASONE: Let me ask this question, then.

24 MEMBER DONATELLI: Sorry, one more point. My other point is
25 that you may want to check the BZA records to see whether or not any
26 similar variances -- I recall one specifically that was extremely

1 similar to this in Port Washington that was denied, but there may
2 have been other instances where it was granted, and again, that can
3 only help your case if you can cite some precedent.

4 MR. MASONE: Yeah, I have to -- I actually got a variance for
5 a wall on West Shore Road that we did on Main Road back in the house
6 up on the hill to do a two-tiered wall, but the walls were, I believe,
7 they were 6.5 or 7 feet tall each. It was a two-tiered wall. I have
8 to provide out of my office, but yeah, I'll definitely find that.

9 My other question is this. Because that idea that you just
10 mentioned is actually not a bad idea. Would moving the wall, the
11 position of the wall back four feet in order to plant an emerald green
12 or a green giant at the bottom of the wall, make things different?

13 MEMBER DONATELLI: Well, again, we don't know what the distance
14 is right now --

15 MR. MASONE: It's definitely not enough room for a tree. I know
16 that. That I know for a fact. That.

17 MEMBER DONATELLI: Why don't you discuss these options with
18 your client. We'll continue to keep the record open for that
19 purpose, and, you know, we can -- we try to mitigate --

20 MR. MASONE: I understand.

21 MEMBER DONATELLI: We ask applicants try and mitigate --

22 MR. MASONE: Of course.

23 MEMBER DONATELLI: -- the effect of any variance that might be
24 granted.

25 MR. MASONE: Okay.

26 MEMBER HERNANDEZ: Just because of what you said I'd like to

1 add to proposing as an option to move the wall closer to the neighbor
2 into your neighbor's property. You'll have room for planting. That
3 could be the same five-foot step. Like almost the same five-foot
4 setback that you need to have for a step back wall, so you're not
5 gonna have any more flat surface by doing that because once you move
6 the wall in you're gonna pretty much end up and you create the problem
7 that you need to maintain those plantings now.

8 MR. MASONE: Well, yes and no, because if I do that then I don't
9 have to plant on top of the wall. Right, so I gain that space now.
10 As it is now, I -- that would be the same thing as I have now because
11 if I move the wall back four feet, it would be the same four-foot
12 bed that I'm gonna be on top of the wall now, so that planting area
13 would be equal to moving the wall back and planting in front of it.
14 I feel like -- I almost feel like that might be a better option to
15 the put the trees on the bottom and gain all the space on the stop.

16 MEMBER HERNANDEZ: Just be aware of safety. Kids playing back
17 there, basketball court.

18 MR. MASONE: Of course.

19 MEMBER HERNANDEZ: And it all goes that way, all of a sudden
20 you have kids landing on top of trees.

21 MR. MASONE: Yeah, I get it.

22 MEMBER DONATELLI: We don't tell you what to do, but you might
23 want a fence --

24 MR. MASONE: No, I understand.

25 MEMBER HERNANDEZ: Be aware of safety. That's all.

26 MEMBER DONATELLI: Mr. Chairman, I suggest we continue this.

1 ACTING CHAIRMAN FRANCIS: Yes, absolutely.

2 MEMBER GOODSSELL: Our next meeting is not until --

3 ACTING CHAIRMAN FRANCIS: The 18th.

4 MEMBER GOODSSELL: The 18th.

5 MR. MASONE: December 18th?

6 MEMBER GOODSSELL: Yeah, December 18th.

7 MR. MASONE: So then what is the -- should I submit the letters?

8 MEMBER HERNANDEZ: You don't have to come in person. Just
9 submit everything to Ginny.

10 MR. MASONE: Okay.

11 ACTING CHAIRMAN FRANCIS: Yes.

12 MR. MASONE: And then follow up on?

13 MEMBER DONATELLI: Any other info --

14 ACTING CHAIRMAN FRANCIS: Any other thing you want to submit.

15 MR. MASONE: Okay. And then if we -- if I do have a conversation
16 with them about tiering the walls.

17 MEMBER HERNANDEZ: If something changes, you can --

18 ACTING CHAIRMAN FRANCIS: Yeah.

19 SECRETARY WAGNER: You can send us an email, and say, we're
20 looking at --

21 MR. MASONE: I can use your email?

22 SECRETARY WAGNER: Yes.

23 MR. MASONE: Okay.

24 SECRETARY WAGNER: Looking at revisions to the plans. You can
25 send to my email, but also send it to whoever reviewed the

1 application.

2 MR. PERROTTA: Yeah, I'll talk to him.

3 SECRETARY WAGNER: He'll give you the email address.

4 MR. MASONE: Okay.

5 ACTING CHAIRMAN FRANCIS: Thank you for a very good
6 application.

7 MEMBER DONATELLI: Thank you.

8 MR. MASONE: Thank you, ladies and gentlemen. Have a wonderful
9 day and a Happy Thanksgiving.

10 ACTING CHAIRMAN FRANCIS: You too.

11

12 SECRETARY WAGNER: Appeal #21613, Elham Gilardi; 42 Snapdragon
13 Lane, Roslyn Heights; Section 7, Block 226, Lot 9; in the Residence-AA
14 Zoning District.

15 Variances 70-21.A, 70-22.3.A, 70-22.3.B, 70-22.7, 70-102.C(1)
16 & 70-102.C(2) to construct a new home that would be too close to the
17 side property line and with total side yards that are too small,
18 violates the sky exposure plane (both sides), is taller than the
19 horizontal distance between the side property line and the home, with
20 an eave height that is too high; and to legalize pool equipment
21 located in a side yard and too close to a side property line; and
22 to legalize pool barrier fencing extending beyond the rear building
23 line.

24 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21613, Elham
25 Gilardi. Is there anyone interested in the application other than
26 the applicant? Seeing no one, Mr. Susa, please give your name and

1 address.

2 MR. SUSA: My name is Emilio Susa. I reside at 23 Russell
3 Drive, New Hyde Park, New York 11040. Good morning, Mr. Chairman,
4 members of the board.

5 ACTING CHAIRMAN FRANCIS: Good morning.

6 MR. SUSA: So we're here before you today to discuss the
7 proposed additions and renovations to this home. I just wanted to
8 start by saying that the way the Notice of Disapproval was sort of
9 crafted by the plan's examiner just to me is a little misleading.

10 I'll start with the first item for side yards. We're not
11 proposing a 10-foot side yard. Right now, the existing
12 residence -- and we're gonna leave the original foundation of the
13 residence, but -- the residence has a 10-foot side yard on the west
14 side of the property and it has nearly a 16-foot side yard on the
15 east side of the property. As part of our renovation, we're
16 proposing to hold that 10 foot on the west side and build vertically
17 over it and construct a new second floor, but on the opposite side,
18 we're decreasing -- I'm sorry. We're increasing the side yard by
19 1.89 feet. So we're actually demolishing the existing garage and
20 proportion the house that presently occupies the east side of the
21 property and bring it in to give more of a side yard on that east
22 side. So there's an increase in side yard on that side.

23 With that said, we're in a AA Zone, and we do have failure
24 restrictive side yards, but -- to me, this was more of an existing
25 non-conforming type application. Just in my mind. One other item
26 is -- and I'll submit an exhibit for the record, but there was a -- if

1 you turn to the elevation sheet, which is sheet number --

2 ACTING CHAIRMAN FRANCIS: A5.

3 MR. SUSA: Yes, A5. That front elevation. Sort of kind of in
4 the middle, you'll see this piece sort of stick up right above the
5 front door and beyond the rest of the house. Sort of a rectangular
6 shape piece with some windows in it. That is where we would --

7 MEMBER HERNANDEZ: A5, you said?

8 MR. SUSA: I'm sorry?

9 MEMBER HERNANDEZ: A5?

10 MR. SUSA: A5, yes.

11 MEMBER HERNANDEZ: That's the front, okay.

12 MR. SUSA: Right. So that is where the Building
13 Department -- the top of that is where the Building Department had
14 cited us for exceeding the allowable eave height.

15 ACTING CHAIRMAN FRANCIS: Right.

16 MR. SUSA: So we're proposing to change that into a pyramid.
17 So it will no longer -- in my mind, we no longer will be seeking the
18 variance to exceed the allowable eave height. It's just gonna be
19 a -- more of a skylight.

20 ACTING CHAIRMAN FRANCIS: Mr. Susa, can you just orient me with
21 regard to the front of the house. I'm having trouble determining
22 where the door is.

23 MEMBER GOODSSELL: It's not a center hall colonial.

24 MR. SUSA: It's not -- it's definitely not a center hall
25 colonial.

26 MEMBER DONATELLI: It's the darkened -- yeah.

1 MR. SUSA: The front door would be right here in line with that
2 piece.

3 ACTING CHAIRMAN FRANCIS: Okay.

4 MR. SUSA: Yes.

5 MEMBER DONATELLI: Mr. Susa, when you talk about making a
6 pyramid -- I mean, we're showing two encroachments.

7 MEMBER HERNANDEZ: He's talking about eave height, not sky
8 planes. He's talking about the eave height.

9 MR. SUSA: Yeah, right now, I'm just talking about eave height.

10 ACTING CHAIRMAN FRANCIS: Oh, okay.

11 MR. SUSA: Eave height.

12 MEMBER HERNANDEZ: This little thing.

13 ACTING CHAIRMAN FRANCIS: So that's gonna bring down.

14 MR. SUSA: So that will eliminate the need for a variance.

15 MEMBER HERNANDEZ: What is that? A chimney?

16 MR. SUSA: Oh, that is just like a clear story that was directly
17 over the front entry. So it's a double height front entry, so it
18 was meant to let light into that, and we're gonna change that.

19 MEMBER HERNANDEZ: Then I'm lost now.

20 MEMBER DONATELLI: Yeah. I'm not sure that I see how that
21 relates to the entry.

22 MR. SUSA: Can I point to you?

23 MEMBER DONATELLI: Yeah.

24 MEMBER HERNANDEZ: We have the same plans here, so you can
25 just --

26 ACTING CHAIRMAN FRANCIS: Yeah, come on in. Can we go off the

1 record for a moment?

2 MEMBER HERNANDEZ: Yeah.

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

4 DEPTUY TOWN ATTORNEY ALGIOS: We need to have all this on the
5 record. This can't be off the record. It's part of the application.

6 ACTING CHAIRMAN FRANCIS: Okay.

7 SECRETARY WAGNER: We can put it on the easel.

8 DEPTUY TOWN ATTORNEY ALGIOS: Put it on the easel and discuss
9 from there.

10 MEMBER DONATELLI: Yeah, we can go down.

11 ACTING CHAIRMAN FRANCIS: Why don't we do that. Put it on the
12 easel, and we can join you. Field trip.

13 MEMBER DONATELLI: All right. We're are on the record.

14 MR. SUSA: Back on the record.

15 MEMBER HERNANDEZ: On the record.

16 MR. SUSA: Okay, so this right here is the grand foyer entry.
17 Just beyond the front door, we put -- almost like an elevated side
18 that would situate itself right over that grand foyer entry, but it
19 triggered this being considered the eave.

20 MEMBER HERNANDEZ: The highest point of the house.

21 ACTING CHAIRMAN FRANCIS: Right.

22 MR. SUSA: So what we're gonna do is just slope it. Make it
23 almost like a pyramid, which will therefore eliminate this as being
24 considered the eave to that eave.

25 ACTING CHAIRMAN FRANCIS: Right.

26 MR. SUSA: Which is below the 22, which it's 21 foot 4.

1 ACTING CHAIRMAN FRANCIS: Okay.

2 MEMBER HERNANDEZ: What is this?

3 MR. SUSA: Oh, that's the chimney.

4 MEMBER HERNANDEZ: That's the chimney.

5 MR. SUSA: Yes. So just in terms of -- this is my existing
6 setback, and that is my proposed setback bringing in two feet.

7 The sky exposure planes; it's a very unusual property. It
8 slopes up and then really slopes up in the back, so we get a little
9 victimized by exposure planes.

10 MEMBER HERNANDEZ: So you're proposing to get rid of
11 the -- exceeding the eave problem by removing this to eave by
12 cutting --

13 MR. SUSA: By making it a sloping roof instead of a flat L-type
14 roof.

15 MEMBER HERNANDEZ: All right.

16 ACTING CHAIRMAN FRANCIS: Okay.

17 SECRETARY WAGNER: So he is proposing -- you're proposing to
18 change that?

19 MR. SUSA: Yes.

20 MEMBER HERNANDEZ: He's gonna change the crown so that it will
21 go away.

22 MR. SUSA: I'm gonna eliminate the need for eave variance.

23 MEMBER GOODSSELL: But's that's only one issue, right? You're
24 gonna need --

25 MR. SUSA: There are other issues.

26 MEMBER HERNANDEZ: Let's address the others.

1 SECRETARY WAGNER: Okay. That's a good change.

2 ACTING CHAIRMAN FRANCIS: Yeah.

3 SECRETARY WAGNER: You're completely getting rid of the sky
4 exposure plane variance?

5 MEMBER DONATELLI: No.

6 MR. SUSA: The eave variance, yes.

7 ACTING CHAIRMAN FRANCIS: Now, we're talking about sky
8 exposure.

9 MR. SUSA: Sky exposure, yeah.

10 MEMBER DONATELLI: It's all about Eve.

11 MR. SUSA: Just in terms of sky exposure. Again, we're working
12 with an existing setback on the east side. We really don't have much
13 choice there. We'd like to extend vertically, and you can see on
14 our elevations, due to the -- the way the grade is situated, you know,
15 we're violating that sky exposure. I, you know, I'm not too sure
16 I see a way around it other than absolutely demolishing the entire
17 house in its totality and rebuilding it. We were trying to keep the
18 foundation, and I thought that on the west side, we still wanted an
19 attached two-car garage as we have now. We did step it in two feet,
20 so we've increased that side yard along the west side, but even by
21 increasing the side yard along the east side, it's still violates
22 the sky exposure.

23 ACTING CHAIRMAN FRANCIS: Does it violate with regard with the
24 house as it exists right now?

25 MR. SUSA: I would say that yes it does. On the -- definitely
26 on the west side. On the east side, I must say, I didn't check that.

1 The house kind of has a two-story version that favors the west side
2 and then kind of steps down. The east side maybe not, but certainly
3 the west side it does.

4 ACTING CHAIRMAN FRANCIS: Okay.

5 MEMBER DONATELLI: You know, from time to time, we do get
6 applications where applicants come before us and say they want to
7 reuse the existing foundation. That is problematic for us. The way
8 I kind of view it as is what percentage of the overall project is
9 the pouring of a compliant foundation versus a pre-existing
10 foundation?

11 You're essentially building an entire new house. Or you are
12 building a new house on an existing foundation. I have to think that
13 the foundation is a relatively small portion of the project that's
14 being proposed.

15 MR. SUSA: Well, I would say, the addition on the east side is
16 obviously all brand new with the two-car garage, but, you know, from
17 that point over -- so the first 21 feet hitting the east to west,
18 is all new foundation, but the rest of it is existing, so, I -- you
19 know, I would say, it's sort of a one-third, two-third.

