

1
2 Town of North Hempstead

3 Board of Zoning Appeals

4 PUBLIC HEARINGS

5
6
7 Wednesday, December 18, 2024

8 10:00 a.m.

9
10
11 BOARD MEMBERS PRESENT:

12 David Mammina, AIA, Chairman

13 Leslie Francis, Esq., Vice-Chairman

14 Patricia A. Goodsell, Esq., Member

15 Daniel D. Donatelli, Esq., Member

16 Jay Hernandez, Member

17
18 ALSO PRESENT:

19 Deborah Algios, Deputy Town Attorney

20 Virginia Wagner, Secretary

21 Steven Perrotta, Planner

22 Debbie Babino, Stenographer

23

24

25

1 VICE-CHAIRMAN FRANCIS: Good morning, I apologize for my
2 lateness. I didn't realize they were repaving Shelter Rock
3 Road until I was on Shelter Rock Road, so --

4 All right, if you are new to the Board of Zoning Appeals, at
5 least here, I'll just go over some preliminary facts, and then we'll
6 get started.

7 The way that we proceed, in terms of the order, is that the
8 applicant will come up to the podium first and present their
9 application to us and any proofs that they have. After that, if
10 there's anyone interested in the application, either for or against,
11 you will have three minutes to come up to the podium and give your
12 opinion about the application, for or against, as I said. After
13 that, then the applicant will come back up, respond to your remarks,
14 and then we will do four -- one of four things. We will either grant
15 the application; we will deny it; we will reserve it in terms of making
16 the decision at a later date; or we will continue it for additional
17 information either from the applicant or from whomever else spoke
18 on the application, and that's pretty much how we run things.

19 We ask that you put your phones on silent or vibrate so that
20 it doesn't interrupt anyone at the podium. We'll do the same thing
21 up here, and absolutely no crosstalk because we are taking a record,
22 and even we're very conscious of it ourselves. Talking over each
23 other makes it difficult for the court reporter to do her job.

24 So that's it. Other than that, we are -- even though we are
25 a quasi-judicial board, we try and operate as informally as possible.

1 So please feel free and comfortable, and you know, if this is
2 your first time speaking in public, I know how that is, it'll be fine;
3 okay?

4 With that said --

5 SECRETARY WAGNER: We're still not live.

6 VICE-CHAIRMAN FRANCIS: Oh, we're still not live.

7 SECRETARY WAGNER: We have to wait.

8 VICE-CHAIRMAN FRANCIS: Okay, so we're still waiting for our
9 television hookup to --

10 SECRETARY WAGNER: Do you want to do the Pledge?

11 VICE-CHAIRMAN FRANCIS: Yeah, we can do the Pledge now.

12 SECRETARY WAGNER: Sure.

13 VICE-CHAIRMAN FRANCIS: If you would join me in the Pledge of
14 Allegiance?

15 (WHEREUPON, the Pledge of Allegiance was recited.)

16 CHAIRMAN MAMMINA: Everybody gets a chance -- everybody gets
17 a chance to be on TV.

18 I know a couple of applications that are out of Mineola.

19 VICE-CHAIRMAN FRANCIS: Yeah.

20 (WHEREUPON, there was a three minute pause in proceedings.)

21 SECRETARY WAGNER: Okay, we're live.

1 CHAIRMAN MAMMINA: All right, thank you, again, ladies and
2 gentlemen and please call the first case.

3 So our first appeal is number 21592, Seon Pak, 61 Manor Drive,
4 Great Neck, New York.

5 Is there anyone in the room --

6 ATTORNEY ALGIOS: Let me just call the case.

7 CHAIRMAN MAMMINA: Oh, I'm sorry.

8 ATTORNEY ALGIOS: The first appeal is appeal 21592, Seon Pak;
9 61 Manor Drive, Great Neck; Section 2, Block 109, Lot 1; Zoned:
10 Residence-B.

11 Variance from §70-40.B to construct a new home and a portico
12 that are too close to the street, both primary and secondary front
13 yards.

14 But before we go, we have this case, we do have two adjournments.

15 For the record --

16 (WHEREUPON, there was an off-the record discussion.)

17 SECRETARY WAGNER: Okay, we have an adjournment of appeal
18 number 21634, Peter and Donna Rowlinson; 15 Lincoln Place in Port
19 Washington; Section 5, Block 41, Lot 7 in the Residence-C Zoning
20 District.

21 Variances from §§70-50(B), 70-51(B), 70-52, 70-52.3(A),
22 70-101(B) and 70-209(A) to construct additions to a dwelling, and
23 to rebuild a dwelling that would be considered a new home that would
24 be located too close to the street, too close to a side property line,
25 too close to a rear property line, and would pierce the sky exposure
26 plane, with a one-story porch located too close to a street, and to

1 rebuild a home that would not be in compliance with the zoning code.

2 That is adjourned without date.

3 Appeal number 21583, United Cerebral Palsy Association of
4 Nassau County; 9 Bellevue Ave., Port Washington; Section 5, Block
5 81, Lot 10; in a Residence-C Zoning District.

6 Variances from §§70-44 and 70-208.G to convert a three family
7 to a four-family house, not a permitted use, that is an expansion
8 of a non-permitted use.

9 That is adjourned to January 22nd.

10 CHAIRMAN MAMMINA: All right, so if anyone's here for either
11 one of those two applications, those will not be heard today, so at
12 this point, you can leave, and the first one is adjourned without
13 date, and at this point, they still want more time to get their
14 application together, and United Cerebral Palsy is adjourned to
15 January 22nd.

16 SECRETARY WAGNER: Thank you.

17 CHAIRMAN MAMMINA: So with that said, would you please call the
18 first case.

19 SECRETARY WAGNER: Deborah already called it, so he's ready.

20 CHAIRMAN MAMMINA: Okay.

21 Okay, so applicant, take it away.

22 MR. FILIPAZZI: Good morning, Chairman, members of the Board,
23 Andrew Filipazzi of Harras Bloom & Archer, 445 Broad Hollow Road,
24 Melville, New York, appearing on behalf of the applicant and owner
25 for these variances concerning property located at 61 Manor Drive
26 in Great Neck, Section, Block and Lot, 2, 109 and Lot 1, Residence-B.

1 Applicant -- this matter was on before previously on September
2 18th. We heard comments from both the Board and the public. We
3 asked for this continuation to go back and revise the plan. It took
4 us some time to make those revisions, have the Building Department
5 review them, issue an updated Letter of Denial before we were able
6 to get back before you today.

7 So I also have --

8 CHAIRMAN MAMMINA: I'll just apologize.

9 We all live and breathe by our phones and all of that. Just,
10 if you could put them on silent, that's okay. If you have to take
11 make a call or take a call, that's perfectly all right. You can go
12 right out into the lobby area, and that's all right. If you have
13 someone else who's coming to the hearing who is not here yet, please
14 let them know, as well.

15 Ma'am, you're completely forgiven.

16 SECRETARY WAGNER: That would be Exhibit 1.

17 MR. FILIPAZZI: Yeah, so at the last hearing, the Board also
18 asked to see what a permissible building envelope for this property
19 would be. So that was submitted ahead of this hearing, I provided
20 a copy of that. As you can see, due to the shape of the property,
21 it's a fairly small triangular building envelope that would make
22 constructing a new home within that that is of the quality and caliber
23 of this neighborhood and the Town of North Hempstead very difficult.

24 So the plan that we have proposed and are here before you this
25 morning, has reduced the overall size of the house. The new proposed
26 house has a lot coverage of 1,408.9 square feet which is a reduction

1 from 1,686.4 square feet and a reduction in the floor area to 2,792.18
2 square feet. That's reduced from 3,290.43 square feet.

3 I do want to let the Board know that we did not require variances
4 for lot coverage or F.A.R., so these are -- I'll pose it as purely
5 voluntary by hearing the concerns of the Board and understanding how
6 they impact the variances. This is what we've done in an effort to
7 reduce the variances that are being sought.

8 MEMBER HERNANDEZ: I'm sorry to interrupt you, but --

9 MR. FILIPAZZI: Mm-hmm.

10 MEMBER HERNANDEZ: -- you mentioned the irregularity of this
11 lot.

12 MR. FILIPAZZI: Yes.

13 MEMBER HERNANDEZ: But this lot was created by your client by
14 subdividing a larger property.

15 MR. FILIPAZZI: It is being proposed to be subdivided, yes.
16 The shape of the lot is, and the reason that we're here seeking it
17 is because we are seeking a subdivision of the lot. We are creating
18 this triangular lot off of -- and keeping the interior lot that is
19 otherwise conforming to town code, so it -- to that extent, yes, it
20 is self-created. Obviously, that's one of the five factors but not
21 a determinative factor, and I'll go through what we've done to
22 hopefully get to a point where the variances being requested are
23 minimal enough that this Board is comfortable granting.

24 So pursuant to the December 5th, 2024, Notice of Disapproval,
25 the two variances being sought are 10-foot front yard setback on the
26 primary front yard, Manor Drive, and a 5-foot setback on the secondary

1 front yard on Manor Place which is effectively the rear yard of the
2 property.

3 So on the primary front yard, this is a decrease of 5 feet from
4 the prior plan and variance request where we were at 15 feet. So
5 we pulled the entire structure back. The front wall of the house
6 is 25 feet from the property line, and there's a proposed open air
7 portico. I know there was some discussion about that. This is a
8 true open air, open on three side portico which projects out 5 feet,
9 and that's where the setback is calculated from, and this is very
10 similar to a number of the other homes on Manor Drive.

11 On the secondary front yard, which I said is essentially the
12 rear yard of the property, this is, again, a reduction of 2 1/2 feet
13 from the prior variance request, and by increasing this effect, it
14 further avoids any sort of line of sight or streetscape concern that
15 the Board may have for anybody who's going up and down Manor Place,
16 and as this has two frontages, it has two front yards, it is considered
17 a through lot, and so that is an additional difficulty that this
18 property does face.

19 So that is a summary of what we've done in terms of the revised
20 plan. We believe that this fits within the character of the
21 neighborhood. There is not any negative environmental concerns, and
22 given the character of the other homes in the development on -- in
23 this neighborhood, the variances would not be substantial as they
24 are substantially similar with the existing development, so --

25 CHAIRMAN MAMMINA: A couple of questions.

26 MR. FILIPAZZI: Mm-hmm.

1 CHAIRMAN MAMMINA: Picking up on what Member Hernandez said.
2 When you say that this still is in keeping with the neighborhood,
3 I would like you to demonstrate if you have any other houses or things
4 that would show up, you know, on this subdivided lot. I mean, the
5 subdivision is self-created, and I understand that everybody wants
6 to make money.

7 MR. FILIPAZZI: Mm-hmm.

8 CHAIRMAN MAMMINA: But you know, it's -- it becomes a valid
9 question as to why hasn't this been successfully done before, how
10 is the character of the neighborhood, what is shown here, and do you
11 have any other plan that would say, okay, here it is if we comply.

12 MR. FILIPAZZI: So --

13 CHAIRMAN MAMMINA: And why can't you comply?

14 MR. FILIPAZZI: So taking your last question first, I've
15 provided a copy of that building envelope. Given the shape of the
16 property, it's, I believe an 821 square foot building envelope, and
17 that is not a rectangle or square that you could build out entirely.
18 So this would be some sort of either L-shaped or triangular house.
19 Given that, we may be looking a 1,000 square foot home. Most of the
20 homes in this area are considerably larger.

21 MEMBER HERNANDEZ: But they're on a considerably larger lot.

22 MR. FILIPAZZI: That -- this property is an oversized lot,
23 it's --

24 MEMBER HERNANDEZ: Not anymore.

25 MR. FILIPAZZI: -- 7,000 square feet.

26 MEMBER HERNANDEZ: Not if he subdivides it.

1 MR. FILIPAZZI: No, as subdivided --

2 MEMBER HERNANDEZ: Because of the point, because of the shape,
3 and you can't build on the point; right?

4 MR. FILIPAZZI: Yes.

5 MEMBER HERNANDEZ: That's your argument.

6 MR. FILIPAZZI: Yes.

7 MEMBER HERNANDEZ: You can't build on the point, so therefore,
8 you have to build someplace else.

9 MR. FILIPAZZI: Yes, and we wouldn't want to build right in the
10 corner of the intersection even if we were permitted because
11 that's --

12 MEMBER HERNANDEZ: You can't. There's no reason to.

13 MR. FILIPAZZI: Exactly, and you know, the town doesn't have
14 a net lot area where, you know, we're penalized for having the
15 triangular shape because it reduces the building envelope, but it
16 doesn't reduce the amount of F.A.R. or building that we can do on
17 the property.

18 MEMBER HERNANDEZ: When the developer built this
19 development --

20 MR. FILIPAZZI: Mm-hmm.

21 MEMBER HERNANDEZ: -- it built that corner lot with that long
22 extension because he knew exactly that. He knew that that space
23 would be minimal.

24 MR. FILIPAZZI: I can't speak to what the original
25 developer -- subdivider did, you know, so I won't opine on that.
26 I'll, you know, accept, you know, what you're saying, Member

1 Hernandez.

2 CHAIRMAN MAMMINA: But also, what Member Hernandez said, is
3 there anything in that that you feel is not correct because if you
4 buy it that way, that is also self-creation of that hardship.
5 Somebody looked at that and decided they were going to build something
6 on there with variances, without variances, whatever they were
7 thinking, I can't speak to that either as you can't, but it really
8 doesn't address the issue of the question.

9 MR. FILIPAZZI: I can't speak to why the subdivision was laid
10 out like this 60, 70, 80 years ago by -- and why this lot was a 13,000
11 square foot lot when many of the lots in this area are 6,000 square
12 feet. I don't have any knowledge or idea or, frankly, opinion on
13 that. That's the set of facts that we're dealing with today, and --

14 CHAIRMAN MAMMINA: Was it subdivided within the time that your
15 client has owned this lot? When he got there, did he see a subdivided
16 lot?

17 MR. FILIPAZZI: No. This property, together with the interior
18 lot make up a 13,000 square foot lot.

19 MEMBER HERNANDEZ: You're calling it an interior lot. You mean
20 the lot next to it?

21 MR. FILIPAZZI: Yes, the lot next to it which is 61 Manor.
22 There's a house there that's --

23 MEMBER HERNANDEZ: Right.

24 MR. FILIPAZZI: -- 61 Manor Drive. We're proposing to split
25 that, that existing 13,000 square foot lot, maintain the house on
26 a 6,000 square foot interior lot that otherwise meets the

1 requirements of the town code and build a new home on this 7,000 plus
2 square foot triangular lot. It's a proposed subdivision. What
3 we're proposing to build requires variances. That's why we're here
4 today, and Chairman Mammina, I'm not going to hide anything. Yes,
5 it's self-created. We're seeking a subdivision, you know, we're
6 creating the situation. But that is not a determining factor, and
7 based on what we've done to reduce the size of the house based on
8 your comments, some of the concerns of the public, we pulled the house
9 back from both streets to try to be even further conforming, and I'll
10 just point out on Sheet A-002, there's an average front yard setback
11 diagram. The three homes next to us have setbacks of 24.8, 24.3 and
12 30 feet. Those are all taken from the front wall of the building
13 not from the portico.

14 CHAIRMAN MAMMINA: Not from the --

15 MR. FILIPAZZI: Not from the portico, because I believe two of
16 those homes have porticos, which, on those lots, are permitted
17 encroachments. We don't have the benefit of the permitted
18 encroachment because we're seeking variances. I would need to -- if
19 the Board has a significant concern with the portico and that
20 additional 5 feet, I'll discuss it with the client about removing
21 that so that it would be a 5-foot setback on both street frontages,
22 both front yards. But having the portico is within the character
23 of this street. There are many other homes on the street. I don't
24 have pictures, but I could submit them after the hearing to the -- for
25 the Board's consideration showing that these open air porticos are
26 common on this street, and what we're proposing is not dissimilar

1 from those homes.