20 MEMBER DONATELLI: But you're not using any existing walls.
21 You're not using any existing roof, right? I mean you're --

22 MR. SUSA: No, we are not.

23 MEMBER DONATELLI: You're building a new house.

24 MR. SUSA: Well, the framing is -- the framing is new. New
25 frame, yeah.

26 ACTING CHAIRMAN FRANCIS: But they don't want to trigger the

1 new house ramifications.

2 MR. SUSA: Well, by the Building Department's definition, they
3 consider that a new home.

4 MEMBER DONATELLI: Right, it's under 50 percent.

5 MR. SUSA: Yes.

6 MEMBER HERNANDEZ: When we talk about adding a second floor to
7 a house and building straight up, we've heard you use that terminology
8 before.

9 MR. SUSA: Sure.

10 MEMBER HERNANDEZ: We're talking about a Cape Cod rectangular
11 and you're adding a second floor, and yes, at that point, we -- you
12 know, it's sort of reasonable that if we have the first floor at X
13 number of feet from the wall, then the second floor is gonna be X
14 number of feet from the side, but you're leaving that first floor
15 intact. As I look at this house, it doesn't appear that you're
16 leaving that first floor intact. It appears there's a lot of changes
17 going on.

18 MR. SUSA: There's certainly -- it will be reframed.

19 MEMBER HERNANDEZ: Yeah.

20 MR. SUSA: But, you know, as you can see, the existing
21 foundation footprint it's 52 feet by roughly 33 feet. We would want
22 to keep that, and just build vertically along the front, along the
23 side, and along the rear, so that the setbacks along the front, back,
24 and the west side all will remain the same as the house is right now.
25 It's just that far east side we're demolishing the existing two-car
26 garage and attached structure to rebuild a new two-car garage.

1 MEMBER HERNANDEZ: But you realize the impact to the neighbors,
2 right? When you have a one-story structure that encroaches on the
3 neighbor is one thing. Now, when you add a second story on top of
4 that, that encroaches completely on the neighbor, it doubles the
5 impact.

6 MR. SUSA: We understand the impact. The neighbors are aware
7 of the proposed work. They do not object to the proposed work, and
8 while we're on the subject of the neighborhood; I don't know if you're
9 at all that familiar with the area of Snapdragon, the homes that are
10 contained within this neighborhood, which I'd like to enter this into
11 the record. I think our house pales in comparison.

12 SECRETARY WAGNER: This will be Exhibit 1.

13 MR. SUSA: These are just -- these are all just a few homes away.
14 Substantially large homes. I think also --

15 MEMBER DONATELLI: When you say large homes, are we talking
16 about square footage here?

17 MR. SUSA: The square footage, the height. One thing that I
18 would say just is that our house is a flat roof, so we have no pitched
19 roof above that, so 21 foot 4 is the max height of this house. So
20 some of the other homes, you know, obviously, you can go to 30 feet,
21 and they have much more mass and volume. We're a modern design, but
22 I think to a degree that gives us a lower profile and less of an impact
23 to the neighbor. Like I said 21 foot 4 would be --

24 MEMBER HERNANDEZ: Again, we were showing a photograph of a
25 two-story house. No doubt about it.

26 MR. SUSA: Just the context of the neighborhood. That's all --

1 MEMBER HERNANDEZ: I realize that, but if you also look at the
2 photographs, there's a driveway, which is at least 10 feet. There's
3 greenery on one side. There's greenery on the other side that is
4 very far away from the property line. So in context, yes, got some
5 very large houses, but they're in a totally different location on
6 the property.

7 MR. SUSA: Let me just say something else. The overall
8 proposed height of this house is 21 feet 4 inches. The existing house
9 right now is basically 21 feet. It's an angle pitched Cape Cod
10 style. We're not building this monstrosity of a home. It sits low
11 to the ground. It has a low profile.

12 MEMBER DONATELLI: You're asking for a great many variances.

13 ACTING CHAIRMAN FRANCIS: Yeah, there's a lot going on.

14 MEMBER DONATELLI: And sky plane exposure quite honestly is
15 really -- it's a calculation that the Town Board has made, that the
16 Building Department has made to try and cut down on houses encroaching
17 in people's views in the air space, and these are fairly large sky
18 plane exposure.

19 Maybe what you should do is go through your variances one by
20 one and kind of quantify for us, but there's a lot going on in this
21 application. This is not just one or two variances. There's a lot
22 going on here.

23 MR. SUSA: I feel to the degree -- they're pre-existing to a
24 degree. They're -- we're just building where we -- again, on the
25 east side, we're stepping it in two feet. On the west side, we're
26 going vertical with the old foundation.

1 MEMBER DONATELLI: And I don't mean to be argumentative, but
2 again, in terms of the overall project, using the foundation, reusing
3 the existing foundation is a relatively small part of the overall
4 project. This is really for all intents and purposes a new home.
5 I understand your argument that you want to use the existing
6 foundations, but if the existing foundation is not compliant -- this
7 is a Residence AA Zone. This is really among the more beautiful areas
8 that the more spacious areas of the town, and even the photographs
9 that you submitted, they're -- we don't know whether or not their
10 variances were granted.

11 MR. SUSA: Right, and I'm not saying that --

12 MEMBER DONATELLI: We don't know if they're compliant or not,
13 but we -- I certainly see a lot of variances here and I would like
14 to at least go through the Five Factors and address the Five Factors
15 as to why you consider them significant or not significant.

16 MR. SUSA: Do you have that cheat sheet?

17 MEMBER HERNANDEZ: It should be --

18 MR. PERROTTA: There's one --

19 SECRETARY WAGNER: The one right there. On top.

20 MR. SUSA: Yeah, I got it.

21 ACTING CHAIRMAN FRANCIS: Mr. Susa, before you.

22 MR. SUSA: Yeah.

23 ACTING CHAIRMAN FRANCIS: I want you to respond to or talk about
24 this open area, outdoor area on the second floor behind the master
25 bedroom. Are the neighbors on that side, do they realize that this
26 is open area and that anyone standing in that open area is going to

1 be looking down on their property?

2 MR. SUSA: Well, let's see. I'm not sure they fully realize
3 that. They do have some screening there. It's not a -- can I just
4 submit? We did some, like, color renderings. Could I just submit
5 those?

6 MEMBER GOODSELL: I'd would love to see that.

7 ACTING CHAIRMAN FRANCIS: Yeah.

8 MR. SUSA: Just so they kind of complete the picture of --

9 ACTING CHAIRMAN FRANCIS: Definitely.

10 SECRETARY WAGNER: That would be Exhibit B.

11 MR. PERROTTA: This is helpful.

12 (Whereupon, a discussion was held amongst the board members.)

13 MEMBER DONATELLI: As I look at these color renderings that you
14 just handed up, I think you already have a pyramid in the front where
15 you're talking -- -

16 MR. SUSA: We updated. Yes, we updated.

17 MEMBER DONATELLI: So this reflects that?

18 MR. SUSA: That reflects the change in that --

19 MEMBER DONATELLI: Not in your drawing. Just in the rendering.

20 MR. SUSA: Yes, it does.

21 (Whereupon, a discussion was held amongst the board members.)

22 MR. SUSA: If I can point out something on the survey. Do you
23 have the survey in front of you?

24 ACTING CHAIRMAN FRANCIS: Yes.

25 MR. SUSA: Not that there's a legal argument for this, but if
26 you look at the survey where the house is positioned right now.

1 Again, on the east side we're pulling it in two feet, so we're
2 increasing the side yard and the aggregate.

3 MEMBER HERNANDEZ: On the garage side you're saying?

4 MR. SUSA: On the garage side, yes. So other than that, we're
5 building over this footprint. Yes, there is a rear extension behind
6 the garage, which is new, but the rest, the two-third of this, we're
7 building right over that footprint that you see. So if, you know,
8 the owner's embarking on a -- obviously, it's a large scale
9 renovation, but, you know we want it to have -- at the end of the
10 day, we want something comparable to what we have already.
11 Obviously, better, which is more of the square footage, but, you know,
12 to eliminate the garage altogether or to sort of detach and push it
13 to the back, is not feasible because of how the grade works on the
14 property. So just in terms of, you know, really just addressing
15 those sky exposure planes.

16 MEMBER GOODSSELL: So with respect to your setback, your
17 argument is that you're building over the existing foundation and
18 you're actually giving back two feet on one side --

19 MR. SUSA: That is correct.

20 MEMBER GOODSSELL: -- to the other.

21 MR. SUSA: Yes.

22 MEMBER GOODSSELL: Perhaps you'd like to address the next
23 variance, which is sky exposure.

24 MR. SUSA: Well, you know --

25 MEMBER GOODSSELL: 70-22.3A. The renderings that you have
26 given us, which are absolutely lovely, make it look like this house

1 is on a three-acre piece of property with no neighbors.

2 MR. SUSA: Rendering embellishment.

3 MEMBER GOODSSELL: What you have is a square piece of property.

4 Almost square that it's 100 feet by approximately 160. Address the
5 sky plane issues because the current house does not violate the sky
6 plane. The old house did not.

7 MR. SUSA: Well, I believe on the west side it does. Because
8 that sky exposure keeps projecting inward into the lot, it hits the
9 second floor that's there now.

10 MEMBER HERNANDEZ: Do you have a picture of the current house?

11 MEMBER GOODSSELL: I'm looking at Google.

12 MR. SUSA: Yes. There is a step on the west side. It's like
13 a one-story, and then it steps, and then there's the two-story.

14 MEMBER GOODSSELL: The current house was built, correct me if
15 I'm wrong, somewhere around the 1970s?

16 MR. SUSA: It appears that way, yes.

17 MEMBER GOODSSELL: Have you looked at the plans for that? Is
18 that correct that that house right now has a corner that violates
19 sky plane?

20 MR. SUSA: Well, when I mapped out on the computer, I don't see
21 how it could not because if you plug in the sky exposure plane based
22 on the grade that's there now, no matter how far in the house is,
23 you'd be limited to a 14 foot higher house on that west side.

24 MEMBER GOODSSELL: On the west side.

25 MR. SUSA: Yeah.

26 MEMBER DONATELLI: Would it be possible to scale back the second

1 floor such that you didn't violate the sky plane exposure? To bring
2 them all back?

3 MEMBER GOODSSELL: Our question always is -- now, you're saying
4 this is not a new house, but we know it's a new house. It's beautiful,
5 but it's completely different.

6 MR. SUSA: Yes.

7 MEMBER GOODSSELL: Why can it not be built to fit the code since
8 you're building almost from scratch.

9 MR. SUSA: That would require just, you know, removal of all
10 foundation altogether, which would -- I mean that foundation -- what
11 we're leaving, to replace would have to be at least 100,000 --

12 MEMBER GOODSSELL: Foundation does not violate sky exposure.
13 The house does.

14 MR. SUSA: Understood. I think the stepping of it would
15 be -- tends to get kind of expensive. We have an open-floor plan.
16 The support of it with steel beams -- I always personally like to
17 extend vertically myself. This just really doesn't fit the look that
18 we're going for. So if we squeeze the house into a very narrow shape,
19 technically, I guess it could be in compliance, but of this modern
20 home, you know, doesn't have pitch roofs, and --

21 MEMBER GOODSSELL: According to the survey, the pool is already
22 there.

23 MR. SUSA: The pool is there.

24 MEMBER GOODSSELL: Is that pool going to be reused?

25 MR. SUSA: It's staying.

26 MEMBER GOODSSELL: Okay. Does it prevent a house from

1 pushed -- from being pulled in from the sides and pushed further into
2 the yard?

3 MR. SUSA: It does. Yes, it does. Certainly. Because we're
4 only maybe about 18 feet away from the pool now as it stands with
5 the existing house. We're gonna hold that line in the back.

6 MEMBER GOODSSELL: I see that in the plans.

7 MR. SUSA: The only area which we did extend into the back that
8 was behind the garage, that's where there's no pool.

9 MEMBER DONATELLI: But the sky -- getting back to the sky plane
10 exposure. If the house were made narrower then you wouldn't have
11 an issue with the sky plane exposure.

12 MR. SUSA: Well, I don't know. I beg to differ because
13 there's -- I have a blowup of the -- can I submit this too?

14 MEMBER DONATELLI: Sure.

15 MEMBER GOODSSELL: I love diagrams. You can submit anything you
16 want.

17 SECRETARY WAGNER: This is Exhibit C.

18 (Whereupon, a discussion was held amongst the board members.)

19 MR. SUSA: So if I can just walk you through the section. I
20 just overlaid like what would be the compliant setbacks. Let's say
21 on the section one of - right, so on the left side I put a 20-foot
22 setback, and then on the right side I put a 15-foot setback.

23 ACTING CHAIRMAN FRANCIS: Mr. Hernandez pointed out that with
24 regard to the second floor.

25 MR. SUSA: Yes.

26 ACTING CHAIRMAN FRANCIS: Half the house is really the master

1 suite. Can that be shrunk? I mean can that part -- speaking to what
2 Mr. Donatelli was saying, could the house be moved in a little to
3 kind of shrink some of that space?

4 MR. SUSA: On the east side?

5 ACTING CHAIRMAN FRANCIS: On the east side where the master
6 bedroom is.

7 MR. SUSA: Right. I would have to speak to -- I mean, it would
8 be a redesign, so I'd have to speak to the owners.

9 MEMBER HERNANDEZ: Obviously.

10 MR. SUSA: Yeah.

11 ACTING CHAIRMAN FRANCIS: Because that would eliminate that.

12 MR. SUSA: I guess the owners thing is really -- the violation
13 is more intense on the east side than the --

14 ACTING CHAIRMAN FRANCIS: I would agree.

15 MEMBER HERNANDEZ: And we would probably ask you to try and
16 minimize that as well because you're putting us in a very difficult
17 position by wanting to go straight up and violating all the exposures.

18 ACTING CHAIRMAN FRANCIS: I mean if I had a master suite that
19 big, I'd never leave my house. I'd work from there. I'd do
20 everything from there.

21 (Whereupon, a discussion was held amongst the board members.)

22 ACTING CHAIRMAN FRANCIS: Yeah, I mean, with regard to the sky
23 exposure, I don't think I've ever seen a more substantial violation
24 of sky exposure.

25 MEMBER DONATELLI: Many times --

26 MR. SUSA: You're referring to the east side?

1 ACTING CHAIRMAN FRANCIS: Yeah. Actually, both. Both sides.

2 MEMBER DONATELLI: East and west.

3 MR. SUSA: Well, the west is a -- it's small triangular piece
4 about --

5 MEMBER DONATELLI: You'd be surprised. Sometimes, people come
6 in for the width of a brick or two bricks.

7 ACTING CHAIRMAN FRANCIS: Right.

8 MEMBER DONATELLI: So this very substantial.

9 MEMBER HERNANDEZ: Right.

10 MEMBER DONATELLI: And again, this is one of the things that
11 immediately jumps out at you as you're standing on the street looking
12 at the property because it blocks your view of the sky. That's the
13 whole point of the sky exposure plane.

14 ACTING CHAIRMAN FRANCIS: Right.

15 MEMBER DONATELLI: So we're not an aesthetic board and we're
16 not really passing judgement. It actually seems to be a very nicely
17 designed house, but that -- to again, if you've been here all morning,
18 which I know you have, we're required to see whether or not there's
19 a possibility of minimizing any variance that we grant, and it seems
20 to be that this would be right for that kind of revision.