2 CHAIRMAN MAMMINA: Okay.

3 MEMBER HERNANDEZ: Excuse me.

4 Looking at the same plan, you are describing the property as
5 being the proposed house plus the existing house.

6 MR. FILIPAZZI: Correct.

7 MEMBER HERNANDEZ: So therefore, you're not including the front
8 yard setback on the existing house, but, at least from your
9 architect's drawing, it appears that it's greater than the other
10 houses. So the average setback -- unless the architect has that
11 because it doesn't show it on the plans.

12 CHAIRMAN MAMMINA: I agree.

13 MEMBER HERNANDEZ: Is that including the existing house on the
14 property which is set back further, so it makes the proposed house
15 appear closer. Appears; okay?

16 MR. FILIPAZZI: So if you look at sheet A-001, it does show the
17 outline of the house. The setback is 21 -- 21 feet 11 inches to the
18 portico. There's a 5-foot portico, open air portico on that home.
19 So we're talking about the difference of about less than 2 feet
20 between what we're proposing here and what is existing at 61 Manor.

21 It should be the first sheet.

22 MEMBER HERNANDEZ: Yeah, yeah, I'm on it, but I don't see the
23 numbers that you're quoting.

24 Okay, so it's 21 to the portico. So if you're going house to
25 house, like you did with the other houses, the other houses are 26.

26 MR. FILIPAZZI: The house next door to the front wall is 26,

1 almost 27, and our house would be 25.

2 ATTORNEY ALGIOS: So Mr. Filipazzi, why don't you continue down
3 the block, and let the Board know what some of the other setbacks
4 are and also across the street.

5 MR. FILIPAZZI: Okay, let's see. I don't know if I have across
6 the street on my plan, but then going, I guess that would be east
7 down Manor Drive, the setback is, to the house, is 24 feet 8 inches.
8 The house next to that, which would be 57 Manor, 24 feet 3 inches,
9 and then the house next to that, 55 Manor, would be 30 feet. So that
10 one is a little bit different in that it's further set back, but
11 talking about the three adjacent homes, this is all within that same
12 1 to 2-foot difference of what we're discussing here, which the
13 proposed home actually being slightly further set back than the two
14 others.

15 CHAIRMAN MAMMINA: Question, just to see if you have looked at
16 that and as it speaks to the character of the neighborhood because
17 I'm not quite as convinced as you are about the character of the
18 neighborhood and this house based on its configuration and the size
19 of the lot. But if you were to take down the house, that existing
20 house --

21 MR. FILIPAZZI: Mm-hmm.

22 CHAIRMAN MAMMINA: -- could you -- how much closer to conformity
23 could you get with this piece of -- with this piece of lot?

24 MR. FILIPAZZI: I don't believe we could get -- be able to get
25 any closer to conformity because the existing house on where we've
26 driven the subdivision line is the minimum sized lot in the

1 Residence-B, 6,000 square feet. So we can't take any more
2 room -- any more property from the adjacent property that we're
3 subdivided from or did I misunderstand your question?

4 ATTORNEY ALGIOS: Mr. Filipazzi, I think because this is purely
5 a setback variance --

6 MR. FILIPAZZI: Mm-hmm.

7 ATTORNEY ALGIOS: -- I think it would be helpful to the Board
8 for the character of the neighborhood. You only cited four examples
9 on the same side of the street. I think to really give the Board
10 a true sense of what the character of the neighborhood is with respect
11 to setback, it would be helpful if you expanded that to include some
12 more houses on both sides of this, the existing, as well as homes
13 directly across the street.

14 MR. FILIPAZZI: Okay, I don't believe I have that as part of
15 the plans or what was submitted to the Board. So I can certainly
16 do that as a supplemental submission if the Board would, you know,
17 accept that, you know, closing the hearing pending that submission.

18 CHAIRMAN MAMMINA: If you were to knock the house down, and then
19 we're looking at what could you get that would be in further
20 conformity, maybe requiring a setback variance or an area variance
21 of the side of the lot for the lot next door that's the subject before
22 us today. Our role is to make sure that we minimize, you know, any
23 variance and that all the, alternatives, you know, have been looked
24 at. So I mean, you've got an eyes wide open purchase, you know, of
25 this lot. They got the lot next to it, as well, as I understand,
26 you know, and it kind of seems like you're taking -- you get your

1 cake and eat it, too.

2 MR. FILIPAZZI: The applicant/owner has owned this property for
3 a number of years. I believe it's upwards of 10, 15 years. He lives
4 at 61 Manor. This is a proposed subdivision, a proposed development
5 of this, you know, additional space that's part of his yard, part
6 of his lot.

7 When you talk about demolishing the existing home, I have some
8 confusion on that because the existing home and the proposed lot,
9 after -- assuming that we went forward with the subdivision, that
10 existing lot and existing home would be conforming to town code, and
11 so demolishing the house wouldn't change how much more we could build
12 on this corner lot unless you're talking about demolishing that house
13 and building one very large house on the 13,000 square foot lot.

14 CHAIRMAN MAMMINA: You could put two houses on that because now
15 you have a blank slate, you know, of land there. You might need,
16 you know, a variance for the size of the lot of whatever that might
17 be in order to make the both lots conforming, or we may say, you know
18 what? The balancing test says, you know, that's okay. We're all
19 predicting the future in that, but our goal and our responsibility
20 is to look at everything that has been done and the character of the
21 neighborhood, which, I don't think you quite, you know, hit on that
22 yet and how this -- how this meets the character of the neighborhood.

23 MR. FILIPAZZI: And with respect to character of the
24 neighborhood, I'll provide that supplemental, you know, photographs
25 and numbers to help fully round that item into, you know, to the
26 Board's level of understanding and comfort.

1 But with respect to, you know, what we were talking about just
2 before, I, you know, respectfully disagree that if we knock the house
3 down and made that a 5,000 square foot lot and came before this Board
4 for a 1,000 square foot lot area variance, I feel that that would
5 bring this further out of conformity with the character of the
6 neighborhood than what we're proposing.

7 CHAIRMAN MAMMINA: I'm not opining either way.

8 MR. FILIPAZZI: Yeah.

9 CHAIRMAN MAMMINA: I'm just saying that that is, you know, an
10 option, and nowadays, throughout the Town of North Hempstead, on my
11 very block, I mean, people are buying, you know, houses that will
12 probably sell for a million dollars in Carle Place --

13 MR. FILIPAZZI: Mm-hmm.

14 CHAIRMAN MAMMINA: -- and you know, they're doing subdivisions,
15 you know, at least on some of them, you can't do it on every one,
16 but you know, it's -- again, it's just something that I think, you
17 know, needs to be looked at. Aesthetics? We're not aesthetics.
18 But you've got a porch that creates a, you know, a variance. Take
19 the porch off; you know? I'm not telling you to do that.

20 MR. FILIPAZZI: Mm-hmm.

21 CHAIRMAN MAMMINA: I'm just saying have -- has everything been
22 looked at as to what would be a solution to this, negatively,
23 positively, you know, I think that's the applicant's job.

24 (WHEREUPON, there was an off-the-record discussion.)

25 CHAIRMAN MAMMINA: Also, just to finish that, I'm not saying
26 if you take the portico off, suddenly, you know, the house is fine.

1 MR. FILIPAZZI: No.

2 CHAIRMAN MAMMINA: It's going to be a different application.

3 MR. FILIPAZZI: But I, you know, and pardon my, you know,
4 stepping away from the podium.

5 I did speak with the client. He would be, you know, comfortable
6 taking the portico off which would reduce the variance down another
7 5 feet. I understand that you had said that doesn't, you know,
8 magically grant the variance.

9 CHAIRMAN MAMMINA: Mm-hmm.

10 MR. FILIPAZZI: But you know, in our supplemental submission,
11 and I'll put it on the record today, that we are willing to remove
12 the portico if that, you know, makes the Board more comfortable and
13 puts us in a position where the Board would be comfortable granting
14 these variances.

15 CHAIRMAN MAMMINA: Okay.

16 I do think, and I know I've mentioned it a few times, I will
17 apologize for banging the drum, but character of the neighborhood
18 with physical evidence of what the neighboring houses look like, what
19 the block looks like, maybe one partially down the other way. I'm
20 not asking you to do two blocks away because, you know, we can't
21 necessarily look at something two blocks away and say, oh, this house
22 affects the character of that.

23 MR. FILIPAZZI: We'll -- I'll put together an Exhibit and submit
24 it to the Board for your consideration after the hearing.

25 Photographs of both sides of the street, going east, partially
26 down -- going west on both sides since we do have the intersection

1 there, and you know, it does change a little bit, but --

2 MEMBER DONATELLI: Excuse me. Not just photographs, but also
3 setbacks --

4 MR. FILIPAZZI: Yes.

5 MEMBER DONATELLI: -- for both sides of the street.

6 MR. FILIPAZZI: Yes.

7 CHAIRMAN MAMMINA: And also, I would check, are they approved
8 plans.

9 MEMBER DONATELLI: Right.

10 CHAIRMAN MAMMINA: Because there are additions that just kind
11 of sprout up in different areas. I'm not saying that's the case here,
12 but you know, that is something else that should be -- that should
13 be looked at.

14 SECRETARY WAGNER: We're going to continue this?

15 MEMBER HERNANDEZ: Yes, unless you have something else you want
16 to add.

17 MR. FILIPAZZI: No, I have nothing else. If the Board doesn't
18 have any further questions. I'm not sure if there's anybody from
19 the public that had anything that they --

20 MEMBER HERNANDEZ: Yeah, someone -- is there someone that wants
21 to speak?

22 VICE-CHAIRMAN FRANCIS: Also, let me just reiterate for those
23 of you that came in late. Please put your cell phones on silent or
24 vibrate so that it doesn't interrupt the person at the podium.

25 MS. VAULTZ: Good morning, my name is Adrienne Vaultz, I live
26 at 152 Manor Place, and just, counsel made reference that, you know,

1 this has been going on for a couple of years, but it's not. It's
2 been going on since 2015, that, you know, this structure has been
3 attempted to be built, and you know, if it conformed, I wouldn't be
4 up here with anything to say. I'm up here because it doesn't conform,
5 and it seems that the subdivision may be creating a lot the size of
6 7,000 square feet, but -- which is, as counsel says, I don't know,
7 but a standard size or a minimum size, 6,000 I think he said, for
8 lots in the area, but I don't know how much of the point is -- it's
9 unusable. So in fact, the buildable square feet of the lot is, and
10 I don't know by how much, but it is definitely smaller than 7,000
11 square feet.

12 So you know, he can't, in my opinion, say that, oh, it's a lot
13 of proper size of 7,000 square feet, but then say, oh, I can't use
14 all of it to build, and therefore, I need a variance. You can't have
15 it both ways.

16 So, we'll be back.

17 CHAIRMAN MAMMINA: Also, important to understand is what the
18 charge of the Board is, and this is a quasi-judicial proceeding here,
19 and you know, our -- we wouldn't be here if we just said, okay,
20 everything needs to conform to what the ordinance says. You know,
21 it's just an important point, I think, for, you know, for people to
22 understand that, and that's why we are here. We say, well, maybe
23 that's okay, you know, maybe that house is okay, maybe cut it back
24 in this area or that area and then those are suggestions to an
25 applicant or we make a decision, you know, on whatever else. I mean,
26 every project is very complicated. A fence can get very complicated,

1 a swimming pool, a generator. So just to put that on, you know --

2 MS. VAULTZ: Mm-hmm.

3 CHAIRMAN MAMMINA: -- for the rest of the people sitting here,
4 and yourself, and we truly appreciate, you know, the neighbors, you
5 know, coming down, and we do that balancing test, like, you know,
6 we have to see, you know, that they -- that we be as fair as we can --

7 MS. VAULTZ: Mm-hmm.

8 CHAIRMAN MAMMINA: -- within the boundaries of variances, you
9 know, based on the evidence that's been submitted.

10 MS. VAULTZ: Mm-hmm, and in regard, Mr. Hernandez, when you
11 spoke about what the subdivider may have intended for the use of that
12 at that point. My parents built in 1968, and you know, the Curries
13 (phonetic) had two house there, and the westernmost house, which my
14 neighbor currently lives in, and on the other side and going down,
15 it was gardens because the point was unusable. So that's what was
16 there before.

17 Thank you.

18 MEMBER HERNANDEZ: Thank you.

19 CHAIRMAN MAMMINA: And thank you for coming down, it's
20 extremely important, also, what your thoughts are.

21 SECRETARY WAGNER: I just wanted to ask a question to Mr.
22 Filipazzi that we had discussed yesterday.

23 ATTORNEY ALGIOS: Maybe come back.

24 SECRETARY WAGNER: Could you explain to the Board the situation
25 with the county and the subdivision and it's a little bit atypical --

26 MR. FILIPAZZI: Mm-hmm.

1 SECRETARY WAGNER: -- of a normal subdivision that they asked
2 you to --

3 MR. FILIPAZZI: Yes.

4 SECRETARY WAGNER: -- speak about.

5 MR. FILIPAZZI: Yes.

6 So prior to my involvement, the architect and the applicant had
7 gone to Nassau County Planning Commission seeking a minor subdivision
8 improvement as, you know, they looked at it without a proposed home
9 on the property, met the zoning requirements. The Planning
10 Commission had asked that they provide -- that they go back to the
11 town and submit plans for a proposed home. The County Planning
12 Commission, I believe, was uncomfortable granting a subdivision
13 without seeing the proposed home there, and that's kind of how we
14 got to this point, I think it's about a year later of coming to the
15 Board for variances but still the process of going to the County
16 Planning Commission for the subdivision.

17 CHAIRMAN MAMMINA: Thank you, and ma'am, just so you
18 understand, and we really only let people speak one time, otherwise,
19 the day could get very long, but I want to explain what that means.

20 Ma'am, may I explain to you what that means?

21 MS. VAULTZ: That was incorrect what he said.

22 CHAIRMAN MAMMINA: Okay, then we'll see how we handle that one,
23 but to subdivide any piece of property, you have to go to the Nassau
24 County Planning Commission, and they will then deem if they think
25 it's okay or not okay or they may suggest some changes to it.

26 So in this case --

1 MS. VAULTZ: I was there.

2 CHAIRMAN MAMMINA: Okay, so you went to the --

3 MS. VAULTZ: That's why I wanted to correct the record.

4 CHAIRMAN MAMMINA: All right.

5 MR. FILIPAZZI: I wasn't there, so --

6 SECRETARY WAGNER: She can submit something in writing, right;
7 Deborah?

8 Yeah, so if you want to submit something in writing to clarify
9 what was said, and what you're, you know, you're --

10 MS. VAULTZ: He wasn't there but I was there.

11 MR. FILIPAZZI: Yeah, so --

12 CHAIRMAN MAMMINA: It was a different attorney at the time.

13 MR. FILIPAZZI: I don't believe there was any attorney, and so
14 if I misspoke or misstated something that's, you know, my apologies.

15 CHAIRMAN MAMMINA: That's another avenue to walk down, you
16 know, for yourself, but then also for other neighbors in the
17 neighborhood.

18 MR. FILIPAZZI: Yeah, so if the Board were to grant these
19 variances this is not the end of the road. The house is not going
20 up, you know, tomorrow.

21 ATTORNEY ALGIOS: Mr. Filipazzi, you said that the Nassau
22 County Planning Commission sent it back to the town to see the
23 rendering of the proposed house. Has that been sent? Has Nassau
24 County Planning seen the proposed home?

25 MR. FILIPAZZI: We have not gone back to the County Planning
26 Commission as of yet. They -- it wasn't so much that they refereed

1 it back to the town. They told the applicant, go file your plans
2 with the town, and once you have the letter of zoning compliance,
3 then you can come back to us, and that's, in essence, what we're
4 seeking to do by getting these variances because without them, we
5 don't have a zoning compliant lot.

6 SECRETARY WAGNER: I do believe -- I think you do have a zoning
7 compliant lot, correct me if I'm wrong, but I believe they did send
8 the zoning compliance letter; right?

9 MS. VAULTZ: They did, based on different plans.

10 SECRETARY WAGNER: So because -- typically, the Building
11 Department looks at the size of the property, the lot width
12 requirements, the property size lot area requirements.

13 MR. FILIPAZZI: Mm-hmm.

14 SECRETARY WAGNER: And they don't -- they don't request plans
15 of the home. So I do believe that the town, and we can look into
16 this further, did issue a letter of zoning compliance.

17 MR. FILIPAZZI: For just the lot or for a proposed home?

18 SECRETARY WAGNER: No, for the two -- the two proposed lots.
19 But then the county, apparently, is what we're trying to clarify,
20 requested, before they approve the subdivision, even with the
21 submission of the zoning compliance letter, asked for the plans for
22 the home.

23 MR. FILIPAZZI: That's my understanding.

24 SECRETARY WAGNER: Okay, so we just want to, you know, clarify.
25 That's something that --

26 ATTORNEY ALGIOS: It's just that that's unusual.

1 SECRETARY WAGNER: Yeah.

2 ATTORNEY ALGIOS: So we're just trying to clarify that.

3 MR. FILIPAZZI: And I -- again, I was not at the Planning -- the
4 County Planning Commission meeting, so I don't know exactly what
5 occurred, but what I've been -- in my understanding, what I've been
6 told is that the Planning Commission, likely because of the shape
7 of the lot, they wanted to see what the house would be, if it would
8 require variances, and asked the applicant to submit to the town their
9 proposed home for that lot, and that's how we ended up -- the County
10 Planning Commission wasn't going to grant subdivision for the vacant
11 lot without seeing a proposed home, and when we submitted for the
12 proposed home, we're no longer zoning compliant, and I say all of
13 that without having been at the hearings, and so if anything I said
14 was misstated, that's, you know, apologies for that.

15 That's my understanding of the process leading up to today, and
16 as a matter of course, we're here asking for variances for the two
17 front yard setbacks so that we can get the zoning compliance letter
18 for this proposed lot and this proposed home so that we may go back
19 to Nassau County Planning Commission for subdivision.

20 SECRETARY WAGNER: Can you get us the correspondence that the
21 Planning Commission sent requiring you to go to the town?

22 MR. FILIPAZZI: Yeah, I can --

23 SECRETARY WAGNER: Submit that.

24 MR. FILIPAZZI: Reach out to the Planning Commission, yeah.

25 SECRETARY WAGNER: I think that would clarify some of it.

26 MR. FILIPAZZI: So I'll include that in my submission after the

1 close of the hearing.

2 CHAIRMAN MAMMINA: Okay.

3 MR. FILIPAZZI: If the Board has no further questions, I don't
4 want to -- and I know you have a long calendar so I don't want to
5 take up any more of your time.

6 SECRETARY WAGNER: Oh, just to be sure, did your neighbor want
7 to speak?

8 AUDIENCE MEMBER: No.

9 SECRETARY WAGNER: No?

10 CHAIRMAN MAMMINA: Okay, then we will continue the application
11 for, you know, for submission, and that --

12 SECRETARY WAGNER: Well, we don't necessarily have to put a date
13 on it to submit. So he will be submitting the information requested,
14 and then the Board will possibly make a decision at one of the upcoming
15 hearings. But we probably will not be holding another hearing for
16 this.

17 CHAIRMAN MAMMINA: No.

18 MR. FILIPAZZI: No, and I'm not requesting that.

19 CHAIRMAN MAMMINA: No.

20 Okay?

21 MR. FILIPAZZI: Thank you.

22 MEMBER HERNANDEZ: For the woman that -- you can put your -- you
23 can put your -- under the -- something was said that wasn't addressed
24 correctly based on what was said at the hearing.

25 MS. VAULTZ: Mm-hmm.

26 MEMBER HERNANDEZ: You can put it in writing, and submit it to

1 the Zoning Board.

2 MS. VAULTZ: Today?

3 MEMBER HERNANDEZ: No, no, you can do it in the next couple of
4 days.

5 SECRETARY WAGNER: You can send an e-mail to the Board of
6 Zoning.

7 MEMBER HERNANDEZ: Yeah.

8 SECRETARY WAGNER: You have the information to do that? The
9 contact information for the Board?

10 Okay.

11 MEMBER HERNANDEZ: Yeah.

12 SECRETARY WAGNER: Because I can give it to you.

13 (WHEREUPON, this application was continued.)

1 SECRETARY WAGNER: Next appeal, appeal number 21633, Germano
2 Marrone; 103 Oakland Avenue, Port Washington; Section 4, Block 6,
3 Lot 22; in the Residence-B Zoning District.

4 Variance from S70-40.C to construct additions that are too close
5 to the street.

6 CHAIRMAN MAMMINA: You heard appeal number 21633, Germano
7 Marrone.

8 Is there anyone in the room interested in the application other
9 than the applicant?

10 (WHEREUPON, there was no response.)

11 CHAIRMAN MAMMINA: Seeing no one.

12 Please give your name and address.

13 MR. TRUEMPER: Good morning, my name is Joern Truemper, I'm an
14 architect representing my client, Germano Marrone and --

15 COURT REPORTER: I'm sorry, you're going to have to repeat your
16 name.

17 MR. TRUEMPER: My name is Joern Truemper.

18 COURT REPORTER: Okay, you'll spell that; please?

19 MR. TRUEMPER: Yeah, it's J-O-E-R-N, first name. Last name is
20 T-R-U-E-M-P-E-R.

21 COURT REPORTER: Thank you.

22 MR. TRUEMPER: You're welcome.

23 I have some materials.

24 SECRETARY WAGNER: Okay, give me one minute.

25 This will be Exhibit 1.

26 MR. TRUEMPER: Yes.

1 SECRETARY WAGNER: So these are packets?

2 MR. TRUEMPER: Yes, that's six packages. I see you only have
3 five members of the Board.

4 CHAIRMAN MAMMINA: Okay, please proceed.

5 MR. TRUEMPER: Good morning.

6 My client brought me on for a number of renovations on this
7 property which is located at 103 Oakland Avenue in Port Washington.

8 The house was built in 1941, purchased by my client in 2020,
9 and it is -- it has an existing floor area of 1,690 square feet, and
10 we would propose to add about 670 square feet, and all of which is
11 within the allowed zoning envelope of the Town of North Hempstead.

12 The existing home, as it stands right now, encroaches on the
13 front yard setback by about 9-foot 4 inches, and that appears to be
14 a condition that applies to the neighbors as well because the average
15 front yard on the block is about 24-foot 11 inches, at 24.11 feet,
16 and that gives us reason to believe that the place was rezoned at
17 some point after these homes were constructed, because apparently,
18 all of our neighbors are facing the same condition, that the first
19 average 9 to 10 feet of their homes are encroaching on the front yard
20 setback.

21 So the proposed work at the house is an addition of a single
22 story garage, and then an added den on the first floor, and an expanded
23 primary suite on the second floor, and in addition to all of this
24 work, which is within the permitted setbacks, we were also -- we are
25 also proposing to modify the existing front part of the house that
26 is encroaching on the front yard setback by 9-foot 4 inches.

1 So the proposed work would be happening on the existing
2 footprint, we're not proposing to enlarge the house. The footprint
3 of the houses in the area, and if you refer on the diagrams on -- in
4 the handout, on the second and third page, on the top left, you see
5 the existing and proposed bulk and volumetric definition of what we
6 would like to do, and in numbers, what we're proposing to do actually
7 results in a minor reduction of the overall floor area by about 2
8 square feet, and the bulk would also get reduced by about 40 square
9 feet.

10 So in effect, from a zoning point of view, we're proposing to
11 maintain the status quo, slightly reduce it, if you look at the floor
12 area and the bulk of the volume of the house.

13 The reason for doing this or we're proposing to do this is
14 the -- it just improves the flow of the house because as you can see,
15 we're reconfiguring the entry of the house slightly. While you
16 currently enter through the front of the middle section of the house
17 facing the stairs, we are creating a new mudroom/foyer and would be
18 entering sideways into what used to be the garage of the house, but
19 that conversion from the garage to an interior space was already done
20 in the past and approved so it's a condition that they're finding.

21 But as you can see, what we're proposing to do, we're proposing
22 to change the roof line of the house by lowering the roof above the
23 front portion, thereby, exposing the second floor facade and giving
24 us the opportunity to actually put proper windows into that part of
25 the house, and the main interior benefit is probably that we're
26 creating a second floor bedroom over the existing bedroom that now

1 has full height while it currently has a reduced floor to ceiling
2 height.

3 So if you want to refer to the diagrams on the zoning pages on
4 the bottom left, you can see the front bedroom having a sloped ceiling
5 for almost half of the room while in the proposed design it has full
6 ceiling height.

7 CHAIRMAN MAMMINA: For the Board members, if you can give us
8 the number --

9 MR. TRUEMPER: Yes.

10 CHAIRMAN MAMMINA: -- of what sheet it is.

11 MR. TRUEMPER: So -- yeah, you want to refer to Sheet
12 24 -- basically, just look at the final letter which letter is
13 basically B and C.

14 So if you look at the bottom right of the sheet, you see a sheet
15 number and ending in B and ending in C. You have the existing and
16 proposed zoning conditions with a diagram at the top left, and there
17 you'll also find that cross-section that I was mentioning at the
18 bottom left of the page.

19 So again, we're proposing to lower the roof line above the first
20 floor, add that dormer that you can see on the second floor and expand
21 the first floor roof line sideways to create a canopy over the entry
22 which is currently uncovered, and so those are, in a nutshell, our
23 proposed modifications to the house.

24 In terms of the character of the neighborhood, we believe that
25 we're within the overall character of the neighborhood. I have
26 included images of the neighboring properties on the last page of

1 your set, and it would greatly increase my client's enjoyment of the
2 house, and in terms of the flow of the interior spaces.

3 The attached garage would have access directly to the inside
4 of the house by creating that expanded mudroom/foyer, and we don't
5 see a negative impact on the physical environment and conditions of
6 the neighborhood by the proposed work, and yeah, I mean, this is
7 basically as simple as it is, our proposed modification to this
8 existing home.

9 MEMBER DONATELLI: Let me jump in and ask.

10 First of all, you said that the house was built in 1921?

11 MR. TRUEMPER: 1941.

12 MEMBER DONATELLI: 1941.

13 MR. TRUEMPER: Yeah.

14 MEMBER DONATELLI: I'm very familiar with that section, and I
15 know that there's been a lot of new construction on that.

16 MR. TRUEMPER: Mm-hmm.

17 MEMBER DONATELLI: And I know that some of the houses are closer
18 to the street on the front yard setback.

19 I would also note, for the record, that this house is the last
20 on Oakland Avenue before the dead end. So it dead ends into the
21 woods.

22 MR. TRUEMPER: Yes.

23 MEMBER DONATELLI: And I think you also said, which is my
24 understanding as well, is that the majority of the construction will
25 be compliant to the current code, and you're actually coming into
26 greater compliance, slightly, with respect to the portion of the

1 house that is noncompliant currently.

2 MR. TRUEMPER: That's correct.

3 MEMBER DONATELLI: Does anyone have any questions?

4 MR. TRUEMPER: Actually, there's a little site plan on Sheet
5 E, if you look at the last letter at the bottom right. There you
6 see the condition that you just mentioned, that this is the house
7 that is the last one in this dead end before the nature preserve and
8 the five images surrounding it are the direct neighbors of our
9 property.

10 MEMBER DONATELLI: So the purpose of the zoning code, of course,
11 is to set the regulations, and to encourage, as houses change and
12 are modified, to encourage ultimate compliance, to move toward
13 compliance, not to move away from compliance. So in point of fact,
14 I can interpret this as moving toward compliance.

15 If the other members of the Board -- we had no one from the public
16 who wanted to speak on this issue; is that correct?

17 So Mr. Chairman, I make a motion that we grant the application.

18 CHAIRMAN MAMMINA: Motion from Member Donatelli.

19 Do we have a second?

20 MEMBER GOODSELL: I'll second that.

21 You do not have any GFA issues with the proposed, and I agree
22 with Member Donatelli that you're bringing the property more into
23 compliance rather than out of compliance which is desirable, and so
24 I will second it.

25 CHAIRMAN MAMMINA: We have a second by Member Goodsell.

26 Please poll the Board.

1 SECRETARY WAGNER: Member Hernandez?

2 MEMBER HERNANDEZ: Aye.

3 SECRETARY WAGNER: Member Goodsell?

4 MEMBER GOODSSELL: Aye.

5 SECRETARY WAGNER: Member Donatelli?

6 MEMBER DONATELLI: Aye.

7 SECRETARY WAGNER: Vice-Chairman Francis?

8 VICE-CHAIRMAN FRANCIS: Aye.

9 SECRETARY WAGNER: Chairman Mammina?

10 CHAIRMAN MAMMINA: Aye.

11 The application is approved.

12 MR. TRUEMPER: Thank you, so much.

13 MEMBER DONATELLI: Thank you.

14 MR. TRUEMPER: Have a good day.

15 (WHEREUPON, this application was approved.)

1 SECRETARY WAGNER: Appeal number 21635, Jacqueline
2 Pietrantonio; 14 Reid Avenue, Port Washington; Section 5, Block 60,
3 Lot 209; in a Residence-A Zoning District.

4 Variances §70-101(B) to construct a portico too close to the
5 street.

6 CHAIRMAN MAMMINA: Appeal number 21635, Jacqueline
7 Pietrantonio, 14 Reid Avenue, Port Washington, New York.

8 Is there anyone in the room who wishes to speak regarding the
9 application?

10 (WHEREUPON, there was no response.)

11 CHAIRMAN MAMMINA: Seeing no one.

12 Please give your name and address.

13 MS. O'NEILL: Good morning, Mr. Chairman and members of the
14 Board. My name is Patricia O'Neill, 237 Circle Drive, Manhasset.
15 I'm the architect for Jackie and Tom Pietrantonio.

16 I've been living in the area, in Plandome Manor, since 1988,
17 and I've been a licensed architect for 35 years. I'm a member of
18 the Long Island Chapter of the American Institute of Architects, and
19 I've been on both sides of your table. I have served on the Zoning
20 Board of Appeals and the Architectural Review Board in my village.
21 I also served as the Chair of the Architectural Review Board. I'm
22 currently a Trustee in my village, and the -- currently, the
23 architectural consultant for the Village of Old Brookville, and I'm
24 currently a Commissioner for the Town of North Hempstead Historic
25 Landmark Preservation Commission.

26 So I do understand the process of reviewing projects, and I'm

1 very sensitive to villages and towns wanting to protect an aesthetic
2 and the character and scale of an established level neighborhood,
3 and I feel very fortunate to live in Manhasset and to work with -- work
4 in the surrounding areas, and work with people who feel the same way.

5 I've been the architect for several projects in the Town of North
6 Hempstead and surrounding villages that I'm very proud of. I try
7 not to be a frequent flyer at the Zoning Board of Appeals, and I always
8 try to solve design challenges within the law of the town or the
9 village, and I know that the granting of the variance from the Zoning
10 Board of Appeals is not just something handed out because we went
11 through the process.

12 It's been my experience that violation of the code that involves
13 lot coverage for area setbacks, sky exposure plane and height, the
14 section of the code that controls the mass and bulk and character,
15 must be thoughtfully considered.