21 MEMBER GOODSSELL: It's a lovely house. It just doesn't seem
22 to fit on this lot the way the town envisions houses fitting on lots.
23 And realize that you're here in front of us because the Building
24 Department has disapproved. We are looking at what these asks are
25 and some of them are nominal. Sky plane exposure is a pretty big
26 one.

1 I'm the newest member on the board. I do not remember ever
2 seeing something with this much sky exposure violation come before
3 this board. I think the chairman is correct. I have not seen this.
4 I mean we've had people come for a foot, for two bricks, for a matter
5 of inches, which we understand.

6 MR. SUSA: Right.

7 MEMBER GOODSELL: This is -- the house itself is not a center
8 hall colonial. It has different angles.

9 MR. SUSA: Sure. Sure.

10 MEMBER GOODSELL: We understand that.

11 MR. SUSA: But look, if this were a brand new house, brand new,
12 I wouldn't set out to do it this way.

13 MEMBER DONATELLI: Well, but again, that is my point as to what
14 percentage of the entire project. This is a huge project.

15 MR. SUSA: It is, but the mere fact that there's a strong desire
16 to leave the foundation -- that's why we're in front of you here.
17 Obviously, if I was doing a ground up, completely brand new, I don't
18 think I'd be here.

19 MEMBER DONATELLI: Do you want to address the other variances
20 that you're requesting?

21 ACTING CHAIRMAN FRANCIS: Yeah.

22 MR. SUSA: Sure.

23 MEMBER DONATELLI: And again, if you can do that with the Five
24 Factors in front of you.

25 MR. SUSA: Oh, the Five Factors.

26 MEMBER DONATELLI: Let's go through the --

1 MR. SUSA: Go through them first, yeah.

2 ACTING CHAIRMAN FRANCIS: We're giving you a lot to do.

3 MR. SUSA: Yeah, I'm starting to sweat. Okay, so we talked
4 about the sky exposure, right. Eave height, we took off the table.
5 So now, we're at the -- four is the swimming pool.

6 I spoke to the owners, and they're willing to move the pool
7 equipment to a compliant location, so we'll take -- and the fence.

8 SECRETARY WAGNER: You're withdrawing those variances.

9 MR. SUSA: So we'll basically withdraw those.

10 ACTING CHAIRMAN FRANCIS: And the pool barrier fencing?

11 MR. SUSA: We'll move that fence to be in line with the rear
12 portion corner of the house.

13 MEMBER DONATELLI: So that also will be withdrawn?

14 MR. SUSA: Yes, it will.

15 ACTING CHAIRMAN FRANCIS: Okay. So we're only left with the
16 eave height and sky exposure.

17 SECRETARY WAGNER: And side yard.

18 ACTING CHAIRMAN FRANCIS: And side yard setback.

19 MR. SUSA: Side yard, yeah.

20 MEMBER GOODSELL: While we're waiting, can I ask you some
21 technical questions?

22 MR. SUSA: Yes.

23 MEMBER GOODSELL: My plans say the Shamash residence, and not
24 be Gilardi residence, and yet the title is corrected Gilardi. I
25 thought for a second I was looking at the wrong plans. Is that you?

26 MS. GILARDI: I'm Gilardi, Elam Gilardi, and he's Michael

1 Shamash, so I go by both last names.

2 MEMBER GOODSSELL: Okay, because the plans are very clearly
3 marked Shamash residence.

4 MS. GILARDI: Yeah.

5 MEMBER GOODSSELL: Which I would take up with the architect if
6 I were you.

7 (Whereupon, a discussion was held amongst the board members.)

8 MR. SUSA: It's time for the Five Factors?

9 ACTING CHAIRMAN FRANCIS: Yes, sir.

10 MR. SUSA: It is. Five Factors; number one, whether an
11 undesirable change will be produced in the character of the
12 neighborhood or a detriment to the nearby properties. Well, both
13 neighbors are aware of the project. No one has objected. We don't
14 have any letters of support, but they do not object, but
15 obviously -- I think it's a small home compared to some of the other
16 big ones in the area, but we're gonna have to make some changes to
17 the design.

18 Whether the benefit sought by the applicant can be achieved by
19 feasible alternative to the variance. Yeah, again, I was just trying
20 to keep the cost of the new foundation and additional structure to
21 support stepping in a second floor, you know, down as much as I can.
22 Yes, I recognize it's a large scale renovation, and that may sound
23 silly, but, you know, no one has unlimited funds. We were trying
24 to do our best to keep it as streamline as possible. These are all
25 debatable, but.

26 MEMBER GOODSSELL: Well we're asking your opinion.

1 MR. SUSA: My opinion is --

2 MEMBER GOODSSELL: But we're asking your opinion.

3 MR. SUSA: Okay, so three. Whether the requested variance is
4 substantial. Obviously, it is, especially on the east side.

5 Would the variance have an adverse impact on the physical or
6 environmental condition of the neighborhood? I personally think it
7 would not, but being that it's only a 21-foot-4 high structure.

8 Whether the alleged difficulty was self-created. Well, I mean,
9 I guess it is self-created.

10 MEMBER GOODSSELL: It is, but it's not the determining factor.

11 MR. SUSA: Right.

12 ACTING CHAIRMAN FRANCIS: It always is.

13 MEMBER DONATELLI: So Mr. Susa, I know you have a lot that we've
14 put in front of you today, but as I review the Residential Zoning
15 Analysis Sheet that was submitted with the application, I just want
16 to note for the record that your proposed gross floor area is 5,001.84
17 square feet, and the maximum allowed is 5,007 square feet. That puts
18 you --

19 MR. SUSA: Too close.

20 MEMBER DONATELLI: Very close.

21 ACTING CHAIRMAN FRANCIS: Very close.

22 MEMBER DONATELLI: And God forbid there's builder's error or
23 something else. Sometimes, we see those applications.

24 MR. SUSA: But we'll be back in front of you.

25 MEMBER DONATELLI: Right. So I would again just caution you
26 to --

1 MR. SUSA: Bring it down a little.

2 MEMBER HERNANDEZ: Make sure that there are no builder's
3 errors.

4 MEMBER GOODSSELL: But there won't be any architect's errors I'm
5 sure.

6 MEMBER DONATELLI: Right.

7 MR. SUSA: Right.

8 ACTING CHAIRMAN FRANCIS: It's very close.

9 MEMBER DONATELLI: If our chairman were here, he would actually
10 point that out to you.

11 MR. SUSA: I'm sure he would, yes.

12 MEMBER GOODSSELL: So I think what we're really asking your
13 clients is, can this house, which is perfectly fine, can this house
14 be designed to come closer to what the town code requires? And, you
15 know --

16 MR. SUSA: Okay, well, that's -- we'll embark on, yeah.

17 MEMBER GOODSSELL: If you can, then we would appreciate seeing
18 that.

19 MR. SUSA: Okay. Will do.

20 ACTING CHAIRMAN FRANCIS: So we'll just continue.

21 MEMBER HERNANDEZ: Continue.

22 MR. SUSA: How do we -- do we just email that new design back
23 or come back?

24 ACTING CHAIRMAN FRANCIS: We're gonna continue the
25 application. You can submit whatever you need to us, to Ginny, and
26 we'll go from there.

1 MR. SUSA: Very good.

2 SECRETARY WAGNER: If you are doing a redesign or changing the
3 plans, you probably have that --

4 MR. SUSA: To the D-O-B?

5 ACTING CHAIRMAN FRANCIS: Yeah.

6 SECRETARY WAGNER: Yes, so then they will look at it to see what
7 impact those changes will have.

8 MR. SUSA: Understood. Very good. Thank you for your time.
9 I really appreciate it.

10 ACTING CHAIRMAN FRANCIS: Thank you. Very well done.

11 MR. SUSA: Thank you.

12 SECRETARY WAGNER: So we'll continue.

13 ACTING CHAIRMAN FRANCIS: Continue.

14

15 SECRETARY WAGNER: Appeal #21630, Nasir Iqbal; 191 Executive
16 Drive, Manhasset Hills; Section 8, Block 280, Lot 18; in the
17 Residence-A Zoning District.

18 Variance from 70-30.B to construct a new dwelling that is too
19 close to the street.

20 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21630, Nasir
21 Iqbal. Is there anyone interested in the application other than the
22 applicant? Seeing no one, please give your appearance, sir.

23 MR. EDWARDS: Good morning, Mr. Chairman and members of the
24 board. For record, my name is Wayne Edwards, Sahn Ward Braff
25 Coschignano; 333 Earle Ovington Boulevard, Uniondale, New York. I
26 am representing the applicants.

1 The property is located at 191 Executive Drive in Manhasset
2 Hills. Known as Section 8, Block 280, Lot 18 on the Land and Tax
3 Map of Nassau County. It's Zone Residential A on the official Zoning
4 Map of the Town of North Hempstead. The applicants reside a few
5 blocks away with their three sons, ages 15, 13, and 11, who attend
6 the Herricks School. They want to stay in the neighbor, but needed
7 a larger house, so they're making this application.

8 ACTING CHAIRMAN FRANCIS: Note for the record, you do not have
9 a sky exposure plane issue.

10 MR. EDWARDS: We do not have a sky exposure.

11 SECRETARY WAGNER: Mr. Edwards, did you receive this
12 correspondence?

13 MR. EDWARDS: Yes, I did.

14 SECRETARY WAGNER: Two letters or just one?

15 MR. EDWARDS: One letter.

16 SECRETARY WAGNER: There was additional.

17 MR. EDWARDS: Okay, I spoke to the next-door neighbor to the
18 one letter I did receive though. I don't know what the letter says,
19 but.

20 The lot is currently improved with a single-family home
21 constructed in 1962. I'd like to submit some exhibits for this
22 application.

23 SECRETARY WAGNER: This will be Exhibit 1.

24 MR. EDWARDS: One, two, three, and four. Exhibit 1 is the
25 survey of the existing house. It's my client's intension to demolish
26 the existing house and construct a new house. The total square

1 footage of the property is 9,825 square feet, and if you take a look
2 at the Residential Zoning Analysis Sheet that was submitted with the
3 application, the proposed house meets all of the requirements of the
4 Residential A Zone, except for one. As you may note on the survey,
5 the property is irregular in shape and a corner lot with the primary
6 front yard oriented towards Executive Drive in the east side of the
7 house, which is the secondary front yard is oriented towards Old
8 Courthouse Road. Attached of Exhibit 2 Google photographs, which
9 show the Old Courthouse Road is part of the Historical Long Island
10 Parkway, and a dead end at the end of that street.

11 I'd like to submit also Exhibit 3, which are pictures, which
12 I took last week. First picture shows the dead end and the secondary
13 front yard, the proposed setback of that house is required to be
14 30 feet. The client is proposing 9.3 feet, but if you look at the
15 existing survey, the existing house had that same 9.8 feet setback.

16 Now, if you can look at this property, it's a very unusual
17 property. The right-of-way of Old Courthouse Road basically is
18 very, very wide, and it basically -- whoever owned the house prior
19 to my clients purchasing it, they utilized that right-of-way between
20 the curb of Old Courthouse Road, and their yard, and you'll see
21 photographs of a fence. It is a steep slope that goes there, but
22 they utilize that portion, so basically the setback to the curve is
23 basically over 30 feet. I gave you photographs showing that.
24 You'll see that the house is in a state of disrepair. The foundation
25 is shot. That's why they're rebuilding it. I don't think -- I can
26 safely say that Old Courthouse will never be reopened.

1 ACTING CHAIRMAN FRANCIS: I say it's a safe bet.

2 MR. EDWARDS: I think it's a safe bet. They don't even have
3 a crash barrier there, and there's a condominium on the other side
4 and wooded areas, and it's all developed.

5 ACTING CHAIRMAN FRANCIS: Right.

6 MR. EDWARDS: So we don't have to worry about that in terms of
7 that.

8 MEMBER DONATELLI: How about the Long Island Motor Parkway?

9 MR. EDWARDS: I don't think so either. Well, I've ridden -- you
10 know, if Dave Mammina was here, I've ridden on. In Suffolk it's still
11 open so you can ride along some of it. It's part of a roadway system.

12 MEMBER DONATELLI: People's back yards.

13 MR. EDWARDS: Well, I have that also in Westchester. On the
14 Old Croton Aqueduct, it's behind our house. We walk it, but never
15 ride it.

16 So in terms of the new house. The only request we're making
17 is to maintain that same setback. It's a house. We received
18 correspondence. At least the only correspondence I saw. My client
19 met with the woman. I think -- I forgot her name, but she has really
20 no -- she had no objection to the house. It's the curb cut on Old
21 Courthouse that my client's putting in a circular driveway. She
22 wasn't happy. I said that really wasn't before this board. It's
23 before the Highway Department, and I eventually explained to my
24 client, they'd have to go back to the Highway Department in terms
25 of that.

26 In terms of the test, there's really -- balancing test. There's

1 really no detriment to the neighborhood. This neighborhood is in
2 a state of change. If you drive through it, you see the existing
3 older houses at 62, and people have either purchased these houses
4 and made extensive modifications, or in some cases, have knocked the
5 houses down like my client is and are building new houses.

6 In terms of whether there's any detriment to the health, safety,
7 and welfare of the surrounding, no, it's still gonna be a
8 single-family home. It's just gonna be modernized and new.

9 Whether there'll be an undesirable change produced. Again,
10 this is a house in keeping. The size is in keeping with the
11 neighborhood, and meets the Residential A requirements.

12 Whether the benefit sought by the applicant can be achieved by
13 some other method. If, we had to abide by the 30-foot setback it
14 would basically be, in New Orleans lingo, a double shotgun. It would
15 be a very --

16 MEMBER GOODSSELL: A very interesting house.

17 MR. EDWARDS: It would be a double shotgun in terms of the width.

18 Whether the requested area variance is substantial. In terms
19 of the 30 foot, it might be considered substantial, but because of
20 the extra property that's on the side, there really is no impact.
21 So the -- any impact that having a 9.8-foot setback would've had if
22 it was on the street is negated by that, and that street will
23 never -- that will never be widened in terms of that.

24 And even though, it is self-created, it's not a reason this board
25 should deny the application.

26 MEMBER GOODSSELL: Mr. Edwards, I have to tell you I raised three

1 children in the Herricks School District. One of my son's had a
2 friend on Old Courthouse Road literally five houses away. We used
3 to practice them doing three-point turns on that little alcove. We
4 could never understand -- perhaps the developer -- I was a child when
5 these went up, but I remember them going up. Perhaps the developer
6 originally intended it as an access point to the development, and
7 the Highway Department said that no, because that street has never
8 been open. That alleyway. That's been closed off. I don't know.

9 Now, you've listened to us talk to the previous applicant about
10 how you can -- how you design a house to fit the codes. In this case,
11 this particular property, which looks to me like a figure-wearing
12 corset, you would wind up with such a bizarre shaped house, that
13 9.8-foot setback in the corner of the house. As one board member,
14 does not bother me at all. Does not bother me at all.

15 It's there now. It's been there for a very long time. People
16 do not like change. I do understand the objection letters, but I
17 don't see how you can design a house. Perhaps the flat iron will
18 fit in there.

19 MR. EDWARDS: Or something like that.

20 ACTING CHAIRMAN FRANCIS: I think I heard a motion somewhere
21 in that.

22 MEMBER GOODSSELL: There is a motion somewhere in there because
23 to answer my own question, why can't you not design a house to fit
24 the code? In this particular lot, I don't think you can do it.

25 MR. EDWARDS: No, it would be impossible.

26 MEMBER HERNANDEZ: A very unique shaped lot.

1 ACTING CHAIRMAN FRANCIS: It definitely is. I've never seen
2 one this shape.

3 MEMBER GOODSSELL: Woman wearing a corset.

4 ACTING CHAIRMAN FRANCIS: Yeah, I never seen this before.

5 MEMBER GOODSSELL: I will make a motion that because of the shape
6 of the lot, and the pre-existing house that we grant the application.

7 ACTING CHAIRMAN FRANCIS: We have a motion. Do we have a
8 second?

9 MEMBER DONATELLI: Second.

10 ACTING CHAIRMAN FRANCIS: Second by Member Donatelli. Please
11 poll the board.

12 SECRETARY WAGNER: Member Goodsell?

13 MEMBER GOODSSELL: Aye.

14 SECRETARY WAGNER: Member Donatelli?

15 MEMBER DONATELLI: Aye.

16 SECRETARY WAGNER: Member Hernandez?

17 MEMBER HERNANDEZ: Before I answer, I'd just like to also add
18 that not only is the property shaped very, very unique, it is also
19 onto a street that effectively is not a street.

20 MR. EDWARDS: Right.

21 ACTING CHAIRMAN FRANCIS: Correct. That's correct.

22 MEMBER HERNANDEZ: It's not gonna be used. It's a dead end,
23 so therefore, it doesn't have -- nobody will be driving down the
24 street and saying that house is so close to the street.

25 MR. EDWARDS: No. Not even close.

26 MEMBER HERNANDEZ: I will say Aye as well.

1 SECRETARY WAGNER: Acting Chairman Francis?

2 ACTING CHAIRMAN FRANCIS: Aye. Application is granted.

3 MR. EDWARDS: Thank you very much.

4 MEMBER GOODSSELL: Tell your clients not to be surprised if
5 driver application -- young drivers are practicing that three-point
6 turns somewhere in that area.

7 MR. EDWARDS: She has three of them. She has three of them who
8 are ready.

9 MS. IQBAL: Thank you so much. Really appreciate it.

10 ACTING CHAIRMAN FRANCIS: You're welcome.

11

12 SECRETARY WAGNER: Appeal #21632, Cecil C. Southern III; 135
13 Atlantic Avenue, Garden City Park; Section 33, Block 143, Lot 526;
14 in the Residence-C Zoning District.

15 Variance from 70-51.A to construct additions that are too close
16 to the side property line.

17 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21632, Cecil C.
18 Southern III. Is there anyone interested in the application other
19 than the applicant? Seeing no one, Mr. Gray give your name.

20 MR. GRAY: Chris Gray, architect, 2401 Capri Place, North
21 Bellmore, New York. Representing Cecil C. Southern III, who lives
22 at 135 Atlantic Avenue in Garden City Park.

23 ACTING CHAIRMAN FRANCIS: Okay.

24 MR. GRAY: Good afternoon -- it's still good morning.

25 MEMBER HERNANDEZ: Still good morning.

26 MR. GRAY: My client has a one-and-a-half-story residence

1 located in Residence C Zone, and he would like to put a full second
2 floor over the main dwelling, and also put a two-story addition behind
3 the main dwelling. The reason why we are here is that the side yard
4 setback required is 5-feet, and the proposed is 4.7-feet, so we are
5 short .3-feet, which is essentially four inches, so the -

6 ACTING CHAIRMAN FRANCIS: And you're building straight up.

7 MR. GRAY: Straight up. Not making the side yard any less than
8 it currently is. Making it -- and then the proposed two-story
9 addition behind that in the same line to make a nice cohesive
10 structure.

11 ACTING CHAIRMAN FRANCIS: Okay.

12 MR. GRAY: That is my case.

13 MEMBER DONATELLI: Well, sorry. To humor us and to go through
14 the Five Factors. Can you address those briefly, please?

15 MR. GRAY: Sure. Whether the change produced is undesirable
16 or desirable? Well, it's -- the -- when working with the existing
17 structure, you know, we're just like I said. Continuing the building
18 line, so it's not gonna get any less than it currently is, and I think
19 it's -- it will not be a detriment.

20 Could this be achieved by some other method? Here, again,
21 working with the existing structure, you know, to set this in, it
22 would look a little odd.

23 MEMBER DONATELLI: Three inches.

24 MR. GRAY: Yeah, four inches.

25 MEMBER DONATELLI: Yes, 3.6.

26 MR. GRAY: And also is the requested variance substantial? I

1 say no.

2 Also, will this have an adverse affect or impact? And I would
3 say, no adverse affects.

4 And whether this was self-created? Well, it's fortunately it's
5 proposed work. It's not already done without a permit, so yes, it
6 is self-created, but you understand why.

7 MEMBER DONATELLI: Mr. Chairman, I find this -- in this
8 situation to require compliance here would actually make the house
9 look a little bit stranger than if we were just grant the variance.
10 I don't believe that I've made a motion yet this morning, so I make
11 a motion that we grant the application.

12 ACTING CHAIRMAN FRANCIS: All right. We have a motion by
13 Member Donatelli? Do we have a second?

14 MEMBER GOODSSELL: Second.

15 ACTING CHAIRMAN FRANCIS: Seconded by Patricia.

16 MEMBER GOODSSELL: We don't make applicant's comply for the sake
17 of compliance. We all recognize --

18 MR. GRAY: Yes.

19 MEMBER GOODSSELL: -- three inches is a very small ask.

20 MR. GRAY: That's -- yes.

21 MEMBER GOODSSELL: But in this particular area, and I'm sure
22 you're familiar with the area. There's a lot of houses on a 50 by
23 100 lot. They're not huge, but they're not small. There's a very
24 mix of building styles here, and I -- you didn't receive any objection
25 to this when the variance notices went out, did you?

26 MR. GRAY: No, I did not, no.

1 MEMBER GOODSSELL: I will second that motion.

2 MEMBER DONATELLI: I moved it.

3 MEMBER GOODSSELL: You did? I will second the motion.

4 ACTING CHAIRMAN FRANCIS: Please poll the Board.

5 SECRETARY WAGNER: Member Hernandez?

6 MEMBER HERNANDEZ: Aye.

7 SECRETARY WAGNER: Member Goodsell?

8 MEMBER GOODSSELL: Aye.

9 SECRETARY WAGNER: Member Donatelli?

10 MEMBER DONATELLI: Aye.

11 SECRETARY WAGNER: Acting Chairman Francis?

12 ACTING CHAIRMAN FRANCIS: Aye. Application is granted.

13 MR. GRAY: Thank you very much.

14 ACTING CHAIRMAN FRANCIS: Thank you.

15 MR. GRAY: Have a good day.

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

17

18 SECRETARY WAGNER: Appeal #21616, 114 Main Street Owner, LLC
19 (The Beacon); 114 Main Street, Port Washington; Section 5, Block 80,
20 Lot 29; in the Business B/Residence-C Zoning District.

21 Appeal for determination for consideration under 70-225.E to
22 extend the business use of the property into the residential zone,
23 or in the alternative.

24 Variance from 70-44, and conditional use 70-126.A and variance
25 from 70-103.A(1) to construct interior alterations to convert a
26 former movie theater to a dinner theater space (a conditional use

1 in the Business-B District, and a use that is not permitted in the
2 Residence-C District), with not enough parking on site.

3 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21616. Is
4 there anyone interested in the application other than the applicant?
5 Seeing a few hands. Steve, you want to pass through a sign-in sheet
6 for those folks.

7 MR. PERROTTA: All right.

8 ACTING CHAIRMAN FRANCIS: Mr. Anzalone, you want to give your
9 appearance, please.

10 MR. ANZALONE: Yes. Good afternoon, Members of the Zoning
11 Board of Appeals. John Anzalone for Harris Beach, LLC, located 333
12 Earle Ovington Boulevard, Suite 901, Uniondale, New York 11553.
13 Attorneys for the applicant. I'm here today with respect to the
14 application of one 14 Main Street Owner LLC, with respect to certain
15 relief in connection to proposed conversion of the former 1,283-seat
16 Beacon Movie Theater into a 474-seat dinner theater at the property
17 located at 114 to 116 Main Street in Port Washington.

18 ACTING CHAIRMAN FRANCIS: Mr. Anzalone, I don't want to
19 interrupt your presentation, but if you could slow it down a little
20 bit.

21 MR. ANZALONE: Absolutely.

22 ACTING CHAIRMAN FRANCIS: Because we are taking a record. We
23 have plenty of time.

24 MR. ANZALONE: I know. I know.

25 ACTING CHAIRMAN FRANCIS: Okay.

26 MR. ANZALONE: My apologies. As a matter of housekeeping,

1 affidavits of mailing and posting were filed prior to today's hearing
2 at the start of the hearing. The applicant would like to submit 269
3 letters of support that have been obtained for this application. So
4 253 of these were previously filed electronically with the town, but
5 these are just the hard copy originals.

6 ACTING CHAIRMAN FRANCIS: Fantastic.

7 MR. ANZALONE: Just hand them to Virginia.

8 SECRETARY WAGNER: These will be Exhibit A.

9 MR. ANZALONE: Yes, thank you. Now, the property, to put it
10 in context, is located on the south side of Main Street between Mackey
11 Avenue and Bellevue Avenue. The property is roughly rectangular
12 shaped, together with a are 15-foot wide panhandle that extends from
13 the property of Bellevue Avenue, creating a small secondary frontage.

14 The existing theater at the building was constructed circa 1927.
15 The northerly portion of the property is zoned B Business, as well
16 as the portion of the south that is most approximate to Mackey Avenue,
17 and approximately 59.87-foot wide portion of the southerly half of
18 the property. Within that rectangular portion is where the building
19 is located is zoned Residence C as is the panhandle.

20 The property was acquired by the owner in September of last year.
21 The owner's principal, Mr. Brad Thurman, is with us today, and he's
22 a resident of the Port Washington Peninsula, making this a proposed
23 locally-owned business. Mr. Thurman's business partner, Lou
24 Brachinelli is also with us today. Lou will manage the day-to-day
25 to business. He is a Long Island native, who currently manages the
26 Ocean Casino Resort in Atlantic City.

1 Now, the proposed change of use for a dinner theater requires
2 this board's approval as conditional use. Concerning the criteria
3 for the conditional use for a restaurant, I note that the use is
4 permitted in the zoning district and subject to a conditional use
5 permit, which as this board is no doubt aware, is permitted use if
6 the criteria for the conditional use is met.

7 The proposed use will be consistent with the 90-year use of the
8 property for entertainment, and is in harmony with other uses in the
9 surrounding area, including numerous traditional restaurants,
10 take-out restaurants, food shop, and of course, the Landmark Theater.
11 One note of distinction, which is important, the Landmark Theater
12 is a ticketed venue. The proposed Beacon is not a ticketed venue.
13 It is an upscale restaurant where performances will occur during
14 meals. The building's footprint will remain in the exact condition
15 that it has existed for nearly a century along the significant
16 downtown corridor in the town.

17 We also note that the historic principle uses of the property
18 as a movie theater and theater respectfully, would also require
19 conditional use if they were sought to be re-established at the
20 property.

21 The proposed use will provide additional convenience and
22 service to the area by providing additional entertainment and dinner
23 options, and will also eliminate a vacant building from the
24 neighborhood that has been deteriorating since changing economic
25 conditions in the movie industry forced its closure in 2018.

26 MEMBER GOODSELL: I'm sorry, forced its closure in when?

1 MR. ANZALONE: 2018.

2 MEMBER GOODSSELL: 2018. I know it's been closed for a while.

3 MR. ANZALONE: Yeah.

4 MEMBER GOODSSELL: I did not notice that.

5 MR. ANZALONE: If granted, the applicant anticipates spending
6 over \$9.5 million to restore, renovate, and convert the building and
7 equip it into a dinner theater. Such use has reasonably anticipated
8 to bring in increased foot traffic to the downtown. As noted in the
9 traffic study, the dinner theater use is an off-peak use operating
10 when the roadways have additional capacity to accommodate traffic,
11 and municipal parking lots have additional capacity for, you know,
12 those wishing to park for this use.

13 ACTING CHAIRMAN FRANCIS: Mr. Anzalone, I'm just gonna
14 repeat --

15 MR. ANZALONE: Slow it down.

16 ACTING CHAIRMAN FRANCIS: -- just slow it down.

17 MR. ANZALONE: Slow it down.

18 ACTING CHAIRMAN FRANCIS: Slow it down to about 30 miles an
19 hour.

20 MR. ANZALONE: Okay, 30 miles an hour. The use is fully indoors
21 and does not involve offensive odors, noises, lights, or vibration.
22 Purchasable waste and garbage will be stored and removed in
23 accordance with the town code. No signs proposed except those along
24 Main Street, which will be consistent with the historic character
25 of the building and face the commercially zoned properties in the
26 village of Baxter Estates.

1 The related parking variance is requested because of the change
2 of use and the historic development of the property. As the board
3 is no doubt aware, the Port Washington downtown was developed prior
4 to the town's parking ordinance that currently exists and such that
5 many changes of use in the Port Washington area require parking
6 variances when they occur, and this board has granted a number of
7 variances over the last ten years because of that and for many years
8 prior. Further in support of this application, the applicant hired
9 Mr. Sean Mulryan a traffic engineer to prepare a parking and traffic
10 analysis. Mr. Mulryan will testify shortly. Before I call Mr.
11 Mulryan, who has testified at this board numerous times, I would like
12 briefly go through the Five Factor test as it relates to the parking
13 variances.

14 The variance will not produce an impact on adjacent properties
15 and neighborhood because of the nature of the business to be conducted
16 at the property is in keeping with the historic use of the property,
17 as well as other commercial uses in the area. The subject property
18 abuts the north by Main Street. On the west it is abutted by an
19 automotive repair shop. This site is abutted to the east by a
20 four-story apartment building that has existed since at least 1931,
21 and a parking lot, as well as a small portion of Bellevue Avenue.
22 To the south, the property is abutted by a commercial building behind
23 the existing theater last approved by a 1991 use variance for a car
24 detailing use, as well as a residence that's located along the
25 panhandle. All the neighboring uses and structures existed when the
26 movie theater last seized operation in 2018.

1 The benefit sought by the applicant cannot be achieved by some
2 alternative means because there is no additional room on the property
3 to allow for the citing of parking without demolishing the existing
4 structure.

5 The variance will not cause an adverse impact on the environment
6 because the using, again, is in keeping with the character of the
7 neighborhood, and the nature of the variance relief is not the type
8 that causes environmental harm. All existing utilities are in
9 place, and there will only be nominal and temporary disturbances
10 outside of the building during the renovations.

11 The variances are not substantial because the applicant notes
12 the number of available parking stalls in the surrounding area are
13 adequate for the use of the site for the reasons more fully to be
14 discussed by Mr. Mulryan. Historically, the park -- the Beacon
15 Theater operated at the property utilizing public parking, and the
16 dinner theater is proposed to operate similarly.