16 So I'm here today to make an appeal after a lot of thoughtful
17 consideration and planning with Tom and Jackie. We're requesting
18 permission to build a 5-foot by 8-foot portico located at the existing
19 front of the house. If you consider the average front yard setback
20 in the area, it is 28.97 feet to the property line. The proposed
21 portico is 24.7 feet to the property line. So if we would just
22 consider average front yard setbacks, we would be in compliance, but
23 because it's Residence-A, and the minimum setback is 35 feet, you're
24 allowed a 5-foot encroachment which would be 30 feet. So because
25 of the strict 35-foot rule, we're here today for the 5-foot
26 encroachment.

1 MEMBER DONATELLI: Sorry, I don't want to interrupt, but it's
2 the 5-foot encroachment for the portico.

3 MS. O'NEILL: For the portico.

4 MEMBER DONATELLI: You're not asking for a 5-foot encroachment.
5 You're asking for a .3 of a foot encroachment which is about 4 inches.

6 MS. O'NEILL: That is to the average front yard setback.

7 CHAIRMAN MAMMINA: And that's the standard you have to meet.
8 So 4 inches is the --

9 MS. O'NEILL: Correct, yeah.

10 CHAIRMAN MAMMINA: -- is the variance.

11 MS. O'NEILL: Yeah.

12 So factor number one is whether an undesirable change will be
13 produced in the character of the neighborhood will there be a
14 detriment to nearby properties that will be created by the granting
15 of the variance.

16 We're not making any change to the driveway, to the curb cut,
17 to the front door location or the front walk. So the access to the
18 site remains the same. I've submitted photos of houses on the same
19 block. Porticos, enclosed vestibules and front porches are not
20 uncommon on Reid Avenue. The attached photos of house number 6, 10,
21 11, 12, 16, 20, 26 and 30 Reid Avenue shows various porticos,
22 bracketed overhangs, front porches and vestibules that are forward
23 of the main house. House number 16, which is the adjacent property
24 to the left, has an enclosed brick vestibule and slight bracketed
25 overhang forward of the main house, and number 12 Reid, adjacent to
26 the right, has a bracketed shed overhang in front of the front door,

1 which again, is forward of the main house.

2 Factor number two is whether the benefit sought by Jackie and
3 Tom can be achieved by some method which would be feasible for them
4 to pursue but would not require a variance, and you know, as I've
5 demonstrated, it's an existing house, so any structure to the front
6 of the house would be in violation.

7 Factor number three is whether the requested variance is
8 substantial. A 5-foot 8 portico is architecturally pleasing, and
9 I think it complements the architecture of this Dutch colonial home.
10 Five feet is, I think, just the right amount of coverage to allow
11 two people, you know, to get in and out, you know, out of the weather,
12 and to, you know, get into the front of the home. So I don't think
13 that it's a substantial factor.

14 Factor number four, whether the proposed variance will have an
15 adverse effect or impact on the physical or environmental condition
16 of the neighborhood. No trees will be removed for the portico, the
17 existing grade will not be changed to accommodate the portico,
18 there's no change to the front walk and there is an existing masonry
19 step at the portico location, though rain runoff from the portico
20 roof will not drain onto adjacent properties, and factor number five
21 is whether an alleged difficulty is self-created.

22 When Tom and Jackie purchased their house in 1997, again, they
23 were, I guess, not aware of the average front yard obstruction for
24 future expansion.

25 The proposed design is sympathetic to the existing architecture
26 and character of the neighborhood. Tom and Jackie have lived in this

1 house for 27 years. They raised their three children there, and they
2 now have grandchildren who live in Port Washington, and they love
3 living here. They recently renovated their kitchen and did other
4 repairs and cosmetic work to their existing rear deck because they
5 enjoy entertaining family and friends, and they do respect the rules
6 and regulations of the Town of North Hempstead.

7 So in closing, I hope I showed you the process we went through
8 in making this decision to make this application appeal to you today.

9 Thank you.

10 MEMBER DONATELLI: If you would just give us a moment.

11 MS. O'NEILL: Sure.

12 (WHEREUPON, there was an off-the-record discussion.)

13 MEMBER DONATELLI: There's some confusion as to the Notice of
14 Disapproval and the required setback. My understanding is that this
15 is Residence-A; is that correct?

16 MS. O'NEILL: It is Residence-A.

17 MEMBER DONATELLI: Okay, Residence-A requires a 35-foot
18 setback?

19 MS. O'NEILL: It is -- just give me a second, I want to find
20 the right thing.

21 MEMBER DONATELLI: So if it is a 35-foot setback, then the
22 encroachment would be 25 feet, and --

23 SECRETARY WAGNER: You would take 5 feet off.

24 MS. O'NEILL: It would --

25 MEMBER DONATELLI: Would be to 30 feet.

26 MS. O'NEILL: Thirty feet, correct.

1 MEMBER DONATELLI: Not to 24.7.

2 MS. O'NEILL: Correct.

3 MEMBER DONATELLI: So it's not a .4 of a foot encroachment, it's
4 5 feet and 5.4 feet.

5 MS. O'NEILL: Correct, that's to the setback but if you take --

6 MEMBER DONATELLI: To the portico.

7 MS. O'NEILL: To the portico, correct. But if you take into
8 consideration the average setback.

9 MEMBER DONATELLI: Okay.

10 MS. O'NEILL: The average of the street, it would be -- it would
11 conform.

12 MEMBER DONATELLI: All right. The Notice of Disapproval is a
13 bit confusing. Typically, what it does is it tells us, first, what
14 the front yard setback is required, and then it gives us the
15 discount -- the allowance for the portico, and this just provides
16 to the portico. So I apologize if I misread it, but now I understand
17 it.

18 MS. O'NEILL: Okay.

19 MEMBER DONATELLI: So it's a 5.4 -- 5 feet 4 inch,
20 approximately, variance that's being requested.

21 MS. O'NEILL: Mm-hmm.

22 MEMBER DONATELLI: Having said that, I would note that it's a
23 one-story portico. I would note for the record that Reid Avenue is
24 actually one of the most charming streets, and it's not entirely
25 conforming as we've known from other applications that we've heard
26 from Reid Avenue houses in the most recent past, and I would also

1 note that this is a one-story open portico which will really, I think,
2 fit in with the balance of that house -- excuse me, balance of the
3 houses.

4 Were you familiar with the fact that there was an
5 opposition -- letter in opposition submitted?

6 MS. O'NEILL: Yes.

7 MEMBER DONATELLI: Do you want to address that for the record?

8 MS. O'NEILL: I do, but I just want to also enter into the record
9 that my client, Jackie Pietrantonio, did reach out to neighbors in
10 the area.

11 MEMBER DONATELLI: Okay.

12 MS. O'NEILL: And she did get two, an e-mail and a text message
13 from the Bavians (phonetic), 11 Reid Avenue, Martha Troccoli at 15
14 Reid Avenue, and Tegwen Epstein, the neighbor directly to the right
15 at 12 Reid Avenue. They did give her text messages and e-mails in
16 support of the project.

17 I was -- I became aware last week that the adjacent neighbor
18 to the left did send a letter in with concerns, and I did read that,
19 and I do think that they maybe are a little bit misinformed about
20 code and definitions.

21 CHAIRMAN MAMMINA: Address that so --

22 MS. O'NEILL: Sure.

23 CHAIRMAN MAMMINA: -- it clarifies the letter and your
24 position.

25 MS. O'NEILL: Sure.

26 Well, they're, you know, they do talk about impervious surface,

1 and the -- I can tell you right now that we do comply with impervious
2 surface for the -- for the front yard, and I can give you those
3 calculations.

4 The front yard area is 1,485 square feet. You're allowed 40
5 percent which is 594 square feet, and we are proposing 28 percent
6 which is 423.45 square feet, and that impervious surface includes
7 the existing front walk, the existing driveway in the front yard,
8 and also the proposed portico.

9 So we are in compliance and well under the front yard impervious
10 surface.

11 CHAIRMAN MAMMINA: And that's not cited by the Building
12 Department.

13 MEMBER DONATELLI: Exactly, that's not cited by the Building
14 Department in the Notice of Disapproval.

15 MS. O'NEILL: Correct, and I did, you know, to the neighbor's
16 letter, I just demonstrated to you that we didn't, you know, it
17 complies in terms of impervious surface.

18 The water runoff for this improvement, it will not drain onto
19 adjacent properties, and that's something that I need to show when
20 I file my, you know, drawings for construction review, and I think
21 they're also confused about definition of -- definition of terraces
22 and porches and what's included in lot coverage and floor area and
23 portico. Open portico is not included in the new lot coverage, and
24 we're still under the lot coverage, so you know, and the neighbor
25 also, you know, was talking about a deck and some other -- some other
26 work and things that went on but I don't think this is the forum to

1 discuss that in.

2 CHAIRMAN MAMMINA: I don't think -- for any of those, confusion
3 of your neighbor which is probably correct doesn't apply --

4 MS. O'NEILL: Mm-hmm.

5 CHAIRMAN MAMMINA: -- for approval of your design application.
6 I guess, by example, should you have a problem when you file with
7 the -- with water, you have to correct or then you come back again,
8 but that's not the case, so on the record.

9 COMMISSIONER O'NEILL: Understood.

10 CHAIRMAN MAMMINA: Okay.

11 MEMBER DONATELLI: Do any of the other Board members have any
12 questions?

13 MEMBER GOODSSELL: I have no questions.

14 MEMBER DONATELLI: All right, Mr. Chairman, I think I was making
15 the point earlier that I do believe that the portico is in -- even
16 though a variance is required, is in keeping with the character of
17 the neighborhood. Reid Avenue is, in fact, a very old and storied
18 road in Port Washington, and I think that the open portico will be
19 in keeping with the character of the neighborhood, and so therefore,
20 I make a motion that we grant the application.

21 CHAIRMAN MAMMINA: We have a motion by Member Donatelli.

22 Do we have a second?

23 MEMBER HERNANDEZ: Second.

24 CHAIRMAN MAMMINA: Seconded by Member Hernandez.

25 Please poll the Board.

26 SECRETARY WAGNER: Member Goodsell.

1 MEMBER GOODSSELL: Aye.

2 SECRETARY WAGNER: Member Donatelli?

3 MEMBER DONATELLI: Aye.

4 SECRETARY WAGNER: Member Hernandez?

5 MEMBER HERNANDEZ: Aye.

6 SECRETARY WAGNER: Vice-Chairman Francis?

7 VICE-CHAIRMAN FRANCIS: Aye.

8 SECRETARY WAGNER: Chairman Mammina?

9 CHAIRMAN MAMMINA: Aye.

10 Application is approved.

11 MS. O'NEILL: Thank you, very much.

12 CHAIRMAN MAMMINA: It was a good presentation.

13 (WHEREUPON, this application was approved.)

1 SECRETARY WAGNER: Appeal number 21636, Lisa and Jonathan
2 Jacobson; 24 Revere Road, Port Washington; Section 6, Block 10, Lot
3 4; in the Residence-B Zoning District.

4 Variance from §70-40.B to construct a porch that is too close
5 to the street.

6 CHAIRMAN MAMMINA: You heard appeal number 21636, Lisa and
7 Jonathan Jacobson.

8 Is there anyone in the room who would like to speak regarding
9 the application?

10 (WHEREUPON, there was no response.)

11 CHAIRMAN MAMMINA: Seeing no one.

12 Please give your name address.

13 MS. SCHOTT: Good morning, my name is Amanda Schott, JM2
14 Architecture. We are located at 2410 North Ocean Avenue in
15 Farmingville. I am here on behalf of Jonathan and Lisa Jacobson,
16 the residents of 24 Revere Road, Port Washington.

17 First, I would like to submit -- I have the letters of consent
18 from both of our immediate neighbors.

19 SECRETARY WAGNER: Have these been scanned and sent to us?

20 This will be Exhibit 1.

21 MS. SCHOTT: We are here to respectfully request a 2.6 foot
22 variance from the average front yard setback in order to build a
23 covered front porch that extends 7 feet from the home.

24 CHAIRMAN MAMMINA: I apologize, you're doing a great job, but
25 just read it a little bit slower for the stenographer because we're
26 all tempted to read something very fast, and she has to write down,

1 so --

2 MS. SCHOTT: While the town code currently permits a 5-foot
3 front porch, we are seeking an additional 2 feet to allow for a more
4 functional and aesthetically pleasing design as we believe a 5-foot
5 front porch will not accommodate their family of five comfortably.

6 The existing average front yard setback is 30.63 feet, and a
7 legal 5-foot front porch would place the allowed setback at 25.63
8 feet. We are requesting an additional 2.6 feet to place the front
9 yard setback of the front porch at 23 feet, and again, to reiterate,
10 this application is exclusively for a front porch. There is no
11 alteration to the square footage of the living space inside the home.

12 So we have three main goals with this request. One is to enhance
13 the curb appeal of the home, this application is part of a broader
14 project to add detailing and aesthetics to the home including a new
15 gable end, decorative details and an added dormer above this front
16 porch, all of those --

17 CHAIRMAN MAMMINA: Which, none of those are on the subject
18 premises.

19 MS. SCHOTT: Correct.

20 Our second goal is to add value to the property in the
21 neighborhood. The home currently does not have a usable front porch,
22 so adding this creates value and aesthetics to the home as well as
23 the neighboring properties.

24 Our third goal is to provide a practical and functional space.
25 We believe that a 5-foot front porch would not comfortably
26 accommodate their family of five, whereas, the additional 2 feet will

1 make this space more usable and functional for their family.

2 MEMBER DONATELLI: I hate to interrupt you.

3 MS. SCHOTT: Mm-hmm.

4 MEMBER DONATELLI: But I'm going to ask the basis for that
5 statement. Why would a 7-foot porch accomplish what you're trying
6 to accomplish and not a 5-foot porch or a 6-foot porch?

7 MS. SCHOTT: So we believe that a 5-foot porch, the depth of
8 it, is merely enough to accommodate, for example, an outdoor seating,
9 a chair and a walkway in front of that, and they have young kids that
10 want to be able to safely use the space to play and to enjoy and having
11 a chair and a walkway feels too confined to be able to use the space.

12 CHAIRMAN MAMMINA: That necessarily means that a variance is
13 not appropriate, but the town, within the zoning, which is created
14 by the town, gives a 5-foot porch on an as of right basis within the
15 setback.

16 MS. SCHOTT: Mm-hmm.

17 CHAIRMAN MAMMINA: So it recognizes that people like to have
18 a porch, but they give 5 feet. So I know in my own porch, we don't
19 spend a lot of time sitting on the porch which doesn't mean --

20 MS. SCHOTT: Mm-hmm.

21 CHAIRMAN MAMMINA: -- that that's okay, and so the limitation
22 of the 5 feet is something that is typical.

23 MEMBER GOODSSELL: When I drove your client's neighborhood --

24 MS. SCHOTT: Mm-hmm.

25 MEMBER GOODSSELL: -- I took a look at their street.

26 MS. SCHOTT: Mm-hmm.

1 MEMBER GOODSSELL: There was only one other house that I saw in
2 the immediate vicinity that had a front porch, and it is a very narrow
3 front porch. I don't see, within approximately ten houses on either
4 side of this and across the street, I only saw one other front porch.
5 Their house is different, your client's house is different than what
6 seems to be the development. Most of those houses have a side facing
7 front door. Your clients have a front facing front door, and while
8 I understand how nice a porch is, I don't see any others,
9 particularly, 7 foot porches. I don't see any others.

10 MS. SCHOTT: Okay, so if I may, I have a couple of addresses
11 nearby, a couple on Revere Road and a couple on Fairview Avenue which
12 is the street immediately behind them along with Birch Street which
13 is at the end of Revere Road. Birch Street connects Revere Road to
14 Fairview Avenue, and I have, just listed here, probably between six
15 and eight addresses with homes that have from -- visually, a similar
16 looking front porch.