17 In 1989, this board granted a parking variance relief associated
18 with the increased number of seats when the triplex was turned into
19 a seven-screen movie theater. Based on the Beacon's occupancy, it
20 had a historic parking requirement of 321 spaces and provided zero.
21 We cannot rely on any part of that variance because of the long period
22 that the property has been vacant according to the Building
23 Department and the Planning Department.

24 MEMBER DONATELLI: So once again, the prior grant was for how
25 many spots?

26 MR. ANZALONE: The variance doesn't actually state the number

1 of parking stalls, so we had to calculate the actual capacity, which
2 was 1,283 stalls when it was operating last. That 1,283 seats
3 resulted in 321 parking stalls, but the actual parking variance
4 approval looking from maybe 89, doesn't actually state anything in
5 terms of number.

6 MEMBER DONATELLI: I see. Thank you.

7 MR. ANZALONE: With respect with self-creation. While the
8 variances are partially the result of change of use, they're
9 primarily the result of the property's historic development, which
10 makes strict adherence to the code in feasible. Additionally, even
11 if the board finds that the hardship was self-created, the other
12 factors bears in favor of granting the variance. At this time,
13 before I address the balance of the relief, to further address the
14 parking concerns and traffic related to the property and the project,
15 I'm gonna call Mr. Sean Mulryan, who again, I notice testified before
16 this board numerous times and would ask that this board accept him
17 as an expert.

18 ACTING CHAIRMAN FRANCIS: Thank you.

19 MR. MULRYAN: Good afternoon. Sean Mulryan, Mulryan
20 Engineering, 1225 Franklin Avenue, Garden City. I know that members
21 of this board are very familiar with the subject property, and as
22 it currently exists, it's been in place for almost 100 years. It
23 has operated as a live theater and then a movie theater, and has since
24 gone vacant. The applicant is looking to revive the use that
25 previously existed as a dinner theater, so they're looking to
26 renovate an existing building that sits on Main Street. I know that

1 this board has heard recently two applications for property just to
2 the east of the subject site. Those applications were both for
3 medical office use. The reason I bring that up is because uses that
4 are viable along Main Street are few and far between in some places
5 specifically, for a building of this size and magnitude. To maintain
6 a building of this size and magnitude, this is a use that is very
7 unique and able to renovate and rebuild a facility that has existed
8 for numerous years.

9 Parking is obviously a concern for any application in Port
10 Washington. We're surrounded by numerous parking lots. Those
11 parking lots service two different entities. Both of those parking
12 spaces are generated for the use of the railroad, which operates
13 Monday through Friday, and more recently, Tuesday to Thursday, but
14 those parking spaces are available and in the subject area, there
15 are numerous of them. Any use that was put in this building other
16 than the proposed use or something similar would more than likely
17 operate during the day when the commuters would be in the commuter
18 parking spaces and utilizing the Long Island Rail Road to get into
19 the City.

20 This use operates strictly on the weekends. It'll be open
21 Thursday, Friday, Saturday, and Sunday. Sunday is for a bunch. The
22 other three days in the week will be for dinners and shows. This
23 use during the week is going to be quiet. That is when the peak of
24 the commuter use is gonna be active when those parking lots are gonna
25 be full of commuters. Now, those lots also have metered parking for
26 shopping, but they're only a portion of the larger lots. So this

1 proposed use is going to operate when those required parking spaces
2 for commuters are no longer required. They're only required up to
3 a certain part of the day, which I believe is 2:00 P.M. after which,
4 you can use those spots if they're available.

5 Again, this is a dinner theater, so we believe that the bulk
6 of the commuter parking will be alleviated. One of the things that
7 we are looking to do, obviously, we do not have onsite parking. The
8 building has never had onsite parking. It would have to demolished
9 to create onsite parking, but it's to allocate and direct employees
10 to park in some of the commuter lots further away from the subject
11 site. We have a municipal lot directly across the street. We're
12 looking to use that lot to serve as the bulk of the customers coming
13 to and from the subject property. The property is also located near
14 the train station where customers could come.

15 The question becomes how would they get from the train station
16 if they park there or use the train to come over? It's only a few
17 blocks, but the applicant has researched the fact that there are
18 numerous cab services associated again with the commuters but
19 proximate to the station. There's also Lyft and Uber, which have
20 become increasingly popular if someone's going out for the evening
21 and doesn't want to drive home. The applicant is looking to utilize
22 shuttle service as needed to get customers back and forth. Again,
23 there's a parking lot directly across the street.

24 If the applicant's application is approved, the applicant has
25 indicated to me that they're going to pursue with the Highway
26 Department of the Town of North Hempstead a crosswalk between the

1 parking lot across the street and the subject parcel. I'll just
2 direct your attention to the area photograph to my left, your right,
3 which indicates a very substantial parking lot directly across the
4 street from the subject property. Again, the subject property, it's
5 highlighted in yellow and it's directly across the street, but a
6 little bit to the west, but essentially it's at that intersection.
7 There's also a signalized crosswalk just to the west of our property,
8 but again, if the applicant can persuade the Town of North Hempstead
9 Highway Department and participate in the installation of a
10 crosswalk, they believe that would be helpful to help customers come
11 across from the municipal lot directly to the south side of Main
12 Street.

13 MEMBER DONATELLI: I'm gonna interrupt you for a minute,
14 Mr. Mulryan.

15 MR. MULRYAN: Yes.

16 MEMBER DONATELLI: Do you have an opinion as a traffic expert
17 advisability of that crosswalk?

18 MR. MULRYAN: Mid-block crosswalks are something that we
19 generally shy away from. In Port Washington there is an existing
20 mid-block crosswalk closer to the train station, and again, we're
21 not proposing it, we are seeking to speak to the Highway Department
22 to see if that's a feasible alternate.

23 MEMBER DONATELLI: I understand, but do you have an opinion as
24 to the advisability of such a crosswalk?

25 MR. MULRYAN: Again, as I mentioned, there is protocol in place
26 because there is an existing mid-block unsignalized crosswalk right

1 to the east of this subject property. So it is something that's done
2 on Main Street. There is signage that is installed in the roadway
3 to create knowledge of the crosswalk.

4 I know that my son goes to school up in Boston, and in Boston,
5 when you step into the crosswalk, cars stop, which is a wonderful
6 thing.

7 MEMBER GOODSELL: Totally different planet, Long Island.

8 MR. MULRYAN: Understood. Understood. But again, this is
9 something that we're looking to pursue. If that's not a viable
10 option, we would look to participate in any improvements to the
11 existing signalized crosswalk, which is just to the east to subject
12 project. So just to highlight, might be a little faded from the
13 aerial, but this is how it existed in the field. So again, we
14 participate and speak to the Highway Department, whether those
15 pay-markings should be upgraded. Again, it's a signalize. There's
16 a push button for pedestrians. If that was the case, then we look
17 to advise clients or customers to utilize that crosswalk. As you
18 can see -- so yeah, again, this is the subject property, and this
19 is the crosswalk that's a signalized intersection, and has a push
20 button.

21 The alternative that we discussed, if feasible, would be to put
22 a crosswalk directly in front of the property. But again, those are
23 two alternatives. One is existing, which we will look to participate
24 in any improvements that may be needed due to the increase in
25 pedestrian activity. We believe that this use will be successful
26 in either case, but we want, obviously, to ensure the safety of the

1 customers coming to and from the property.

2 We have no objection. Obviously, if someone lives in the area
3 and is concerned about vehicles parking in front of their subject
4 property, we don't necessarily have control of that, but we wouldn't
5 object to any Town of North Hempstead Board actions -- Town Board
6 actions to change the parking restrictions on those roadways, which
7 would be an ability to restrict vehicles parking on residential
8 properties, but we would, as part of the promotional information tout
9 the municipal parking lots, which again, are used during the day by
10 commuter traffic, and at night, are generally available, which is
11 what we found in our parking analysis.

12 That is a summary view of the report that we did. If there's
13 any questions from the board, I'd be happy to try to answer them.

14 MEMBER HERNANDEZ: I don't recall. Did you mention the number
15 of parking spaces you found were vacant during the study?

16 MR. MULRYAN: So again, we have a summary table on page 6 of
17 our report, which shows that there are 422 available on Thursday
18 evening; 439 available on Friday evening; 374 on the second Friday
19 that we looked at; and 470 on Saturday. So there's an ample amount
20 of parking.

21 One of the things that I didn't go over is the size of the
22 variance that's being requested. It's significant. But that is
23 part of the code analysis that's taking place because the building
24 is so large, and the zoning code of the Town of North Hempstead
25 requires one parking space for each 80 square feet, and on top of
26 that there's parking requirements for each linear foot or each three

1 foot of linear area within a bar. So the size of the property creates
2 a very overwhelming parking requirement of 391 parking spaces. We
3 don't believe that the actual number of vehicles coming to this
4 facility would be anywhere near that. We actually looked at the
5 Jeanne Rimsky Theater, which is just to the west of the subject
6 property during the night to a show. We found that the seating
7 capacity of that venue and the number of cars generated was not
8 anywhere near the calculated number that comes up based on the one
9 per 80. If you look at one per three, one parking space for every
10 three seats, it's a much more reasonable number closer to 200.
11 Again, the parking lot across the street has over 170 parking spaces.

12 MEMBER DONATELLI: Is the applicant proposing to use any kind
13 of valet service for patrons?

14 MR. MULRYAN: Not to my knowledge. They were looking more
15 towards shuttle to pick people up. Not to park vehicles.

16 MEMBER DONATELLI: From where to where? Shuttle from where to
17 where?

18 MR. MULRYAN: Well, they're looking at speaking to other
19 business owners that have parking lots to see if they can enter into
20 lease agreements with those owners. If the people are parking at
21 the municipal lots, those shuttles could also pick people up there.
22 Again, this is something that would evolve over time. The shuttle
23 bus will be available, and it'll be part of their promotional details.
24 If they're using the municipal lots, they can pick them up there and
25 bring them to the facility.

26 MEMBER DONATELLI: Does the applicant have any cross-parking

1 agreements right now with any nearby parking lots?

2 MR. MULRYAN: My understanding is that they're working towards
3 that end. I don't know that they have anything finalized.

4 (Whereupon, a discussion was held amongst the board members.)

5 MEMBER DONATELLI: Okay.

6 MR. MULRYAN: Thank you very much.

7 MR. ANZALONE: Just like to clarify one thing. I'm gonna bring
8 up Leya Mata from the applicant who will talk about the options for
9 parking, and what they're planning to do.

10 ACTING CHAIRMAN FRANCIS: Sure.

11 MS. MATA: Hi, good afternoon, everyone. All right.

12 ACTING CHAIRMAN FRANCIS: Just give your address and name.

13 MEMBER GOODSELL: Name and address.

14 ACTING CHAIRMAN FRANCIS: Name and address.

15 MS. MATA: Absolutely. Hi, good afternoon. My name is
16 Leyalanny Mata. Do you need me to spell that? L-E-Y-A-L-A-N-N-Y;
17 last name, M-A-T-A. My address is 18 Wildwood Gardens, Apartment
18 F1, Port Washington, New York 11050.

19 So really quickly, as we were discussing the parking options,
20 I know as a resident of Port Washington that is always a hot topic,
21 and something that we took, obviously, a very long time; between the
22 traffic study, and also talking to local residents and business in
23 regards to parking.

24 This is -- the structure of the building itself, obviously, as
25 we discussed is very large. So during the original Beacon, when it
26 was actually a live theater, the capacity was 1,300, which means that

1 the building was zoned and able to hold 1,300 people. Now, at that
2 time, that was in the late 20s, early 30s into the 40s, the number
3 of vehicles was not necessarily in question at that time because that
4 was a time or generation where vehicles weren't as frequently in use
5 as they are now. However, if you move to when the building became
6 multiplex, that, actually that capacity became about 1,268.
7 Meaning, if you had Spiderman playing at 8:00 P.M., you had 1,268
8 people that were getting seats. If you do the rough estimate of one
9 to three? Meaning, for every three people that go to the movie
10 theater, one car for those people, that's roughly over 400 parking
11 spots that would need to be had for the 8:00 P.M. show, and then at
12 10:00 P.M., you have that 8:00 P.M. show leaving, and then you have
13 the 10:00 P.M. coming in along with employees.

14 Now, I know in the past there have been complaints and issues
15 with parking, so when Mr. Brachinelli decided on looking at the space
16 and what we could do to make the space as grand and amazing as possible
17 while also having the maximum capacity, we brought the capacity down
18 to 468. So that's over -- that's less than one-third; 468 capacity
19 including staff.

20 Now, for parking options this is how a typical night would run.
21 So I, let's say I'm a patron. I make a reservation. I get a
22 confirmation via text message, via email, whatever I opt in to, and
23 it says thank you so much for your reservation. This is your time.
24 This is your address and here are the our options, and we would lay
25 out all of the options for parking. Number one would be over here.
26 Of course, there would always be Uber, Lyft, and the local taxi

1 service. We're gonna have an Uber and Lyft pin so we -- it's called
2 like a dropped pin where some -- will type in the Beacon Port
3 Washington, and they'll be an actual pin, so the Uber driver knows
4 exactly where to drop the person or the Lyft driver knows exactly
5 where to drop. We've already spoken to the two main cab areas in
6 Port Washington that they will be also -- they're information will
7 on our website as cabs that you can order in Port Washington if needed.
8 There's also the Long Island Rail Road system, which is frequently
9 used by people who are to go out on a Friday or Saturday night and
10 not looking to drive. We would have the train schedule linked, as
11 well as -- as they discussed complementary shuttles between the train
12 and our establishment, and then you have to valet. So we would have
13 an actual valet stand outside along with our security officers. So
14 we're gonna have local security officers, as well as a local valet.
15 Valet will be outside. The security officers would be ensuring the
16 safety of the traffic of people using the crosswalk or crossing the
17 street or parking, would be directing people. Also, making sure that
18 no one is loitering outside or smoking outside or drinking outside,
19 and our valet would actually be in charge of doing the valet service.
20 That is going to be complementary to our quests. You're not gonna
21 have to pay for valet. Also, it's actually gonna be assigned to your
22 ticket. So the big push, right? For everybody to use the valet is
23 going to be that if I'm a patron and I have dinner, now, I checked
24 in, now, I've given my car to the valet, when my check is paid, the
25 valet gets an automatic ping saying your -- this patron is on their
26 way out, and the valet goes in anticipation to pick up the car and

1 pull it outside. So a patron that is driving would have no reason
2 not to want to choose a valet parking besides if they had a really
3 big issue with leaving a, what? A \$2 or \$3 tip, right, for the valet.
4 Other than that, they're getting automated responses. They're
5 getting a pin to the valet spot, and their car is being pulled up
6 without them having to wait outside and stay outside on line.

7 ACTING CHAIRMAN FRANCIS: How many valet personnel?

8 MS. MATA: We should have -- depending on the capacity, right?
9 So we would have anywhere between two or three, maybe four if it's
10 a full night, and we have a packed house, of course, there'll be more,
11 but they'll be at least two at all times.