17 MEMBER GOODSSELL: Okay.

18 MS. SCHOTT: Just on Revere Road, I have 10 Revere Road, 12
19 Revere Road, and then several numbers along Fairview Avenue.

20 CHAIRMAN MAMMINA: Did you say that it was visually?

21 MS. SCHOTT: Visually, yes. Aesthetically, it is similar to
22 our application.

23 CHAIRMAN MAMMINA: Because we would look for a Building
24 Department application that shows that a permit was granted for, in
25 this case, a 7-foot porch, as you're saying, and you know, that might
26 give you some extra juice in terms of your application. But 5 feet,

1 you know, is generally within that range of what we grant, and if
2 you can submit something, doing some research in the Building
3 Department, and we can continue the application giving you that
4 opportunity to show that either they didn't -- they may have gotten
5 a variance before that or are they indeed legal because many times
6 people build things, and they're not taking a building permit, maybe
7 they're ignorant of that, ignorant, not stupid, and so we need to -- we
8 need to check that we're not going to change the character of the
9 neighborhood as well.

10 MS. SCHOTT: You were saying those addresses as in reference
11 to the aesthetic and the visual similarities of our porch.

12 CHAIRMAN MAMMINA: We don't look at aesthetics.

13 MS. SCHOTT: Mm-hmm.

14 CHAIRMAN MAMMINA: That's not part of what the Board does. We
15 do that balancing test, as I had said, in terms of what the existing
16 condition is and what might be appropriate, you know, for that. If
17 we were an aesthetic Board, which many villages might have that, then
18 that would become a different -- a different question for this Board.

19 So if you can do that little bit of homework, let's see what
20 those are. We can continue the application, and you know, then if
21 you can get them back to Secretary Wagner when you have that, then
22 we will calendar you rather than saying, okay, a specific date is
23 January 17th, I think is our next.

24 SECRETARY WAGNER: No, no, we have one January 8th

25 CHAIRMAN MAMMINA: January 8th, and then that would lock you
26 in to January 8th, which we don't --

1 MEMBER DONATELLI: Let me just expand on that.

2 MS. SCHOTT: Mm-hmm.

3 MEMBER DONATELLI: And if you have more in your presentation,
4 please, I'm sorry to be interrupting, again. We want you to complete
5 your presentation, but as I look at your submission, and I'm taking
6 a look at page A-0.

7 MS. SCHOTT: Mm-hmm.

8 MEMBER DONATELLI: You do show average front yard setbacks --

9 MS. SCHOTT: Yes.

10 MEMBER DONATELLI: -- in the upper right-hand corner.

11 MS. SCHOTT: Yes.

12 MEMBER DONATELLI: But it doesn't show us whether or not there
13 are any porches that are more than 5 feet, and so I would suggest
14 that what you do is try to focus in on whether or not this Board has
15 granted a variance for a 7-foot encroachment for a -- for an open
16 porch.

17 I would also note, and believe me, I understand, because once
18 my kids were little, too. The desire for an open porch, and you want
19 to try and corral little kids, but I know that you have a very large
20 open porch in the rear of the premises which is shown on your plan.

21 So again, zoning, a lot of what we talk about with zoning,
22 whether it's a front yard encroachment, whether it's bulk, it's
23 always what is presented from the -- it's usually, a lot of times,
24 what is presented to the pedestrian on the street looking at the
25 house. An open porch in the rear of the premises to corral the kids
26 is terrific as long as it doesn't violate any of the other

1 requirements of the town. But coming out 2 extra feet in the front
2 of the house is going to be extremely visible, and so that's why we're
3 trying to be a little bit careful with this, and I understood -- and
4 I understand that your clients may want to have some room for the
5 children or maybe a seating area or something, but again, a 2-foot
6 encroachment for an open porch when you already have an open portico
7 in the back, it seems kind of excessive.

8 So I would just ask if there isn't some way that your client
9 would consider making that open porch narrower than 7 feet, you know,
10 and you know, certainly, your client is entitled to make whatever
11 application for a variance that they want to make, but as I said,
12 I interrupted, I apologize for interrupting your presentation, but
13 I would ask that your clients consider that because that is going
14 to be extremely visible from the street.

15 MS. SCHOTT: Okay, I will absolutely approach the client and
16 ask if they would consider reducing that.

17 So just to continue on here, I wanted to address the five points
18 for granting the zoning variance, the first being an undesirable
19 change in the character of the neighborhood. The proposed porch
20 addition will not produce an undesirable change in the character of
21 the neighborhood. Instead, it will serve to enhance the home's
22 aesthetic appeal benefitting --

23 COURT REPORTER: Slow down just a little.

24 MS. SCHOTT: Sorry.

25 Many neighboring properties already have similar porch
26 structures making this addition consistent with the character of

1 nearby homes on both Revere Road and Fairview Avenue.

2 The feasibility of the alternatives to achieve the same
3 benefits. Again, we don't believe that a 5-foot front porch could
4 be functional for their family of five. They intend to build this
5 porch to use it on a daily basis, and they would deem 5 feet to not
6 be adequate to function with their family of five.

7 The substantiality of the requested variance. Again, our
8 variance is not for 7 feet but 2.6 beyond the allowable 5-foot
9 encroachment for a front porch. So we believe this would be a minor
10 adjustment within the context of the property's front yard which
11 would be preserved at 23 feet beyond our proposed porch.

12 Adverse impact on physical or environmental conditions. The
13 porch addition will not have any adverse effect on the physical or
14 environmental conditions in the neighborhood. To prevent
15 stormwater runoff issues, the design will incorporate proper gutters
16 and drainage systems to ensure the rainwater is managed and not be
17 drained onto any neighboring properties.

18 The self-created difficulty is due to the, again, applicant's
19 desire to have what they deem to be a more usable porch.

20 CHAIRMAN MAMMINA: Okay.

21 I will just say, adding to what you said.

22 MS. SCHOTT: Mm-hmm.

23 CHAIRMAN MAMMINA: Virtually every application that we hear is
24 self-created in some perspective of -- I'm not saying that
25 automatically it says it's approved or disapproved, we're not
26 concrete black and white, but what I would say is the 2 1/2 feet --

1 MS. SCHOTT: Mm-hmm.

2 CHAIRMAN MAMMINA: -- when 5 is permitted is a 50 percent
3 increase of the permitted size in terms of looking at magnitude with
4 that. That would be significant, and you're opinion -- you did a
5 very good job, you really did, is you put on the record, you know,
6 your reasons, and you know, and given that opportunity, you know,
7 go back and take a look at what's there and submit that back.

8 MS. SCHOTT: Mm-hmm.

9 CHAIRMAN MAMMINA: Okay? You can do that before a hearing,
10 that way SECRETARY WAGNER can distribute that to us, and we can take
11 a look at it. We would not make a decision before, you know, a
12 hearing, when we have a hearing that includes that application that's
13 always, you know, on the livestream. So you don't need to come back,
14 and you can still have the opportunity to see and hear the
15 application.

16 MS. SCHOTT: Okay.

17 MEMBER DONATELLI: Well, if I may, you can clarify.

18 CHAIRMAN MAMMINA: Right.

19 MEMBER DONATELLI: Because you did indicate that you were going
20 to speak to your client about alternatives.

21 If your clients can see their way clear for modifying the
22 application so that you ask for a slightly smaller variance, one of
23 the things that we're charged with doing as a Board is to grant the
24 minimum variance necessary under law to accomplish what the applicant
25 is trying to accomplish, but also mindful of the fact that whatever
26 we do we set precedent, not just for your client, but for every other

1 similar situation in the town. So we try to minimize the grant.

2 If your clients can see their way clear toward asking for a
3 smaller variance, then we would certainly want to see plans for that,
4 whether it's 5 feet, whether it's 6 feet or whether your client says,
5 no, I need to live with 7 feet, and that's something for your client
6 to decide. But if your client does want to consider that, that would
7 be --

8 MS. SCHOTT: Mm-hmm.

9 MEMBER HERNANDEZ: I'd like to make it clear that even a 5-foot
10 porch would require a variance because they only have room for a 4.27.
11 So even a 5-foot porch -- and you keep saying that, in your opinion,
12 5 feet is not enough to accommodate a family of five. Well, let's
13 not forget, this is a 21-foot wide front porch. So we're still
14 talking over 100 square feet. So when you're saying there isn't
15 enough room, that's subject to, again, to interpretation as to what
16 is considered enough room.

17 MS. SCHOTT: Mm-hmm.

18 MEMBER HERNANDEZ: You may not have a table for four in the
19 front, but you still can have room for a sofa for five people to sit.

20 MEMBER DONATELLI: And a bunch of toys.

21 MEMBER HERNANDEZ: And a bunch of toys, and walking room to go
22 back.

23 CHAIRMAN MAMMINA: Okay, so what we will do is to continue the
24 application giving you the opportunity to do that research.

25 If you're client decides they don't want to do that, as Member
26 Donatelli had said, you can just let Secretary Wagner know, and then

1 that variance would -- it wouldn't go away, because as Member
2 Hernandez said, you're still short on that; okay? But then you're
3 asking for -- right, it's a different animal than asking for the 5
4 feet, you know, and then the balancing of that. I'm not saying it
5 would definitely be approved, but then the balancing of that, we're
6 also going to be -- will be looked at.

7 MS. SCHOTT: Understood.

8 CHAIRMAN MAMMINA: Okay?

9 SECRETARY WAGNER: Thank you.

10 MS. SCHOTT: Thank you, very much.

11 MEMBER HERNANDEZ: Good job.

12 (WHEREUPON, this application was continued.)

1 SECRETARY WAGNER: Appeal number 21637, Rachel Chen Chen; 180
2 Warner Avenue, Roslyn Heights; Section 7, Block 25, Lot 61; in a
3 Residence-B Zoning District.

4 Variance from §70-42 to legalize a deck too close to the rear
5 property line.

6 CHAIRMAN MAMMINA: You heard appeal number 21637, Rachel Chen
7 Chen.

8 Is anyone in the room interested in the application other than
9 the applicant?

10 (WHEREUPON, there was no response.)

11 CHAIRMAN MAMMINA: Seeing no one.

12 Please give your name and address.

13 MR. COSCIA: Good morning, Mr. Chairman, members of the Board.
14 Salvatore Coscia, C-O-S-C-I-A, from Permits R Us, 338 Jericho
15 Turnpike, Syosset, New York 11791. I'm here on behalf of Mrs. Chen
16 who wishes to maintain a rear deck at 180 Warner Avenue in Roslyn
17 Heights. The rear deck requires a 15-foot yard -- rear yard setback,
18 and we're looking to maintain a 5.4-foot setback.

19 When she purchased the home, the deck was existing, from what
20 I understand it's been there for many years. Unfortunately, after
21 she purchased the home, they must have told her they wanted a CO for
22 the deck, and she was aware that there was none.

23 So we're here to respectfully request approval on this. It
24 doesn't create an undesirable change in the neighborhood. It is in
25 the character of the neighborhood for a rear deck. I'd also like
26 to point out that the setback on the house is 17.4, so any deck is --

1 CHAIRMAN MAMMINA: Slow down.

2 MR. COSCIA: Slow down, yeah, sorry.

3 CHAIRMAN MAMMINA: That's okay.

4 MR. COSCIA: The rear yard setback on the house itself is 17.4.

5 So any deck would have created a variance for this property.

6 MEMBER HERNANDEZ: High how off the ground is the deck?

7 MR. COSCIA: The deck is -- it is 6 feet, 6.3.

8 MEMBER HERNANDEZ: Is that the height of the deck or the
9 railing?

10 MR. COSCIA: With the railing. The deck itself is 3.3.

11 MRMBER HERNANDEZ: Okay, so --

12 MR. COSCIA: And then the railing is another 3. So the deck
13 is 3.3.

14 MEMBER HERNANDEZ: I'm just visualizing how high in the air
15 people look when they're walking around.

16 MR. COSCIA: Yes.

17 CHAIRMAN MAMMINA: When you say it's in character with the
18 neighborhood, what are you basing that on?

19 MR. COSCIA: Houses in the area do have rear decks whether or
20 not they're legal or illegal, I don't know, I am not sure. I couldn't
21 tell you.

22 MEMBER GOODSELL: What is -- what is the property immediately
23 to the rear? What's the closest neighbor to this deck?

24 MR. COSCIA: To the right and left or to the rear?

25 MEMBER GOODSELL: To the rear.

26 MR. COSCIA: To the rear there is a home in the back, it's pretty

1 far back because they have a backyard area. So I don't have the exact
2 numbers but I would say it's probably 25 to 30 feet.

3 CHAIRMAN MAMMINA: We're only allowed to go to where the mailman
4 can go.

5 MEMBER GOODSSELL: Yes.

6 CHAIRMAN MAMMINA: So is there anything in that rear yard in
7 the way of evergreen landscaping --

8 MR. COSCIA: There is --

9 CHAIRMAN MAMMINA: -- like arborvitae that would screen -- give
10 screening?

11 MR. COSCIA: There are trees and plantings, not on her property.
12 There is the fence on her property there, and then there's also trees
13 and bushes that, you know, I'm assuming that they belong to the
14 neighbor in the back.

15 MEMBER GOODSSELL: I drove the neighborhood, and I could not see
16 the deck. I did drive the street immediately to the rear. I could
17 not see the deck.

18 MR. COSCIA: Yeah.

19 MEMBER GOODSSELL: It's -- and you can't see it from the road.
20 It's completely hidden.

21 MR. COSCIA: That it is, yes.

22 MEMBER DONATELLI: So one of the things that we're required to
23 do is, we weigh the five factors in trying to determine whether or
24 not to approve or deny an application is, we do a balancing.

25 Do you have any idea what it might cost to either remove or to
26 shorten the deck such that it is compliant?

1 MR. COSCIA: In order to shorten the deck to make it compliant,
2 we'd have no deck. The rear setback to the house is 17.4, the
3 required is 15 feet. You would have a 2-foot deck. Actually, less
4 because you have the stairs that go down.

5 MEMBER DONATELLI: And do we have an idea as to what the cost
6 might be?

7 MR. COSCIA: Cost to remove it?

8 MEMBER DONATELLI: To remove it.

9 MR. COSCIA: I would say, between removing it and adding a
10 landing, it would be -- I would say she's somewhere probably in the
11 vicinity of 25,000 to 30,000.

12 MEMBER DONATELLI: Dollars.

13 MR. COSCIA: Dollars, yes.

14 MEMBER DONATELLI: It's not S&H Green Stamps.

15 MEMBER GOODSSELL: Mr. Chairman, I think this is a fairly
16 substantial request, but in looking at the survey and looking at the
17 existing residence, if, in fact, this applicant wants any kind of
18 deck, the applicant's representative, Mr. Coscia, is correct, there
19 is no room for a deck. There's no room for a deck.

20 I'm sorry, sir, how high above the ground did you say this was?

21 MR. COSCIA: 3.3.

22 CHAIRMAN MAMMINA: To the platform.

23 MR. COSCIA: The platform, yeah.

24 MEMBER GOODSSELL: While I'm generally not in favor of such a
25 substantial variance, I don't see where the presence of this deck
26 creates any kind of visual harm to the neighborhood or visual

1 impairment to the neighbor behind. I believe the neighbor behind
2 has a 6-foot fence. I was not able to see this at all. That's not
3 generally the standard. This is still a substantial variance.

4 MR. COSCIA: Understood.

5 (WHEREUPON, there was an off-the-record discussion.)

6 MEMBER GOODSELL: From what I'm looking at and from what my
7 visual inspection was, there are three large trees, they may not be
8 on the applicant's property, but they clearly cover the deck. If
9 I were the applicant, I'd be sweeping leaves for most of the fall,
10 because the -- I love trees. I've had three large ones on my property
11 that had to come down, and so I am, in fact, in favor of greenery,
12 but I don't -- I don't see the necessity of planting greenery on this
13 simply because there is some greenery there.