12 MEMBER DONATELLI: Where do you anticipate the valet will bring
13 the cars to?

14 MS. MATA: So the parking lot would be -- as we discussed, the
15 parking lot across the street, that's the municipal parking lot,
16 which is -- anyone who lives in Port Washington knows are mainly empty
17 during Thursday, Friday, Saturday nights, which is our main push,
18 and then Sunday brunch time. They're not usually -- they're not full
19 at all by any means, and there's over 400 spots there. And then
20 there's -- we have -- are in conversation with -- obviously, there's
21 no formal agreements in place because we don't have our variance yet
22 to be able to start construction, but there's conversation with -- the
23 Bank of America building has a parking lot. The -- next door to us,
24 the Northwell Health facility also has a parking lot. We are also
25 in lease agreements with the body shop that's right next door to allow
26 us to park, you know, our shelter service, and maybe some VIP cars

1 in that smaller lot. So between all of those, we'll have lease
2 agreements for our construction vehicles during the time of
3 construction, as well as when the building is up and functional, a
4 section for our employees to park. With regards to that, I just want
5 to note that for the most part, we're looking to really employ
6 locally. We already have, I think, for or five employees that are
7 ready to join on board that are Port Washington residents that can
8 literally walk to work, so we're looking to really employ locally
9 so parking for employee will be less than in other establishments.

10 MEMBER DONATELLI: So getting back to your schedule. Well, the
11 proposed schedule; Thursday, Friday, Saturday, and Sunday bunch.

12 MS. MATA: Right.

13 MEMBER DONATELLI: You would have shows, and then there'll be
14 a second start time and a second stop time?

15 MS. MATA: The reservations would be revolving as they would
16 be in any restaurant, right? So we would have earlier seat time for
17 people who wanted to do like a 6:00 P.M. dinner, all the way through
18 to like 9:00, 9:30, with the idea that all the events would be done,
19 and people would be heading home by 11:00 P.M. the latest, and that
20 would be Thursday, Friday, Saturday. There might be an occasional
21 Saturday where there would be a wedding event that would more than
22 likely use our shuttle service for primary use because we would have
23 somebody that would be coming in for a wedding, they're more than
24 likely staying at a local hotel. We have a shuttle service for them
25 from the hotel into the area, into Port Washington, drop off at the
26 Beacon, and then pick back up, maybe two or three in the evening.

1 MEMBER DONATELLI: So you anticipate -- you -- when I think
2 about some of the other theaters on Long Island in Northport and Port
3 Jefferson, I know that they have a set start time, and there's crunch
4 time at 8:00 when the show starts, and then there's crunch time at
5 10:30 when the show ends. Do you anticipate a hard start and a hard
6 stop, or do you anticipate more of a rolling kind of evening as people
7 make reservations at different hours?

8 MS. MATA: Absolutely. Because the space is very unique.
9 It's not a ticketed venue. Our performers not gonna -- unless it's
10 a -- it's a larger name performer where -- we still would not be
11 selling tickets, but they would have a start and stop time. If we're
12 having somebody like a Frank Sinatra impersonator, who might go on
13 at 6:00, and do a set from 6:00 to 8:00, and then take a little break,
14 and then go back on from 9:00 to 10:30, right? So our patrons that
15 have an earlier dining experience would be able to enjoy the music
16 than that they had at a later dining experience. The restaurant is
17 meant to have rolling reservations from around 6:00-ish to around
18 9:00-ish, with the idea that everyone's gonna be out of the building,
19 and on their way by 11:00.

20 MEMBER DONATELLI: Thank you.

21 MS. MATA: You're welcome.

22 MEMBER DONATELLI: By the way, I do a great Frank Sinatra
23 impersonation.

24 MS. MATA: I love it. We're ready.

25 ACTING CHAIRMAN FRANCIS: Sign him up.

26 MEMBER DONATELLI: Not.

1 MS. MATA: We're ready. Do you have any other questions? Do
2 want me to go through any other points?

3 MEMBER GOODSSELL: No, because a lot of this is dependent on the
4 granting of the variances. These proposals.

5 MS. MATA: All right.

6 MEMBER DONATELLI: Well, I do actually have one other question.
7 I'm not sure if you want me to direct this to yourself, but.

8 MS. MATA: Sure.

9 MEMBER DONATELLI: Where will the deliveries be made to the
10 restaurant?

11 MS. MATA: Yeah, absolutely. So the deliveries and the garbage
12 will use the same path as the movie theatre. So the movie theater
13 that had a path that was used on the side entrance on the Bellevue
14 side of the building. The building has two side entrances. One on
15 Bellevue that crosses over through the apartment complex. There's
16 a shared easement. That will be where the garbage will be picked
17 up. That's where the dumpsters will be located. That's where the
18 garbage will be picked up, and for the most, that's where a lot of
19 the construction is also gonna take place in terms of filling and
20 entering, like demolishing out -- pulling out rubbish, and then
21 filling back in, is also gonna be through the sides. In terms of
22 any deliveries, deliveries through the side. Refrigerated
23 deliveries we're probably gonna have some sort of a ramp for the
24 larger box items, and then there's also the possibility of having
25 deliveries after hours. Like if anyone ever lived on Irma Avenue,
26 you see Yummy Gyro and all the restaurants, they get their deliveries

1 like 8:30, 11:30 P.M., midnight, 1:00 in the morning. They'll pull
2 right up on Main Street and get those deliveries then when the street
3 is empty. So they'll have two possibilities. Either late night
4 deliveries between that 10:00 to 11:00 P.M., 1:00 in the morning hour
5 or the side Bellevue entrance.

6 ACTING CHAIRMAN FRANCIS: That might be a little problematic
7 for that residential building that's there. I don't know whether
8 or not you want to have deliveries at 1:00 A.M. in the morning.

9 MS. MATA: Well, the deliveries then, if they were in the
10 morning, they would be on the front end the building.

11 ACTING CHAIRMAN FRANCIS: Oh, on the front end.

12 MS. MATA: They would be in the front end of the building.

13 ACTING CHAIRMAN FRANCIS: Got you.

14 MS. MATA: Yeah, the front of the building would be like Yummy
15 Gyro uses and all the restaurants on Main Street where they get those
16 deliveries after 11:00 P.M. You see all those trucks lined up on
17 Main Street.

18 ACTING CHAIRMAN FRANCIS: Okay.

19 MS. MATA: So that would be the front. If it's the side, then
20 it would be Bellevue entrance, and that would be -- but not during
21 peak traffic hours, of course. And the Bow Tie Restaurant used that
22 same path, right? So they obviously have garbage and food
23 deliveries, and so they use that same path.

24 MEMBER DONATELLI: And you are anticipating having
25 refrigerated refuse for -- what's the word? Pu?

26 MR. PERROTTA: Putrescible.

1 MEMBER DONATELLI: Putrescible waste?

2 MS. MATA: Yes.

3 MEMBER DONATELLI: All right. Thank you.

4 ACTING CHAIRMAN FRANCIS: Thank you very much.

5 MS. MATA: Thank you.

6 MR. ANZALONE: Thank you, Leya. The applicant has also
7 requested, obviously, this board to permit the proposed use in the
8 portion of the property zoned Residence C; pursuant to its authority
9 to extend the Business B Zoning, no more than 50 feet into the
10 residential zone. The entirety of the building and the Residence
11 C Zone is located 50 feet of the easterly edge of the Business B Zone.
12 The North Hempstead zoning ordinance was adopted in 1929, which is
13 two years after the theater opened.

14 The documents filed with this application show there have been
15 no additions to the building's footprint since it was constructed
16 circa 1927. In this circumstance, the neighborhood grew and
17 developed along the scale and design and layout of the Beacon Theater
18 that is proposed to be maintained. Now, in the alternative, if the
19 board concludes for any reason that the applicant meets use variance
20 in the Residence C Zone, the applicant meets those requirements.

21 In advance of the public hearing, the applicant submitted an
22 analysis with a rate of return for as-a-right uses within the
23 Residence C Zone prepared by Mr. Michael Lynch, who is with us today.
24 Here, the applicant also notes that portions of the Residence C Zone,
25 where the use is proposed, are already developed within a portion
26 of the theater building, which is not suitable for uses permitted

1 is such residential zones. Further, even, if the theatre building
2 was partly demolished and the lot subdivided to allow for an
3 as-of-right development of the Residence C portion, such development
4 would be a flagged lot surrounded by the balance of a multi-story
5 brick theater on its west and north, and as well as a four-story
6 apartment building on its east. There's also significant grade
7 change along the flag that includes a staircase to accommodate. Such
8 an area is not suitable for Residence C development.

9 Now, the hardship is certainly unique and does not apply to a
10 substantial portion of the district or the surrounding area. Since
11 this property is fully developed with a 100-year-old theater that
12 crosses the zoning line and was operated as a theater for 90 years,
13 most of the property that was utilized for the theater use is and
14 was zoned Business B, which allows for both the historic and proposed
15 uses by a conditional permit. No other parcel in the area is
16 developed with a former theater for which a zoning district line runs
17 through. No other parcel in Main Street corridor developed a
18 building housing or exclusively housing commercial uses appear to
19 be meaningful split zoned through the building.

20 The requested use variance, if granted, will not alter the
21 essential character or neighborhood since, again, portions of the
22 property in the Residence C Zone were used for commercial use,
23 particularly a theater, for 90 years. Accordingly, grant of a use
24 variance will not establish use that would be entirely new at the
25 property nor in stark contrast to the property's historic use, nor
26 will such an approval change any existing building footprint or

1 scale.

2 The hardship has certainly not been self-created. Again, the
3 project has been utilized for similar uses for approximately
4 90 years, and we're seeking an adaptive reuse of such a building.
5 The theater was built before the adoption of the town's zoning
6 ordinance and was discontinued by a prior operator due to economic
7 conditions. The existing nearly 100-year-old building that crosses
8 the zoning line on the property is what causes the hardship.

9 At this time, in further support of the conditional use permits
10 and the variances, I would like to offer Mr. Mike Lynch to discuss
11 his findings and reports. Mr. Lynch has, again, testified before
12 this board on numerous occasions, and I'd like to ask that he be
13 qualified as an expert. Thank you.

14 MR. LYNCH: Good afternoon, Mr. Vice Chairman, members of the
15 board. It's Michael Lynch. I'm here as a real estate on this
16 application. I have appeared as Mr. Anzalone indicated, appeared
17 in the past before this board.

18 I was out at the site at the end of July. I prepared a report
19 that Mr. Anzalone indicated was submitted. With respect to my
20 findings and the criteria with respect to not only a conditional use
21 request but if in the alternative, we require a use variance because
22 the property is partially incubus by the RC Residence Zone.

23 I'll try to be brief here. Again, I did prepare a detailed
24 report. Mr. Anzalone did go over the criteria that I covered
25 primarily with respect to the use variance. So approximately a
26 quarter of this Beacon Theater, which again, was built 1927, two years

1 prior to the enactment of the zoning code. Three-quarters of the
2 property is within the BB Zone, the commercial zone. The
3 southwesterly quadrant is in the RC zone. Now, since the building
4 footprint of the Beacon Theater encompasses a portion of the RC Zone,
5 in the alternative without the business depth extension, we require
6 a use variance, I did an analysis of what of could put to use in the
7 RC Zone, and without relief from this board, assuming we were to
8 demolish a portion or if not the entire Beacon Theater property,
9 without relief from the board, we can't even construct a conforming
10 one- or two-family residence. Most -- the logical use would be the
11 dog lot port dog or the flag staff portion, the dog leg portion that
12 extends out to Bellevue, however, as Mr. Anzalone indicated that had
13 dog leg that 15-foot wide portion of the property that extends out
14 to that roadway. It has an existing staircase on it for -- so it's
15 really not a practical use. Again, without relief from this board,
16 we can't even consider as-of-right a one- or two-family residence
17 that is permitted within the RC Zone.

18 As far as a reasonable rate of return, if we were to demolish
19 this property and construct a conforming, what I determine would be
20 the highest and best use of the BB Zone, which would be a medical
21 use. I did an analysis of a medical building approximately 6,000
22 square feet. Again, with conforming parking on site and underneath
23 that elevated two-story office building, I estimated a 6,000 square
24 foot building, and again, I would consider that the highest and best
25 use as-of-right in the BB Zone. Giving the demand for medical use,
26 the bank building immediately to the east was converted to medical

1 by Northwell, so I would consider again the demand for a medical
2 office, which is healthy at this point and is growing demand for
3 medical office use.

4 The property was purchased by the client in September of 2023
5 for 2.85 million. I estimate to demolish that Beacon Theatre
6 building would be approximately \$20 a square foot with a little over
7 20,000 square feet of building area. I added that to the initial
8 cost back in '23 by the client. I estimated the cost to construct
9 a new 6,000 square foot medical office building as \$450 a square foot,
10 in talking with local architects as well as cost handbooks. I added
11 in a miscellaneous site cost, et cetera, of 75,000. I came to a total
12 estimated cost in the alternative for a conforming use would be
13 \$6,028,720. Now, again, because of the existing residential use
14 that's there, that also restricts the amount of footprint that we
15 could construct with respect to the medical building because we have
16 to maintain a 15-foot buffer in a Residence C Zone, so that it further
17 constricts, again, how large of a medical building you could put
18 there.

19 I took out from the total cost of that -- rather what the
20 estimated net rental would be for a medical to an investor. I
21 estimated \$35 a square foot for medical office space that would
22 generate a gross income of \$210,000 a year. I took out for vacancy
23 and collection loss, which brings us down to an effective gross of
24 just under \$200,000. I took out for estimated property taxes,
25 management expense, structural reserve, insurance cost,
26 miscellaneous. I came down to a profit of \$128,025 per year, which

1 would equate to a return on investment of 2.1 percent. Now, granted
2 that 2.1 percent is actually half of what an investor could realize
3 on a tax-free ten-year treasure bond, which at the time of my report
4 was 3.9 percent. But I also, obviously, I compared to what the
5 project would be as far as renovating the Beacon Theatre. The cost
6 again of the Beacon property was 2.85 million in the fall of 2023.
7 Based on the architects' and the attorneys' figures for conservative
8 renovation of the property would be 9.5 dwelling, which would bring
9 the total cost up to an estimated 12.35 million. In terms of what
10 the rent would realize to an investor, I estimated for a dinner
11 theater, considering what restaurants are rented out for, not only
12 in Port Washington but other areas, and also, considering a hybrid
13 theater dinner use, I used a \$40 per square foot figure. That brought
14 us to a gross rental for the year of a little over \$800,000. I took
15 out for a vacancy -- estimated vacancy and collection loss, which
16 brings us to just a little under \$800,000, and I took out for estimated
17 property taxes, and I estimated that the value would have obviously
18 a higher assessed value, therefore, higher real estate taxes. I
19 considered that. Estimated \$110,000 for the estimated real property
20 taxes. Took out again, as before, management expense, structural
21 reserve, insurance, miscellaneous; just under \$200,000, annual
22 expenses. Bringing us to an estimated net operating income or profit
23 of \$568,250. That, again, gives us return as with the risk-free rent
24 on the municipal bonds over 4.6 percent. Again, which is double what
25 we realize if we were to demolish the Beacon Theater and build a
26 conforming use that would represent the highest and best use under

1 the BB Zone.

2 So with respect to the test of the use variance, can a reasonable
3 return be realized? The answer is no, in the alternative if the
4 building were to be demolished and a conforming use that would satisfy
5 the BB Zone were to be built. So in terms of that test under the
6 use variance standards of a reasonable return cannot be realized,
7 in my view, if we were to build something there that is conforming.

8 Mr. Anzalone went through the other standards. I don't want
9 to be too repetitive. Again -- but the biggest thing really with
10 respect to area character, this is a building that has stood for close
11 to 100 years. It's part of the fabric and the character of the
12 westerly portion of the Downtown Business District and Downtown Port
13 Washington.

14 If these variances and requested conditional use are approved,
15 it'll only be a positive to the downtown community of Port Washington.
16 In balance, the benefit greatly outweighs any possible detriment to
17 adjacent properties, the surrounding community. In fact, the
18 maintenance, refurbishing, and repurposing of this close to
19 100-year-old structure, again, will only be a benefit to the downtown
20 community and surrounding properties. So at this point, I can answer
21 any questions if the board may have any?

22 MEMBER DONATELLI: I do have a question and thank you for that
23 very thorough presentation.

24 MR. LYNCH: Certainly.

25 MEMBER DONATELLI: Your calculations as to the rate of return
26 for allowing the building to stand versus making it compliant.

1 MR. LYNCH: Yes.

2 MEMBER DONATELLI: Is that encompassing the entire footprint
3 of the Beacon Theater or just the one-quarter of the Beacon Theater
4 that is non-compliant?

5 MR. LYNCH: No, that would be -- that would encompass the entire
6 building.

7 MEMBER DONATELLI: The entire?

8 MR. LYNCH: Yes, it would be.

9 MEMBER DONATELLI: Thank you.

10 MR. LYNCH: You're welcome.

11 ACTING CHAIRMAN FRANCIS: Any other questions?

12 MEMBER GOODSSELL: No.

13 ACTING CHAIRMAN FRANCIS: Thank you very much.

14 MR. LYNCH: Thank you.

15 MR. ANZALONE: Thank you, Mr. Lynch. In summary, the requested
16 relief is to allow the replacement of a former conditionally approved
17 use with another, within the same physical limitations of the
18 building's exterior wall/footprint, under the same zoning map and
19 abided by the same uses that existed when the theater use terminated
20 in 2018, to allow for the preservation, restoration, and renovation,
21 and adaptive reuse of the Beacon Theater building.

22 For all reasons stated today, we -- and it's in the materials
23 filed with this application, we respectfully request this board to
24 grant the approvals. The applicant and the professionals are all
25 available to answer as many further questions this board may have,
26 otherwise, we thank the board for its time and attention.

1 MEMBER DONATELLI: Thank you.

2 ACTING CHAIRMAN FRANCIS: All right. We had some audience
3 members that wanted to make a comment. I will just note for the
4 record that if your comment is going to replicate someone who has
5 preceded, then there's no reason to restate the same thing. You can
6 stand up and say, yes, I agree with the last gentleman. That would
7 kind of alleviate the replication of the same point.

8 MEMBER DONATELLI: And also, I would just suggest because many
9 of you were not in the room when we started this morning when the
10 vice chairman made this announcement, comments are typically limited
11 to three minutes. If the three minutes expire and you have to wrap
12 up, certainly feel free to wrap, but we ask that comments be limited
13 to three minutes.

14 ACTING CHAIRMAN FRANCIS: All right. Who wants to start us
15 off?

16 SECRETARY WAGNER: We have a list.

17 ACTING CHAIRMAN FRANCIS: Oh, I'm sorry.

18 MR. PERROTTA: If you have signed but don't want to speak,
19 that's fine. You didn't sign and you want to speak, we'll give you
20 the opportunity to do so. Dawn?

21 AUDIENCE MEMBER: She left.

22 MR. PERROTTA: Holly Byrne? Want to speak?

23 MS. BYRNE: May I?

24 MR. PERROTTA: Come on up.

25 MS. BYRNE: Hello.

26 ACTING CHAIRMAN FRANCIS: Hi.

1 MS. BYRNE: Again, my name is Holly Byrne, B-Y-R-N-E. I'm
2 representing the Greater Port Washington Business Improvement
3 District. I am the executive director of that organization, and this
4 is the statement I'd like to read. "On behalf of the BID, it's our
5 nickname, in my capacity as executive director, I wish to express
6 our general support for new business development within the Port
7 Washington Business District. Downtowns matter. As cultural and
8 social hubs, they attract residents, workers, and tourist alike, and
9 often provide the space for the community gatherings, events, and
10 celebrations thereby fostering a sense of local pride and shared
11 identity.

12 In keeping with this, they play a vital role in economic
13 development by serving as the commercial heart of our community.
14 They generate revenue and enhance employment opportunities,
15 facilitate community building, and expand the local tax space, and
16 improve the overall quality of life of our residents, workers, and
17 visitors alike.

18 However, in recent times, with the advent of online shopping,
19 downtowns in general, have suffered loss of retail business and faced
20 many challenges, including the high rate of store and office
21 vacancies. This can attract crime and vandalism, which further
22 diminishes the vibrancy and attractiveness of our community. It's
23 therefore critical to take positive action to explore and take
24 advantage of development opportunities to manifest this impact.

25 In response, the Port Washington BID was created at the
26 initiative of the Town of North Hempstead to help improve the

1 community's business climate through efforts designed to promote a
2 vibrant, secure, clean, comfortable, and walkable downtown through
3 healthy commerce. A sense of place with comfortable gathering
4 locations and improve access to mobility and more.

5 So new business development is a necessary partner in these
6 efforts. It serves as the engine for economic growth and community
7 building by attracting additional businesses, entrepreneurs,
8 investors to the downtown area. This creates job opportunities,
9 boosts tax revenue, and stimulates local spending, which can lead
10 to increased property levels -- property values, additional
11 investment and improved profitability for our local businesses.

12 Accordingly, the positive impact of a new business development
13 works in synergy with the efforts of the Port Washington BID to affect
14 a stronger, safer, and more robust downtown, with local business
15 community, which benefits the Port Washington community as a whole.
16 Thank you.

17 ACTING CHAIRMAN FRANCIS: Thank you very much.

18 MR. PERROTTA: Kurt Timothy?

19 MR. TIMOTHY: I'm here on behalf of Resident Hall to listen.
20 I don't wish to speak at this time.

21 MR. PERROTTA: Okay. Robert Garofalo? Richard Garofalo?

22 MR. GAROFALO: My name is Richard Garofalo. I'm a past BID
23 president, and former owner of Anthony's World of Floors in Port
24 Washington, and five generations of family representation here.

25 ACTING CHAIRMAN FRANCIS: Just give us an address for you.

26 MR. GAROFALO: Oh, yes, 95 Shadyside Avenue, Port Washington,

1 New York 11050.

2 ACTING CHAIRMAN FRANCIS: Okay, thank you.

3 MEMBER DONATELLI: So five generations makes you a clam digger.

4 MR. GAROFALO: Landscaper. Anyway, I'm all for this plan. I
5 think Beacon Theater being maintained as a theater venue would be
6 fantastic, and I think the venue itself is -- as far as I'm concerned,
7 off-peak traffic, and the parking lots adjacent should be able to
8 handle it as the roads can handle it. I throw in anything else
9 it's -- I rather see it than anymore residential apartment buildings
10 going in because I think that would be more hindrance to traffic than
11 this venue. That's all I have. Thank you.

12 ACTING CHAIRMAN FRANCIS: Thank you.

13 MEMBER DONATELLI: Thank you.

14 MR. PERROTTA: Steven Catrone?

15 MR. CATRONE: I'm Steven Catrone, with a V; C-A-T-R-O-N-E, 46
16 Fairview. President of Park Civic Association Port Washington, and
17 I'm admin for PW Life. So just right off the bat, that area at night
18 is a dead zone. So I don't -- I'm not even concerned about,
19 personally, the parking. So I'm speaking on behalf of my civic
20 association also here. This proposal is literally a gift from God.
21 The suggested use of the theater, along with the fact the historic
22 building will be restored, make this project a big win for Port
23 Washington. A dinner theater events venue. I mean, that's -- how
24 cool would that be? If not this, then what? A predatory multi-level
25 apartment development? No way. I and my civic association strongly
26 endorse this proposal, and I would respectfully ask this board to

1 do whatever it can to help this project proceed in a timely and
2 successful manner. Thank you.

3 ACTING CHAIRMAN FRANCIS: Thank you very much.

4 MR. PERROTTA: Andrew Shaffer?

5 MR. SHAFFER: Andrew Shaffer. That's S-H-A-F-F-E-R, and I
6 live at 1298 Port Washington Boulevard. So nobody cares more about
7 traffic than I do, if you know where my house is. I've been involved
8 in development projects for the last several years. They looked to
9 build this big building on Westshore Road, and I got really upset,
10 so I started paying attention for the first time to the development
11 in this area. I created a Facebook page called, Port Washington
12 Development Watch, just to talk about this stuff to make sure we're
13 paying attention to these things, and 1,000 people joined. I was
14 like, okay, I guess we care about this kind of stuff, and we've had
15 some past successes stopping some things that we didn't like, you
16 know, and all of a sudden, this comes up, and I'm like, wow. A thing
17 we like. Like this is cool, you know. And this legalese parking,
18 whether they shouldn't and they shouldn't, but speaking as someone
19 who lives here, medical buildings, boring, you know. Dinner
20 theater, exciting, you know. I live in Port Washington. It's a
21 wonderful place to live. What a great thing this would be for us
22 to have and could brag about that. I live in Port Washington where
23 that great dinner theater is. We also have the Landmark and all these
24 wonderful things. This would be a jewel in our crown. I think
25 there's like this legalese behind this, but whatever you need to
26 get -- to make this happen, let's not let this get away from us. Like

1 how cool would this be? That's it.

2 I will say also, they're gonna build something there, and I can't
3 image what they're gonna put there that we're gonna like as much,
4 and they could put stuff there in this derelict space that could be
5 derelict for a few more years, you know, or it could be something
6 we end up fighting about. We're down here fighting about the
7 variances and uses. So this is a good one. Okay, thank you.

8 ACTING CHAIRMAN FRANCIS: Thank you.

9 MR. PERROTTA: Richard Rubinstein?

10 MR. RUBINSTEIN: Good afternoon, everyone. Richard
11 Rubinstein. Owner of Wash Salon in Port Washington, 31 Main Street.
12 If anyone needs highlights, come on in.

13 ACTING CHAIRMAN FRANCIS: I think I do.

14 MR. RUBINSTEIN: I feel this project is a win-win situation.
15 Not only will it take away an eyesore, it will bring back a once
16 landmark to Port Washington. They're bringing back the name the
17 Beacon with all its history and nostalgia, which people love
18 nostalgia. There's a feeling for nostalgia right now and warmth and
19 family. I think this is gonna be an amazing project for us. They're
20 also gonna restore and keep a lot of the old architecture of the
21 building, which when you read, you know, about architecture in
22 school, and all that. It's amazing architecture in that building
23 that was done years and years ago.

24 I was able to like sneak in, and they took me on a little tour,
25 and I was able to look in. I told them I was the IRS, but. They
26 were nice. There are plans to bring cultural events and exhibits

1 while maintaining a high-end dinner theater. We'll help bring more
2 business and revenue to our town and will help our community. I am
3 currently involved with a hospitality group that raises 400,000 a
4 year for cancer, which I plan to hopefully move to that facility,
5 which will be the perfect location.

6 And like, I agree with this gentleman back here. I know this
7 project will be another crown jewel for Port. Again, I'll end this
8 as I started. It's a win-win.

9 Let me leave you with one thing. My salon is like a microcosm
10 of the town, you know, a lot gossip, a lot of everybody talking, and
11 everyone -- we do 1,000 people a month, and they're already talking
12 excitement, positiveness, and soon to be of the newly renovated
13 building. I haven't heard one bad thing, you know, and all -- it's
14 just -- you see the up on all the people's faces. Finally, we're
15 getting something that's like Manhattan or something great, so I
16 think it's gonna be amazing, and with all your new highlights. I'll
17 see all you guys there. Thank you.

18 MEMBER HERNANDEZ: Thank you.

19 MR. PERROTTA: Allegria?

20 MS. HADLEY: Marina Hadley?

21 MEMBER HERNANDEZ: Well, come on up.

22 MS. HADLEY: I'll be whoever. But for right now, I'm Marina
23 Hadley, 11 Andover Road, Port Washington. Good afternoon, Members
24 of the Zoning Board. I have lived in Port Washington now for
25 27 years, and I have seen many businesses come and go. And the
26 greatest disappointment as a mother has been to see the movie theaters

1 leave Port Washington, two of them. And what are we to do Sunday?
2 We had to go all the way down to Garden City to go and see a movie, and
3 if we have to go in for entertainment, it's usually Manhattan. It's
4 the smallest footprint. If we go somewhere in Port Washington, and
5 we do still have the Landmark. We have the band shell in the summer,
6 but how wonderful to have a dinner entertainment and perhaps a little
7 bit of dancing as well. I mean, where can you go dinner dancing these
8 days?

9 In my day job I run an arts magazine. I'm the operations
10 director, and we cover all the arts, and one of the things that we
11 have really discovered since COVID has been the fact that people want
12 to experience things. They don't want to just go and see things.
13 They want to be involved, and a dinner entertainment dance venue would
14 be a fantastic thing. And as the gentleman before me said, it would
15 be a crown jewel, and bring people to that town, so I would like to
16 put my weight behind this for a yes. Thank you.

17 ACTING CHAIRMAN FRANCIS: Thank you. Steven, anyone else on
18 the list?

19 MR. PERROTTA: Donna Rice?

20 MS. RICE: Hi, good afternoon.

21 ACTING CHAIRMAN FRANCIS: Hello.

22 MS. RICE: My name is Donna Rice, R-I-C-E. I'm at 28 South
23 Bayless Avenue in Port Washington. So I've lived in town for
24 61 years. Got you beat.

25 MS. HADLEY: Yeah, you got me.

26 MS. RICE: I get my nails done across the street from the Beacon

1 Theater, and I would sit there, let my nails dry, and think what could
2 go in there? It's really deteriorating. I hate seeing empty stores
3 on Main Street. I hate seeing that building deteriorate. What
4 could go in there? What would be good? What would go in there and
5 not close? And then this, and I thought, wow, somebody came up with
6 a great idea. They're willing to come to Port. They're willing to
7 put their money behind it. What an exciting thing for Port. What
8 a draw to Port Washington.

9 That's what we want. Have people come see our great Port
10 Washington. It's beautiful. It's lovely. I just think we're so
11 lucky to have somebody with a grand idea, do something in a grand
12 building. Keep it grand. We're lucky to have it done -- to have
13 them want to be here.

14 I implore you to hear that Port wants this. Change may be hard,
15 but not always bad. I really just want you to know that we want this
16 in Port. Let's do it.

17 ACTING CHAIRMAN FRANCIS: Thank you.

18 MEMBER DONATELLI: Thank you.

19 MR. PERROTTA: Is there anyone else who'd like to speak?

20 MR. BERMAN: Hello. Good afternoon, Mr. Vice Chairman,
21 members. My name is Russell Berman. I'm here speaking on behalf
22 of Landmark on Main Street.