14 MR. COSCIA: Correct.

15 MEMBER GOODSELL: And this is not to say that greenery can't
16 come down, it does come down. I do still consider this to be a pretty
17 substantial sized deck. However, it is simply the only place to put
18 a deck, and it is simply the only opportunity to have a deck for this
19 applicant.

20 Does anybody on the Board feel this way?

21 MEMBER DONATELLI: Well, it is a very large deck. It is 12 feet
22 wide which then needs to, I guess the 5 foot, 5.4 foot setback. On
23 the other hand, if we were make the deck more narrow, it would still
24 be noncompliant, and it might actually be undertaking an effort just
25 for the sake of compliance. It would make the deck less usable and
26 still be noncompliant, still require a variance.

1 So I am troubled by this, but as I weigh the five factors and
2 the cost of altering and/or removing the deck, I think I have to side
3 with Patricia, Member Goodsell, on this issue.

4 CHAIRMAN MAMMINA: I'd like to add one other thing. The house
5 is setback 40 feet, and that's a very substantial setback. That is
6 the character of the neighborhood, and I know that a lot of builders,
7 especially back in the '60s, they wanted to a big green lawn, and
8 that then did not leave any --

9 MR. COSCIA: Any rear yard.

10 CHAIRMAN MAMMINA: Rear yard, correct.

11 (WHEREUPON, there was an off-the-record discussion.)

12 MEMBER DONATELLI: So just further expanding upon the
13 Chairman's point which is that this property is unique in the sense
14 that it's set back substantially more than most other properties,
15 and so that, in fact, results in the less footage at the rear of the
16 property which then would necessitate the granting of the variance
17 for the size of the deck.

18 So this is a unique property because it is set back further than
19 otherwise required.

20 CHAIRMAN MAMMINA: Okay, do we have a motion? Yes?

21 MEMBER GOODSSELL: I will -- I will reluctantly say -- again,
22 I'm looking at Google Earth, and all of the houses to the immediate
23 right and immediate left of this property are set back substantially,
24 and I see very clearly one or two other decks back there that people
25 enjoy.

26 CHAIRMAN MAMMINA: I would think that that gives us an exception

1 that we are not creating a precedent saying that this is unique and
2 stands all alone. The precedent that we would be setting, in fact,
3 in this neighborhood, with a 5-foot deck, for all intents and
4 purposes, that the Board can see its way clear, based on landscaping
5 that's in place. We have a 6-foot fence along the property as well,
6 so --

7 MEMBER GOODSSELL: I'm not thrilled with this, but yes, I make
8 a motion that we grant the application.

9 SECRETARY WAGNER: I think -- didn't Dan make it?

10 ATTORNEY ALGIOS: Dan made it.

11 MEMBER GOODSSELL: I will second the motion.

12 CHAIRMAN MAMMINA: Dan's got the motion, and Pat's got the
13 second.

14 Please poll the Board.

15 SECRETARY WAGNER: Member Hernandez?

16 MEMBER HERNANDEZ: Aye.

17 SECRETARY WAGNER: Member Goodsell?

18 MEMBER GOODSSELL: Aye.

19 SECRETARY WAGNER: Member Donatelli?

20 MEMBER DONATELLI: Aye.

21 SECRETARY WAGNER: Vice-Chairman Francis?

22 VICE-CHAIRMAN FRANCIS: Aye.

23 SECRETARY WAGNER: Chairman Mammina?

24 CHAIRMAN MAMMINA: I will just say that, I'll reiterate Member
25 Goodsell's concerns about this. Also looking at it and saying that
26 they really don't have any place for the enjoyment of their backyard,

1 and as long as the planting is maintained, it's -- you're fine.

2 (WHEREUPON, there was an off-the-record discussion.)

3 CHAIRMAN MAMMINA: Because trees, you know, landscaping would
4 have to be maintained. It is, right now, on the neighbor's side so
5 they receive the benefit of it, but if it was to taken down, then
6 the homeowner would then be charged with restoring that side.

7 MR. COSCIA: Absolutely.

8 SECRETARY WAGNER: He said it's on the neighbor's side.

9 MEMBER HERNANDEZ: No, on their side they got 5 feet. They'd
10 have to plant it from their side. They obviously can't put it on
11 the neighbor's property.

12 MR. COSCIA: Assuming that those trees were to come down at some
13 point in time.

14 MEMBER HERNANDEZ: Absolutely.

15 MEMBER GOODSSELL: Which they may in the next 100 years.

16 MR. COSCIA: Yeah.

17 MEMBER GOODSSELL: To my disappointment, I had to take a huge
18 tree down.

19 MR. COSCIA: I would rather leave them all; okay?

20 ATTONREY ALGIOS: So what do you -- condition that?

21 MEMBER GOODSSELL: Condition that if the greenery is ever
22 removed by the neighbor that this homeowner plant some sheltering
23 greenery on their side of the property.

24 MEMBER HERNANDEZ: Screening.

25 SECRETARY WAGNER: But that means the neighbor is -- that's
26 their prerogative to take -- I mean, if it's giving them --

1 MEMBER HERNANDEZ: We're not --

2 SECRETARY WAGNER: But the purpose for planting screening on
3 the applicant's property is to screen it from the neighbors.

4 MEMBER HERNANDEZ: Yes.

5 SECRETARY WAGNER: But if the screening's adequate now,
6 then -- and the neighbor takes it down, then they're the ones that
7 are --

8 CHAIRMAN MAMMINA: But then that also gives us, though, in the
9 fact that, yes, we don't like the application, per se, and in terms
10 of setting a precedent --

11 MEMBER HERNANDEZ: A 5-foot deck.

12 CHAIRMAN MAMMINA: -- the same thing with no planting, then we
13 would ask them to put planting.

14 (WHEREUPON, there was an off-the-record discussion.)

15 MEMBER DONATELLI: All right.

16 So I'm sorry for the confusion. It was my motion so I'm going
17 to slightly amend the motion or clarify the motion to just indicate
18 that this applicant should plant screening between the deck and the
19 rear yard lot line regardless of what the rear yard neighbor may do
20 or not do, only because, whether or not we have any control over the
21 screening, shouldn't really rely on what the rear yard neighbor does
22 with this lot.

23 MR. COSCIA: I understand, I just have a question, then.
24 Because of the size of the trees and coverings that's existing there
25 right now, if we use arborvitaes, my client plants arborvitaes,
26 ultimately, they're not going to get enough sunlight through there

1 and die. They'd be planting arborvitaes all year long, they'll just
2 keep dying. I mean, I have no problem with planting shrubs, but
3 there's a fence there currently. There's plenty of greenery, as you
4 can see. If the client plants something, it doesn't survive, the
5 amount of enclosure, which happens at my home because my neighbor
6 has trees, and I plant arborvitaes, and they just kept dying, and
7 so I just put them out because it's pointless, this is potentially
8 what could happen. I don't have an objection to it, but again, I
9 don't want to see somebody just have to keep planting green trees,
10 you know, for a month or two, and then they're dying, they just have
11 to keep going back. I mean, I have no problem making a statement
12 that, obviously, if the trees were to come down or the neighbor
13 decides to remove the trees, which, I don't see why they would, that
14 the client will plant shrubs there. I understand the reason for it.
15 I just -- kind of hard to have somebody plant shrubs that may not
16 actually survive.

17 MEMBER DONATELLI: I'm not a horticulturalist, I don't know.
18 I know I plant things, they tend to die, I thought it was just me.

19 MR. COSCIA: Well, it might be, but --

20 SECRETARY WAGNER: My arborvitae are all dead, so it's not just
21 you.

22 MR. COSCIA: I mean, the area's heavily wooded.
23 There's -- it's green everywhere. I mean, I haven't been in the
24 backyard, but --

25 MEMBER HERNANDEZ: You understand our concern.

26 MR. COSCIA: One hundred and ten percent. I just -- like in

1 my own home, I have -- one side has arborvitaes, the other side they
2 all die.

3 MEMBER HERNANDEZ: If the deck was not raised, it wouldn't be
4 an issue.

5 MR. COSCIA: Yeah.

6 MEMBER HERNANDEZ: If it was on the ground. The fact that it's
7 3-foot high, the height.

8 MR. COSCIA: Correct.

9 MEMBER HERNANDEZ: If you said eight inches? I'd say, eh, you
10 know what? It's 8 inches. But 3 feet is 3 feet.

11 MR. COSCIA: Yeah, I just want the Board to understand that I
12 don't have an issue with telling them to plant them.

13 MEMBER HERNANDEZ: Yeah.

14 MR. COSCIA: But there's a very good chance, from my own
15 personal knowledge, they will not survive.

16 CHAIRMAN MAMMINA: That's true.

17 MEMBER DONATELLI: So we're struggling through this and forgive
18 us. We're trying to mitigate the issue to the neighbor. However,
19 it is also clear that if the neighbor were to remove, as Secretary
20 Wagner just suggested, if the neighbor were to remove the shrubbery
21 or the trees, and if the neighbor wanted to, they could replant
22 something else on their side of the fence, and right now, there's
23 no indication that anyone's removing any trees.

24 MR. COSCIA: No.

25 MEMBER DONATELLI: So perhaps we're overthinking this, perhaps
26 we should keep the motion as originally proposed, without any

1 condition, and so I go back to the original motion which is to grant
2 the application without the condition of additional planting or
3 shrubbery of the applicant's side of the fence.

4 Do you want to do it all over again?

5 But I'm not making the motion this time.

6 I make a motion that we --

7 ATTORNEY ALGIOS: No, you don't have to do that.

8 MEMBER DONATELLI: All right.

9 ATTORNEY ALGIOS: It's already, you granted it, without a
10 condition, it's on the record.

11 MEMBER DONATELLI: Sorry for the confusion.

12 MR. COSCIA: Thank you, very much. Merry Christmas, happy
13 holidays, happy New Year.

14 All right, thank you.

15 ATTORNEY ALGIOS: You're good.

16 (WHEREUPON, this application was approved.)

1 SECRETARY WAGNER: Appeal number 21638, Meryl Katz; 23
2 Woodville Lane, Albertson; Section 7, Block 111, Lot 39; in the
3 Residence-A Zoning District.

4 Variances from §70-202.1(C) to legalize a retaining wall that
5 is too tall.

6 CHAIRMAN MAMMINA: You heard appeal number 21638 in the matter
7 of Katz.

8 Is there anyone in the room interested in the application other
9 than the applicant?

10 (WHEREUPON, there was no response.)

11 CHAIRMAN MAMMINA: Seeing no one.

12 MS. KATZ: Is this okay for everybody?

13 CHAIRMAN MAMMINA: We need your name and address.

14 MR. KATZ: Sure, Cliff Katz, Meryl Katz, on behalf of the
15 variance, 23 Woodville Lane, Albertson, New York 11507.

16 This is a request to legalize a retaining wall that was initially
17 on the property since we had owned the property in 2004. We had some
18 construction done to build a pool, and were told at the time that
19 a replacement of that existing wall would be fine. Obviously, it's
20 not. We learned that at the inspection period, thinking that
21 pictures would ultimately assist the Board in making the
22 determination. I wanted to sort of go through with the Board exactly
23 the different views of what you see and what's going on here, and
24 we'll go through the five factors, if that's necessary.

25 I'll start -- can you hear me; is this okay?

26 CHAIRMAN MAMMINA: Yes.

1 MEMBER DONATELLI: Yes.

2 MR. KATZ: I'll start with what was, and what was is this cement
3 wall right here with these, whatever these are, thingies, and this
4 is 7 feet, and it was ultimately determined that this wall would not
5 continue in the condition and that to bring in heavy equipment after
6 the pool was ultimately constructed that it made sense to take this
7 wall, which is right here, with this fence, and you can see this is
8 my basement. It is a 7-foot fence. It was changed from this to this
9 right here, and this is the 7 feet. It's actually 6 10, but we'll
10 call it 7. Here is a view from the -- my neighbor's fence, and we're
11 looking at it this way, just so you could see it this way. It is
12 effectively impossible to see from anyone except someone who's on
13 the property itself. This is, again, from my neighbor's view, and
14 this is my neighbor's house right here, so it -- based on their angle,
15 they can't see the 7-foot fence, they never did -- yeah.

16 MS. KATZ: If I may for a second.

17 So our house is kind of on two streets. You come up the driveway
18 on Crescent, and the front is on Woodville. So we tried to give you
19 an angle from all --

20 MR. KATZ: Both sides.

21 MS. KATZ: -- all of Crescent and all of Woodville Lane, so
22 that's why.

23 MR. KATZ: This is from the top of the retaining wall, and you
24 see the reason we couldn't tier it if we wanted to here is because
25 we had these condensers, and there's a window well right here that
26 we're -- prohibited us from going this way back. This is a view from

1 the front of the house, and you'll see, obviously, the grade hasn't
2 changed at all. So you're going straight, and then there's a wall,
3 so you don't see it anywhere. This back thing right here is the back
4 of my neighbor's pool house, it's windowless in the back. So this
5 is their pool house, and that's what you see there.

6 This is, effectively, a picture from standing at these condenser
7 units looking this way. This is my -- through this is my neighbor's
8 house, even in the, yeah, even -- right here's the roof. Even in
9 the winter, when these trees no longer have trees, these are actually
10 evergreens, but you couldn't -- you really couldn't see the -- from
11 the way you're not seeing the wall, you're just seeing a de-elevation,
12 and this is just from Crescent, just to give you a full view, and
13 this is from Crescent, and you're seeing, obviously, you don't see
14 the wall.

15 Here, up here, this is my neighbor's house. This up here is
16 a window, but that's a window in the attic. These are his trees,
17 these are my trees, which will hopefully, with sunlight, get to the
18 same size as these trees, and my neighbor, you know, couldn't see
19 it unless he was on a ladder on the roof, and these are the only two
20 houses that this would impact at all to the extent they impact at
21 all in terms of seeing what was this to now this.

22 So I can go through the five factors, I can certainly give --
23 MEMBER GOODSSELL: Before you do that.

24 MR. KATZ: Yes.

25 MEMBER GOODSSELL: I do have a question.

26 The building code requires that retaining wall to be no higher

1 than 5 feet. Do you have an understanding as to why that is?

2 MR. KATZ: I -- - my understanding --

3 MEMBER GOODSSELL: But why did the Building Department, why did
4 the town limit a retaining wall to 5 feet?

5 MR. KATZ: My understanding is that in order to preserve the
6 character of the neighborhood that it would be unfair to neighbors
7 to ultimately look out their window and see a huge black retaining
8 wall going larger than 5 feet. So you know, and that's exactly the
9 question that I was trying to answer here unless you have a helicopter
10 or a drone, you're not going to see the retaining wall.

11 CHAIRMAN MAMMINA: I sat as Chairman of the Board when that was
12 put into effect, and that answer's almost right, and it had to with
13 Northern Boulevard, not far from here, a shopping center, where the
14 side yard of the house was the side yard of the shopping center with
15 a substantial change in elevation between the two. It was at least
16 30 feet, and the person who owned the shopping center put a straight
17 retaining wall all the way up to 30 feet. So that neighbor, you know,
18 had, you know a racquetball court --

19 MR. KATZ: Right.

20 CHAIRMAN MAMMINA: -- in their side yard, and so with that, that
21 case having happened, that was when the Town Board said, a retaining
22 wall, 5 feet of planting, a retaining wall, 5 feet of planting, so
23 that you're creating that 30 feet, you know, or so, you know, you
24 would have that six step backs in there and the top planted. You
25 can have plants hanging over it or whatever.

26 So that was -- I thought that was a pretty good decision in terms

1 of how they -- how they solved that, so --

2 MR. KATZ: And I would agree. I think --

3 MEMBER HERNANDEZ: It's also safety. If you fall off a 30-foot
4 wall, it's very different if you fall off a 30-foot and 25 feet; right?
5 And 5 feet.

6 MS. KATZ: We're fenced. We're fenced, we gated it.

7 MR. KATZ: Exactly.

8 MEMBER HERNANDEZ: No, but what you've basically shown us, and
9 I've been looking at the pictures we have online which is the same
10 ones you have there is that the only person that's really looking
11 at the wall is you.

12 MR. KATZ: Yes.

13 MEMBER HERNANDEZ: Essentially.

14 MR. KATZ: Yes.

15 MEMBER HERNANDEZ: It's within your confined space.

16 MR. KATZ: Yes.

17 MEMBER HERNANDEZ: I didn't see -- what is the actual height
18 of the wall?

19 MR. KATZ: It's 6-foot 10 inches but we'll call it 7 for the
20 sake of this discussion.

21 MEMBER DONATELLI: Let's call it 6 feet 10 inches.

22 MEMBER HERNANDEZ: For the record, yes.

23 MEMBER DONATELLI: This is an engineered wall; is that correct?

24 MR. KATZ: Yes, and appropriately constructed in accordance
25 with the standard required by the Town of North Hempstead that has
26 not been challenged, nor has it been raised. It was properly

1 constructed.

2 MEMBER DONATELLI: Of course, the issue that's before us is the
3 height.

4 MR. KATZ: Correct.

5 MEMBER DONATELLI: If we were to somehow reconfigure this such
6 that there was a 5-foot wall and then it came out an additional 5
7 feet, perhaps into the area of the photograph where you have the table
8 and chairs, toward the pool, and put in a seconds tier, drop it 5
9 feet, and then put in a second tier maybe, you know, 2 feet down below
10 that. Do you have any idea what the cost might be of that?

11 MR. KATZ: Well, I can tell what the cost of constructing the
12 wall was, and I would suggest to you that my estimate of constructing
13 a two-tiered wall and then also removing this would be in excess of
14 that. My understanding, as a layperson, would be that the cost would
15 probably be somewhere around 25 to 30,000 dollars to accomplish that.
16 The problem that we would have is that if you see here, this is a
17 door, this is a back door here. So if we're bringing this out past
18 the house here, we'd have to figure out a way to maybe have a 5-foot
19 wall here so that we're capturing the dirt, and I think that, you
20 know, would ultimately possibly be, you know, it would obviously
21 encroach on this which we didn't want to do, but more importantly,
22 the window and the door here would have a -- then I would be seeing
23 the wall when I looked out my window, which I would prefer not to
24 do.

25 So that would be the issue in dealing with it that way.

26 MEMBER HERNANDEZ: The flip side of the question that he just

1 actually asked is, would it be possible, and what would the cost be
2 if you were to recess the top 2 feet of the wall 5 feet into your
3 deck, to your upper deck. In that space --

4 MR. KATZ: On the top or the bottom?

5 MEMBER HERNANDEZ: On the top.

6 MR. KATZ: Well, you couldn't do it from the top -- well, you
7 could, but I have a window well right here going from my basement.
8 So I have these two compressors --

9 MEMBER HERNANDEZ: Well, your window wells are going to be
10 exposed, it wouldn't be --

11 MR. KATZ: Well, I think if you're asking me to move it back
12 this way.

13 MEMBER HERNANDEZ: Right.

14 MR. KATZ: Then my window well is right here.

15 MEMBER HERNANDEZ: Okay.

16 MR. KATZ: So it wouldn't be exposed.

17 MEMBER HERNANDEZ: Okay.

18 MR. KATZ: And it would probably -- without doubt, it would --

19 MEMBER HERNANDEZ: It would still be within your deck, the
20 window well, then, is now within your deck; correct?

21 MR. KATZ: No, no, no, no. My window well has nothing to do
22 with the deck.

23 MEMBER HERNANDEZ: I'm looking at the wrong picture.

24 MEMBER DONATELLI: This is on the side of the house.

25 MEMBER HERNANDEZ: Yeah.

26 MR. KATZ: Yeah, the window well -- do you see the two

1 compressors? The window well is behind that. If you see, you can
2 actually see next to the fence, there's a little brick, it's bordered
3 in brick. It's behind the compressors, and I would need to remove
4 that window well because it would certainly fail, and I don't even
5 know how I would be able to -- I don't -- I was told, because we
6 actually wanted to recapture more. So I was told that we could bring
7 the wall back this way because of that window well, and so if we
8 decided to tier it, the only way to tier it would be to come forward.

9 (WHEREUPON, there was an off-the-record discussion.)

10 MEMBER GOODSSELL: What was the height of the retaining wall that
11 you replaced?

12 MR. KATZ: Seven feet.

13 MEMBER GOODSSELL: It was existing 7 feet.

14 MR. KATZ: Yeah, it's right here, and you could see, this is
15 an 8-foot right here, and the wall comes about 1-foot lower. This
16 is a 7-foot wall.

17 MEMBER DONATELLI: So I think I would note for the record, we're
18 presented with many applications for retaining walls. Many times
19 the retaining walls are visible to neighbors, and whether it might
20 be in the front of the house, whether it might be to the rear of the
21 house, it might be exposed to the rear yard neighbor. In this
22 instance I would say that the retaining wall really is only visible
23 to yourselves.

24 MR. KATZ: One hundred percent.

25 MEMBER DONATELLI: And as one Board member, I would also
26 indicate that I don't think that there would be -- I think it would

1 be very onerous to require a regrading of the property for a 2-foot
2 overage of the wall because of the the impact it would have not only
3 on the patio below it or on the condensers above it, but also, as
4 I look at the original photographs of the property, and I see the
5 steep grade that existed prior to the installation of the steps, and
6 then the steps would also have to be reconfigured, and it probably
7 wouldn't -- cost if about \$25,000 or so.

8 (WHEREUPON, there was an off-the-record discussion.)

9 MEMBER DONATELLI: Yeah, so that's -- actually my question is,
10 you all had a pool installer --

11 MR. KATZ: We did.

12 MEMBER DONATELLI: -- who installed the fence, who presumably
13 applied for a permit for the pool.

14 MR. KATZ: We did.

15 MEMBER DONATELLI: Did the installer take it upon himself to
16 regrade -- to install this retaining wall?

17 MR. KATZ: Yes. His construction people that did the dig out
18 of the pool, and you know, the dirt and all that other stuff, they -- it
19 was part of the company, Swim King, out of Rocky Point, if that means
20 anything to you, they have a masonry division, and they did it.

21 MEMBER DONATELLI: And when was this done?

22 MR. KATZ: A year and a half ago.

23 MEMBER HERNANDEZ: There should have been permits.

24 MR. KATZ: Well, there are permits for the pool.

25 MEMBER HERNANDEZ: But the permit didn't show the retaining
26 wall?

1 MS. KATZ: We were told --

2 MR. KATZ: We were told that since he was replacing an existing
3 retaining wall that it was okay to do it.

4 CHAIRMAN MAMMINA: It still should be on an approved plan.

5 MR. KATZ: Well, it is on the plans. I mean, the way it was
6 constructed is -- there's a whole plan as to what's there and the
7 gravel, the drainage and all that. That's on file, that was never
8 the question.

9 CHAIRMAN MAMMINA: Speaking to Mr. Hernandez's question, is
10 that -- those plans should either be a separate application -- I'm
11 not asking a question, I'm making a statement -- would be a separate
12 application --

13 MR. KATZ: Yes.

14 CHAIRMAN MAMMINA: -- that was filed separately --

15 MR. KATZ: Yes.

16 CHAIRMAN MAMMINA: -- at the Building Department --

17 MR. KATZ: Yes.

18 CHAIRMAN MAMMINA: -- with the engineer.

19 MR. KATZ: Yes, yes, yes.

20 CHAIRMAN MAMMINA: Okay.

21 MR. KATZ: I'm happy to go through the five factors if you'd
22 like.

23 MEMBER HERNANDEZ: Please.

24 MR. KATZ: Or I think you've made a record. I'll leave it to
25 you, it's 12:15, to make any determinations. If it's appropriate,
26 I will. If you think, based on this presentation, we're good, let

1 me know.

2 MEMBER HERNANDEZ: Mr. Chairman, this is a very unique
3 circumstance. The property's a uniquely shaped property. The
4 house is in a unique location. Certainly, that pool deck is in a
5 very unique location. The wall's a little taller than it should be,
6 but exploring the changes to it seem to be expensive for the sake
7 of conformity. Given that the wall's not visible from anywhere but
8 their own little deck in the back, you have no patio.

9 So given those unique circumstances, I move that we grant it.

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

12 VICE-CHAIRMAN FRANCIS: Second.

13 CHAIRMAN MAMMINA: Second, Vice-Chairman Francis.
14 Please poll the Board.

15 SECRETARY WAGNER: Member Goodsell?

16 MEMBER GOODSSELL: I am reluctantly voting aye. We have turned
17 down applications like this. This is existing, and the cost to
18 replace this -- so I'm reluctantly voting aye.

19 SECRETARY WAGNER: Member Donatelli?

20 MEMBER DONATELLI: Aye.

21 SECRETARY WAGNER: Vice-Chairman Francis?

22 VICE-CHAIRMAN FRANCIS: Aye.

23 SECRETARY WAGNER: Member Hernandez?

24 MEMBER HERNANDEZ: Aye.

25 SECRETARY WAGNER: And Chairman Mammina?

26 CHAIRMAN MAMMINA: I just like to add one other thing to the

1 record, you know, as well, that this is a unique circumstance in that
2 it's almost like the whole backyard was dug out, and I can't see why
3 anybody would want to dig their backyard out but I guess you could
4 and the retaining wall. Nobody can see the wall, and it's there only
5 for, you know, for you and your wife, so -- and your family but --

6 So yes, I vote aye.

7 Thank you.

8 MR. KATZ: Thank you, very much.

9 MS. KATZ: Thank you, appreciate it.

10 CHAIRMAN MAMMINA: Go forth and swim.

11 MS. KATZ: Thank you, have a good day.

12 MR. KATZ: Thank you, very much. Happy holidays.

13 MEMBER HERNANDEZ: Thank you, same to you.

14 (WHEREUPON, this application was approved.)

1 SECRETARY WAGNER: Appeal number 21639, Nicholas, Thea and
2 Annemarie Cusumano; 28 Orchid Lane, New Hyde Park; Section 8, Block
3 9, Lot 247; in the Residence-C Zoning District.

4 Variances from §§70-50.C and 70-100.2.H to construct additions
5 and a portico that are located too close to the street and to install
6 A/C units that are too close to the side property line.

7 CHAIRMAN MAMMINA: We heard appeal number 21639, Nicolas, Thea
8 and Annemarie Cusumano.

9 Is there anyone interested in the application other than the
10 applicant?

11 (WHEREUPON, there was no response.)

12 CHAIRMAN MAMMINA: Seeing no one.

13 Please give your name and address.

14 MR. COZZOLINO: Gennaro Cozzolino, 2125 Deer Park Avenue, Deer
15 Park, New York 11729.

16 Good afternoon, Mr. Chairman, members of the Board, I'm here
17 for Nicholas, Thea and Annemarie Cusumano, 28 Orchid Lane, New Hyde
18 Park, also known as Section 8, Block B9, Lot 247 in a Residence-C
19 Zone.

20 We are requesting relief from the Board to construct a 36-by-28
21 foot second floor addition with cantilever and a 5.2 foot -- 8-foot
22 front portico.

23 The closed second floor addition requires a front yard setback,
24 requested to build on 22.96 feet front from an average of 25 feet,
25 so a difference of 2.04 feet.

26 The proposed portico also requires a variance for front yard

1 setback. Requesting to build at 18.75 feet with a front yard average
2 of 25 feet, a difference of 6.25 feet.

3 As the Board can see from the side elevation I've handed in,
4 it is the overhang that is encroaching to 18.75 feet. We're building
5 the portico over the existing footing of the front stoop. If the
6 Board wishes, we can shrink the portico back by 2 inches to meet the
7 5-foot permitted encroachment.

8 The second floor cantilever and the front portico are not
9 substantial requests, however, these difficulties are self-created
10 but are very common additions when remodeling your home in this area.
11 Most of the homes have already been improved with second floor
12 additions and porticos. These additions will not create any adverse
13 effect to the environment nor the character or nature of the
14 neighborhood.

15 Also variance for two A/C units to be installed and properly
16 screened tucked behind the fireplace, chimney in the same location
17 where the old A/C unit was. The side yard variance of 2 feet instead
18 of permitted 3 feet, a difference of one foot. Proposed additions
19 with all other zoning requirements.

20 That concludes my presentation.

21 MEMBER DONATELLI: Can you tell us, what is the need for the
22 cantilever on the second floor? What is the need to extend forward
23 of the current front building line?

24 MR. COZZOLINO: It just creates -- it creates a break in the
25 facade, it gives a little depth perception, the look of the second
26 floor. If you look at the -- on the elevation page, the plans. Page

1 4 of 7 in the plans.

2 MEMBER DONATELLI: So are you saying that it's aesthetic?

3 MR. COZZOLINO: It's mostly aesthetic. It gives an open foyer
4 in the front.

5 CHAIRMAN MAMMINA: That's interior, which is not part of --

6 MR. COZZOLINO: Right, it complies, yes.

7 MEMBER GOODSSELL: I'm very familiar with a cantilever, I have
8 one in my house, although back in the early 80s. My cantilever goes
9 to the back of the house, not to the front of the house, but presenting
10 a cantilever to the front of the house, as I look at that neighborhood,
11 that's creating a very large facade on that street. Yes, there other
12 houses that do have the portico, there are other houses that do have
13 second story additions. I did not notice another one that had a
14 cantilever. Can you point out another house on that street with this
15 type of setback that has a cantilever?

16 MR. COZZOLINO: Well, the cantilever doesn't go across the
17 whole house, the front of the house. It only spans about 8 feet.

18 MEMBER GOODSSELL: I'm looking at your diagram that you just
19 submitted.

20 MR. COZZOLINO: Yes.

21 MEMBER GOODSSELL: Okay, and while I don't have any problem with
22 an open portico, I do have a bit of a problem with the bulk of the
23 house coming forward.

24 MR. COZZOLINO: I think the elevation in the plans, page 4 of
25 7 in the plans, the front elevation will show you that -- where that
26 cantilever is. It's sit right above -- it sits right above the

1 portico.

2 MEMBER GOODSSELL: And if you cut this cantilever back by 2 feet.

3 MR. COZZOLINO: Yeah.

4 MEMBER GOODSSELL: Where on the second floor would you be losing
5 square footage?

6 MR. COZZOLINO: You wouldn't, it's just a -- it's a design
7 element of the project.

8 MEMBER HERNANDEZ: The space in the back, it's a stairwell,
9 basically.

10 MR. COZZOLINO: Yeah.

11 MEMBER HERNANDEZ: You're going to hang a big chandelier from
12 the top.

13 MEMBER GOODSSELL: And could you address the issue of the
14 character of the neighborhood?

15 MR. COZZOLINO: Well, there's many of the homes have been
16 improved in the area with second floors, not necessarily a cantilever
17 in the front but there are a few homes that do have that.

18 MEMBER GOODSSELL: I did notice that --

19 MR. COZZOLINO: Yes.

20 MEMBER GOODSSELL: -- there are a few homes.

21 MR. COZZOLINO: Yeah.

22 MEMBER GOODSSELL: Are there any that encroach closer than the
23 permitted setback?

24 MR. COZZOLINO: To the --

25 MEMBER GOODSSELL: Street.

26 MR. COZZOLINO: That I'm not aware of, but I can provide that

1 information if the Board wishes.