23 For those that are not familiar with Landmark on Main Street.
24 Landmark on Main Street was actually built in 1912. A little bit
25 older than the movie house. We've been operating as Landmark on Main
26 Street for the last 30 years, and we incorporate a number of

1 facilities within the building, including a Children's Center,
2 Parents Resource Center, Teen Center, and we have become a hub within
3 Port Washington, and we also house the Jeanne Rimsky, which is
4 nonprofit theater. It seats 440 persons, and it's very well
5 established. We presented Graham Nash, Judy Collins, Kelly O'Hara,
6 numerous artists throughout the years.

7 We met with people from Beacon. They were very, very gracious
8 to us, and we came to a clear understanding, and Beacon is about at
9 quarter mile away from Landmark, and there's already been confusion.
10 People actually looking for Beacon actually showed up at Landmark
11 yesterday. Thank you. Thank you for your visit.

12 And so when it became clear to us that this is an application
13 for a dinner theater, and representations were made to Landmark by
14 Lou Brachinelli, by Mr. Thurman, by counsel, that they won't sell
15 ticketed events. What they will do is operate as a dinner theater,
16 and so we embrace that. We embrace them operating as a dinner theater
17 and not competing with Landmark, and we have been told that he will
18 not compete with Landmark, and the truth of the matter is they're
19 gonna look for artists and so is Landmark. So there's gonna be some
20 natural tension in that relationship, and we hope that they will
21 cooperate with Landmark, and we anticipate that they will. When they
22 go out for artists for their dinner shows that we will exchange
23 advance, I guess, schedules.

24 We will cooperate with each other and communicate and promote
25 each other's events, and that's what we hopefully envision. But we
26 hope this board recognizes the interests of Landmark as an

1 institution within Port Washington. We think what Mr. Thurman is
2 doing is very gutsy. It really is to put the amount of money that
3 he is doing this, and this is not necessarily going to be something
4 that is guaranteed, but it takes a lot of courage, you know, what
5 Mr. Thurman and Mr. Brachinelli are envisioning and doing, but we
6 ask that this body recognize that this is exclusively as a dinner
7 theater. It is not to sell ticketed events for entertainment, which
8 has been represented by counsel and others that come before you, and
9 that we hope that we can cooperate and recognize the interest of
10 Landmark in the consideration of this application.

11 We wish them success. We wish them good fortune, and hopefully
12 we can learn to work with each other towards a cooperative
13 relationship, and that'll be exclusively a dinner theater. Any
14 questions? Any thoughts? Thank you.

15 MEMBER DONATELLI: One very quick question. I already know the
16 answer to it. Does the Landmark, you mentioned 434 seats. Does the
17 Landmark have parking?

18 MR. BERMAN: Yeah, we do. We're fortunate. We have our own
19 parking. We have a relationship with the library for parking. We
20 operate throughout the course of the week. Sometimes, we'll do shows
21 Tuesdays, Thursday, so it's not limited to a Thursday, Friday,
22 Saturday, Sunday brunch schedule. So the answer is yes.

23 MEMBER DONATELLI: Thank you.

24 MR. BERMAN: Thank you.

25 ACTING CHAIRMAN FRANCIS: Thank you very much. Anyone else?

26 MR. ROWLAND: Yes.

1 ACTING CHAIRMAN FRANCIS: Yes, sir.

2 MR. ROWLAND: Hello.

3 MEMBER DONATELLI.: Good afternoon.

4 MR. ROWLAND: My name is Jeff Rowland, R-O-W-L-A-N-D. I live
5 at 55 Lichfield Road in Port Washington. I've lived in Port
6 Washington my whole life, as did my father and my grandfather, my
7 granddaughters can't -- or my daughters rather can't afford to live,
8 but that's another matter entirely.

9 I come here representing no one. I'm just a regular Joe, but
10 my professional acumen lies in entertainment. I've been a producer
11 of entertainment for many years, decades; Broadway shows,
12 television, specials, HBO, all that stuff. When I first heard of
13 this proposal, I was agog because I thought this is fantastic, and
14 I took it upon myself to go visit the site and was shown the plans,
15 and not only was I shown the plans, I talked to the people there about
16 their philosophy of how they were gonna book it, how they were gonna
17 differentiate it from the existing Landmark Theater and with the
18 Huntington Paramount, Huntington. I'm just really here to attest
19 to the fact that I think they've done a fantastic job in thinking
20 this through of where it would fit in the marketplace, and cabaret
21 and dinner theater is a different beast than the presentations that
22 take place often at the Landmark or in other places. There's an
23 aspect of intimacy in the theater that calls for a different type
24 of performance than just I'm singing my songs.

25 And of course the restoration or rejuvenation of the Beacon
26 Theater is a great value, I think, to Port Washington. That's

1 already been spoken to. I don't really need to say anything about
2 that, but I'm really here to attest the fact that it is a good plan,
3 and this can be a business that can be established in Port Washington
4 and can have a open-ended future because it is well thought out and
5 because there is a market for this particular type of entertainment
6 we're talking about here. That's all I wanted to say. All right.
7 Thank you.

8 MEMBER DONATELLI: Thank you.

9 ACTING CHAIRMAN FRANCIS: Anyone else.

10 MS. MATA: Hi, just really quickly. Do I have to introduce
11 myself again?

12 MEMBER GOODSSELL: Yes.

13 MS. MATA: Yeah, okay. Hi, again. My name is Leyalanny Mata,
14 18 Wildwood Gardens, Port Washington, New York. I just -- there were
15 two supporters that were unfortunately not able to be here today.
16 I already submitted a copy of their letters, but they just ask that
17 I give the highlights really quickly.

18 The first person is her name is Edda Ramsdella. That's E-D-D-A;
19 last name, R-A-M-S-D-E-L-L-A. She's at 35 Beacon Hill Road in Port
20 Washington. She's unfortunately unable to be here. She's a little
21 bit -- she's very sad about it, but she just wanted me to really
22 quickly say, "To the Members of Board of Zoning and Appeals. The
23 establishment of a dinner theater cabaret brings an opportunity to
24 raise Port Washington to a new level of excitement. The Beacon
25 Theater embraces unique history from its architecture to its events,
26 and the star entertainers who performed many years earlier. This

1 proposal and desire to restore the building too by enthusiastic and
2 enterprising applicants is one that this town cannot afford to deny
3 with salute to Port Washington, and a confidence that the BZA will
4 work with these entrepreneurs to ensure the project moves forward.
5 I strongly support the requested variances." That's from Edda.

6 ACTING CHAIRMAN FRANCIS: Okay.

7 MS. MATA: And really quickly from Linn Johnson. That's
8 L-I-N-N; last name, Johnson with an H. She's the trustee of the Cow
9 Neck Peninsula Historical Society, and the co-president of the PW
10 Green and Environmental non-profit. She also unfortunately could
11 not be here today, but wanted me to make sure I showed her support.

12 AUDIENCE MEMBER: He's a man.

13 MS. MATA: Oh, sorry, Linn. Linn wanted me to make sure I
14 showed his support via email. We didn't meet in person, sorry. Linn
15 Johnson is a resident of Port Washington for the past 54 years. "The
16 property has been vacant for several years, and as a former
17 entertainment venue could consider it to be used as such. The
18 building facade should be preserved to the most degree possible in
19 its existing form, which would maintain the look of the original Port
20 Washington. As a trustee of the Cow Neck Historical Society, I'm
21 convinced that maintaining the historical feelings of our town has
22 been and is a key attraction for both tourists and townies alike.
23 I think the community should support such a change as opposed to
24 condos or other buildings in our downtown area. Since the
25 entertainment would be primarily in the evenings, and there's plenty
26 of parking behind Carlos. Please give the proposal your full

1 consideration. Sincerely, Linn Johnson." Thank you.

2 SECRETARY WAGNER: You want to submit those?

3 MS. MATA: They're already in the box.

4 ACTING CHAIRMAN FRANCIS: Go ahead, Mr. Anzalone.

5 MR. ANZALONE: So for the reasons that I've previously stated,
6 and I won't belabor the point at this point. We just respectfully
7 request this board to grant the application, and this concludes our
8 case. Thank you.

9 ACTING CHAIRMAN FRANCIS: Thank you very much.

10 MEMBER DONATELLI.: So I'd like to make a few comments. I've
11 lived in Port Washington for 30 years now, and I'm always amazed by
12 the love that Port Washington residents express for this peninsula.
13 It makes me proud to be a Port Washington resident, and to see that
14 same kind of pride in all of you. So for the members of the public
15 who came, thank you so much for coming. You expressed in words what
16 we all seem to feel. Those of us who know Port Washington, I'd also
17 like to say that a special feeling for people who like to preserve
18 what's there, times change, things adapt, businesses change. Trends
19 come and go, but the buildings endure, and to see a new purpose
20 proposed for an old building is also heartwarming.

21 So having said that, let me just address a few other concerns.
22 I think that the proposal has merit, and I will ask -- I will put
23 a motion before this board to grant application. I would like to
24 add some conditions. I know that the applicant has spoken about
25 working towards trying to establish some sort of crosswalk. I think
26 that would be an important thing. I understand that is subject

1 to the Highway Department and subject to the Town Board, but I think
2 it's a worthy endeavor like the Landmark. The Landmark does of
3 course use the parking of the library, which is across the street.
4 There is a traffic light and a boardwalk there so that when people
5 walk, when the Landmark gets out, they cross the street, and they
6 can do it with a green light, so there's no danger. In this instance,
7 the closest light is on Mackey, and it is not likely -- I know that
8 in the past when it was a movie theater, people did not walk all the
9 way to Mackey to across the street and back up to the Beacon. So
10 while we can't mandate the crosswalk, I think it's strongly advisable
11 and we would ask that the applicant do whatever is possible to try
12 to develop a crosswalk there. I think it would be advisable. I have
13 no opinion about whether or not it should be mid-block or at the
14 corner. That is for traffic experts to determine, but especially
15 now with, you know, daylight savings time having expired, all of
16 sudden it's dark at 5:00. I can see how there might be a potential
17 for danger people crossing the street in the dark, and Main Street
18 being what it is, might be difficult to see.

19 So I would like to propose, if possible, that the applicant
20 continue their efforts to try to create a crosswalk there. Similar
21 to the crosswalk that is at the train station with, you know,
22 delineated crosswalk and perhaps a sign saying stop for pedestrians.
23 I think that might be reasonable. And I would ask that the applicant
24 redouble their efforts in that regard.

25 The applicant has expressed some parking commitments if this
26 application is granted. We would like to see those commitments in

1 writing. I would note as the applicant has said that the capacity
2 for the theater is 1,300 seats, and this is going to be about 450 --

3 MS. MATA: It's 468.

4 MEMBER DONATELLI: I'm sorry.

5 MS. MATA: Four sixty-eight.

6 MEMBER DONATELLI: Four sixty-eight, so right around there.

7 While I would anticipate that the parking demand would be less with
8 this dinner theater than it might be for a movie theater, we would
9 want to see some sort of commitments for cross parking. The bank
10 may not use its spots after 5:00. The Town of North Hempstead may
11 be amenable to such an agreement, and that kind of flexibility is
12 what makes the downtown great.

13 So, you know, I will note that the building was built prior to
14 any parking code in effect. In fact, they probably had a horse and
15 buggy in effect when it was built, but still it's an issue that will
16 go to quality of life. Nobody wants to see a clogged up Main Street.
17 At the same time, we realize the reality that the building has been
18 there for almost 100 years, and we hope it's there for 100 years.
19 Again, we'd like to see some cross-parking agreements.

20 The applicant has talked about some shuttle service and valet
21 service. I think that is a very good idea. There is train station
22 parking lot. If there is some synergy, some way to get a large number
23 of people to park, for example, in the municipal lots there and then
24 shuttle them, so that we decrease any kind of traffic that might be
25 in front of the theater. Again, that might be a good idea. These
26 are things that the applicant has volunteered, and I think will go

1 to make the application more sustainable.

2 We all want this new project to succeed. The question is how
3 best do we get it to succeed, and I think that if we make it seamless
4 for your patrons, that's really the best way to go.

5 I would note for the record that recently I went to the TWA,
6 the new TWA building in JFK, which has become a very wonderful
7 restaurant, by the way, if you get a chance to go, you should go,
8 but they had the same system; when you go to pay your check, the valet
9 already on its way bringing your car back, so it's a very enlightened
10 approach, and I would urge you to redouble your efforts on that as
11 well.

12 Delivery of course is an issue for any restaurant. Between
13 having the applicant commit to the deliveries on the side of building
14 during the day, and Main Street deliveries during the evening hours
15 I think that will be helpful, and to mitigate any kind of problems
16 that might arise.

17 Finally, I'm sure that you -- and I have not reviewed the plans
18 in this detail, but you're in compliance with what we call our
19 standard restaurant conditions as to the refrigerated garbage, and
20 yes, I would ask that restaurant conditions but made part of any such
21 grant.

22 ACTING CHAIRMAN FRANCIS: Definitely.

23 (Whereupon, a discussion was held amongst the board members.)

24 MEMBER DONATELLI: So I have one other comment, which is the
25 applicant has made an application for a use variance. I find that
26 they met their burden of proof, and that we will be granting the use

1 variance and incorporating that into findings. It was a very good
2 presentation, and we intend to incorporate that into our findings.
3 We will be granting the use variance as requested, and that the
4 conditions that I just indicated will also be set forth in those
5 findings.

6 ACTING CHAIRMAN FRANCIS: In addition to your commitment with
7 regard to parking.

8 MEMBER DONATELLI: And they can be just letters that you can
9 submit to our office, indicating the parking measures that you've
10 put in place.

11 DEPTUY TOWN ATTORNEY ALGIOS: However, I just want to add one
12 thing. The formal agreements should be submitted to the town
13 attorney office. You can submit them to me by email.

14 MEMBER DONATELLI: So with all of that said, Mr. Acting
15 Chairman, I make a motion that we grant the application subject to
16 those conditions.

17 ACTING CHAIRMAN FRANCIS: Okay, we have a motion. Do we have
18 a second?

19 MEMBER HERNANDEZ: Second.

20 ACTING CHAIRMAN FRANCIS: Seconded by Member Hernandez.
21 Ginny, please poll the board.

22 SECRETARY WAGNER: Member Goodsell?

23 MEMBER GOODSSELL: Aye.

24 SECRETARY WAGNER: Member Hernandez?

25 MEMBER HERNANDEZ: Aye.

26 SECRETARY WAGNER: Member Donatelli?

1 MEMBER DONATELLI: Aye.

2 SECRETARY WAGNER: Acting Chairman Francis?

3 ACTING CHAIRMAN FRANCIS: Aye. Application is granted.

4 MEMBER DONATELLI: Good luck to all of you.

5 SECRETARY WAGNER: Make motion to adopt SEQRA.

6 MEMBER DONATELLI: I make a motion to adopt SEQRA.

7 MEMBER HERNANDEZ: Second.

8 SECRETARY WAGNER: All in favor?

9 BOARD MEMBERS: Aye.

10 SECRETARY WAGNER: SEQRA is adopted.

11 (WHEREUPON, the Proceedings concluded at 1:26 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 8th day of January, 2025.



MARIESEL BERRIOS