2 MEMBER GOODSSELL: Because again, I have no objection to a second
3 floor.

4 MR. COZZOLINO: Okay.

5 MEMBER GOODSSELL: And the second floor does not violate GFA.
6 I'm thinking of the bulk, and again, just so the Board understands,
7 I do not have a problem with the portico itself, there's a lot of
8 porticos on that street and in that area. I am purely thinking of
9 the visual bulk of the house, and when you are adding a second floor,
10 is it possible to comply with setback? Is there a reason -- is there
11 a reason because of the configuration of the lot, the configuration
12 of the house, that this needs to have 2 feet additional in front?

13 MR. COZZOLINO: I will look in the neighborhood and see if
14 there's anything.

15 MEMBER GOODSSELL: Because I mean, you're going to have four
16 bedrooms, I'm sorry, three bedrooms and a master bath on the second
17 floor. They look to be very nice sized rooms. Is it possible to
18 come a little bit more into compliance with this simply because it's
19 a very residential neighborhood. I'm very familiar with the
20 neighborhood. It's a very residential neighborhood. Many of the
21 houses do have a second floor, but no one house struck me as huge
22 and coming too close.

23 MR. COZZOLINO: I think if we reduce the cantilever, we could
24 still achieve the same look, similar look, by reducing the
25 cantilever.

26 MEMBER GOODSSELL: Would your clients consider that?

1 MR. COZZOLINO: I will let them -- I will let them know about
2 the Board's concerns, and we will address it, and --

3 CHAIRMAN MAMMINA: My own personal concern is, reduce it, I
4 mean, what does that mean; six inches taken off?

5 MR. COZZOLINO: Twelve inches, reduce it to half.

6 MEMBER HERNANDEZ: We typically see homes like this that go
7 straight up on the outside walls.

8 MR. COZZOLINO: Yes.

9 MEMBER HERNANDEZ: They don't come forward anymore encroaching
10 in the front yard.

11 MEMBER GOODSSELL: Yes.

12 MEMBER HERNANDEZ: And if you want to put a deck at the top on
13 the roof, you can put a deck at the top on the roof to highlight it.
14 But once you bring it forward, as Member Goodsell was saying --

15 MR. COZZOLINO: Yes.

16 CHAIRMAN HERNANDEZ: -- you are bringing the bulk of the house
17 forward.

18 MEMBER GOODSSELL: You can bring the bulk of the house
19 back -- bulk of the house forward, and again, if you meet setback,
20 you can do this.

21 MR. COZZOLINO: Right.

22 MEMBER GOODSSELL: But you're asking us for permission to do
23 this, whereas, you know, it's -- to me, and by your testimony, it's
24 more decorative than by necessity, and it would at least satisfy me
25 if your clients would consider a slightly further setback second
26 story.

1 MEMBER HERNANDEZ: I would like to do two thing. One, I would
2 like to clarify something you said because if I look at your plans,
3 okay, from one side, all I see as coming forward is that center
4 section.

5 MR. COZZOLINO: Correct, well, yes.

6 MEMBER HERNANDEZ: However, when I look at it from the other
7 side of the plan.

8 MR. COZZOLINO: Yes.

9 MEMBER HERNANDEZ: When I look at the left side elevation versus
10 the right, the right I only see one, but when I look at the left side
11 elevation, I see two cantilevers. I see the second floor cantilever
12 a little bit. It's not marked, I can't tell how much it is, and then
13 I see what I see from the other side.

14 MR. COZZOLINO: Right.

15 MEMBER HERNANDEZ: So I see a double cantilever.

16 CHAIRMAN MAMMINA: That is correct.

17 MEMBER HERNANDEZ: As one Board member, I have no objection to
18 the portico, agreed, but I do not -- I have an objection to anything
19 coming forward besides the portico. If you were coming straight up,
20 I would say I have no objection. Once you come forward, again, I've
21 seen people move it back; okay? When I did my house, and I did my
22 extension on the right, I moved it back a foot for the same reason
23 that you're pointing out. I wanted to break that wall. I didn't
24 want to have a 60-foot wide wall in front of the house, so I moved
25 it back; okay? But not encroaching on the front of the house.

26 CHAIRMAN MAMMINA: Also, just in -- look, it's very nice when

1 everybody can get what they want, and the Board tries very hard, and
2 we pay lots and lots of taxes, but looking at the plan, the, you know,
3 the master bathroom is 18 -- it's 21 feet wide and 8 feet deep. So
4 I'm saying in terms of space --

5 MEMBER HERNANDEZ: They're not short of space.

6 CHAIRMAN MAMMINA: Exactly, you're not short on space, you
7 know, here. We're not here to pick apart your plan, you know, we
8 try our best to get people to a solution that will work, but also,
9 I'm sure you heard it several times today, if we approve it for one
10 person and another person comes in asking for the same thing --

11 MR. COZZOLINO: Yes.

12 CHAIRMAN MAMMINA: -- and another person, it puts us in a
13 situation where we're then backs to the wall, essentially, with
14 zoning, which is not -- that's the Town Board's not ours.

15 So I think if you go to the drawing board, and you want to push
16 that cantilever to the back, push it to the back, that's okay. You
17 get the same result.

18 MEMBER DONATELLI: And can I just ask also, not to change the
19 topic, but I think the Board has made its position very clear on that
20 with respect to air-conditioning units. Can you please address
21 those?

22 MR. COZZOLINO: We're replacing an existing A/C unit that was
23 in the same location. It was tucked behind the fireplace chimney
24 on the right side of the house. So it would be natural to put them
25 where they're existing, so --

26 MEMBER DONATELLI: All right, so then you're merely replacing

1 what was --

2 MR. COZZOLINO: One, and adding one for the new second floor.

3 MEMBER GOODSSELL: Could you put on the record why they could
4 not be moved to the backyard. Could you just put a statement on the
5 record as to why --

6 MR. COZZOLINO: Because the existing wiring and the utilities
7 are in that area, in the basement.

8 MEMBER GOODSSELL: There also seems to be a deck on the back.

9 MR. COZZOLINO: There's a deck where we can fit the A/C units.

10 MEMBER DONATELLI: Did the existing unit have a permit?

11 MR. COZZOLINO: That I don't know.

12 CHAIRMAN MAMMINA: The A/C units -- the A/C units because the
13 Town Board has created specific requirements for how much of a side
14 yard --

15 MR. COZZOLINO: Right.

16 CHAIRMAN MAMMINA: -- plants you need to have, landscaping in
17 there so that nobody sees that.

18 MR. COZZOLINO: Well, we will be providing screening so it's
19 not visible from the street.

20 CHAIRMAN MAMMINA: Well, you might want to ask the architect
21 if he can take a look at those sections of the zoning because those
22 things are not -- they're not shown in the drawing.

23 MR. COZZOLINO: Oh, yeah.

24 CHAIRMAN MAMMINA: They should be on the drawing as well.

25 MR. COZZOLINO: Yes, sir.

26 CHAIRMAN MAMMINA: Because if we grant it, and it's probably

1 on the Building Department drawings, but I don't see them shown
2 anywhere, only on the site plan, it just makes reference to them.
3 When you say, when you tuck it behind the fireplace, as I'm looking
4 at your drawing, probably it's within the side yard, about 2 feet
5 into the side yard.

6 MR. COZZOLINO: Correct.

7 CHAIRMAN MAMMINA: So if you can then put it behind --

8 MR. COZZOLINO: Sticking out.

9 CHAIRMAN MAMMINA: -- the next door neighbor. So I think you
10 should take a look at that, and you might need to look at another
11 location for those.

12 (WHEREUPON, there was an off-the-record discussion.)

13 MEMBER DONATELLI: Now I would also note I think that the
14 application includes both A/C units. So even if there may be one
15 there existing, it may not have been permitted. It may not have been
16 installed with a permit.

17 MEMBER HERNANDEZ: Right.

18 (WHEREUPON, there was an off-the-record discussion.)

19 MR. COZZOLINO: If the Board will render a decision today, we
20 would agree to go straight up in the front.

21 MEMBER GOODSSELL: We can't, we can't do that. You have to
22 submit plans.

23 MR. COZZOLINO: Plans.

24 MEMBER HERNANDEZ: You don't need to appear again.

25 MEMBER GOODSSELL: You don't need to appear again.

26 MEMBER HERNANDEZ: If the plan is revised to show that, then

1 we can vote on it.

2 MR. COZZOLINO: Oh, okay.

3 MEMBER HERNANDEZ: You don't have to present again.

4 MR. COZZOLINO: Right.

5 MEMBER GOODSELL: It's not a months and months and months kind
6 of thing.

7 CHAIRMAN MAMMINA: Also, I'd like the architect on the drawings
8 to address the 70-100.2, the central air-conditioning may be
9 installed in a rear of the side yard and outer face of the unit not
10 less than 3 feet from the side and rear property lines, and in no
11 case shall such unit be located more than 3 feet from the side property
12 line. It says two proposed -- proposed, two A/C units located 2 feet
13 from the side property line, where 3 feet is required.

14 So if your architect can take a look at that as well, we can
15 have that in there so that you don't go back to the Building
16 Department.

17 (WHEREUPON, there was an off-the-record discussion.)

18 MEMBER HERNANDEZ: It's behind it if you look at the house from
19 the street.

20 MEMBER GOODSELL: Yes, yes.

21 SECRETARY WAGNER: Oh, okay, yes.

22 CHAIRMAN MAMMINA: I just don't want you to be at the -- and
23 you have the inspector say, you know, that doesn't comply. It is
24 in an objection that's written up here that's at the bottom of the
25 first page, the second page. So again, for your client's benefit,
26 straighten those two things out with the Building Department, as

1 well, and you get rid of a potential problem.

2 MR. COZZOLINO: Okay.

3 MEMBER DONATELLI: Sorry, one more point, which is that if
4 you're going to do -- if your clients choose to do away with the
5 cantilever or choose to move the cantilever from the front of the
6 house to the rear of the house, then I would think that the same would
7 hold true for the portico that is being proposed. So a cantilever
8 brings the house out 2.4 feet, and your request for a variance is
9 also for an additional 2.4 feet from the portico. If we bring the
10 cantilever back, then let's bring the portico back.

11 MR. COZZOLINO: Well, the portico is only off by 2 inches.

12 MEMBER DONATELLI: I have 2 point --

13 MR. COZZOLINO: Are you talking about the overhang?

14 MEMBER DONATELLI: I have 2 feet.

15 MR. COZZOLINO: I'm sorry, Member Donatelli, the overhang.

16 MEMBER DONATELLI: Yeah.

17 MR. COZZOLINO: Okay.

18 MEMBER DONATELLI: So in other words, my point is, again, if
19 we're talking about front yard setback, if you're going to move the
20 cantilever back, we're not touching the front of the house.

21 MEMBER HERNANDEZ: The ground floor is not --

22 MEMBER DONATELLI: -- the first floor.

23 MEMBER HERNANDEZ: You're talking about the second floor --

24 MEMBER DONATELLI: The second floor --

25 MEMBER HERNANDEZ: -- level with -- over the lower level.

26 MEMBER DONATELLI: Okay, forget it.

1 MR. COZZOLINO: It doesn't affect the plan.

2 MEMBER DONATELLI: Are we old enough to remember that, too?

3 SECRETARY WAGNER: Revised plans?

4 MR. COZZOLINO: Yeah.

5 MEMBER DONATELLI: Yes.

6 CHAIRMAN MAMMINA: Yes.

7 MEMBER GOODSELL: Yes, and you don't have to come back.

8 CHAIRMAN MAMMINA: Yeah.

9 MEMBER GOODSELL: Just submit the revised plans.

10 MR. COZZOLINO: Thank you, very much.

11 CHAIRMAN MAMMINA: Thank you, so much.

12 MR. COZZOLINO: Thank you. Happy holidays.

13 MEMBER DONATELLI: Thank you.

14 (WHEREUPON, this application was continued.)

15 SECRETARY WAGNER: We're just going to take a five -- five
16 minutes before the next appeal.)

17 (WHEREUPON, there was a 14 minute break.)

1 SECRETARY WAGNER: Appeal number 21640, Khalilur Mufti; 549
2 Beech Street, New Hyde Park; Section 8, Block 347, Lot 1; in the
3 Residence-C Zoning District.

4 Variances from §§70-50.C and 70-50.B to legalize a raised
5 terrace located too close to the street, primary front yard, and to
6 construct additions that are located too close to the street,
7 secondary front yard.

8 CHAIRMAN MAMMINA: And you heard appeal number 21640, Khalilur,
9 I'm sorry if I messed the name up, Mufti.

10 Is there anyone in the room that would like to speak regarding
11 the application?

12 (WHEREUPON, there was no response.)

13 CHAIRMAN MAMMINA: Okay, seeing no one.

14 Please give your name and address.

15 MS. LASPISA: Good afternoon, Chairman, members of the Board,
16 Diana LaSpisa with Morano Expediting Services, 2938 Hempstead
17 Turnpike, Suite 212, Levittown, New York 11756.

18 I'm here on behalf of the property owner, Khalilur Mufti, and
19 we're requesting permission to construct a second story addition and
20 two-story addition holding a secondary front yard setback of 17.4
21 instead of the required 20 feet. We are also requesting a reduction
22 of front yard setback from 25.1 foot to 15.6 foot to maintain an
23 existing front raised terrace.

24 When the owner purchased the house in 2009, the front raised
25 terrace was existing. I honestly believe that these terraces were
26 constructed when the homes were initially built in that area as they

1 appear to be very consistent. Some homes have modified them in size
2 or perhaps roofed them over or perhaps shrunk them and made them just
3 narrower porches, but I believe this style terrace is what was
4 original to most of the homes within the area. My client is not
5 looking to modify, enclose or roof over the terrace at this time.
6 He just simply would like to maintain it in its current state.

7 The proposed second and first floor additions are to create a
8 more functional living space for my client and his family. The
9 first floor of the home consists of two bedrooms, a bathroom, kitchen
10 and living room. This is a Cape-style home where the second floor
11 is really more of an attic and just consists of one large open room.

12 Mr. Mufti resides in the home with his wife, three children and
13 his 78 year old mother. The proposed addition will allow for him
14 to create three bedrooms upstairs, one would be for him and his wife,
15 one for his son, and the other would be for his two daughters to share.
16 His mother will have her bedroom on the first floor.

17 When he purchased the home in 2009, he only had one child, and
18 the living accommodations were comfortable. Since then his family
19 has grown and now with his elderly mother residing with him, it has
20 become quite cramped. Prior to signing a contract with the
21 contractor, he did consider potentially selling the home and
22 relocating to a larger home that would be able to meet his demands.
23 Unfortunately, with the way the market is today, he was finding it
24 would have ended up costing him more monthly but he'd end up having
25 less square footage or equal square footage. With the equity he has
26 built in this house, it is not economically feasible for him to

1 relocate.

2 We don't feel the variance would produce a negative impact on
3 the adjacent properties or neighborhood. They are not encroaching
4 into any setbacks off of the neighboring homes. The 17.4 foot
5 secondary front yard requested was already established from when the
6 home was built, and they are looking to maintain that setback. Many
7 of the homes in the area have put full second stories on, so this
8 would be in keeping with the neighborhood, and he has spoken with
9 some of his neighbors, and they have no objections.

10 We don't feel the request, as it is before you, is considered
11 substantial. The relief being sought in relation to the addition
12 is a 13 percent relaxation, and again, this is simply maintaining
13 an already existing established setback.

14 Unfortunately, the benefit cannot be achieved by any
15 alternative being that the home does not currently conform. Their
16 only other option would be to set back the second floor of the home
17 3 feet on the south side to make up for the footage. Doing this would
18 create an undesirable aesthetic if it was not matched on the north
19 elevation as well. Unfortunately, the reduction of square footage
20 would limit them, and the location of the stairs currently to the
21 second floor does create a challenge as well. The other option would
22 be to relocate to another home with increased living area, which as
23 explained, my client did pursue, however, it is not economically
24 feasible for him to do so.

25 The variance would not create an adverse effect on the
26 environment. The proposed two-story addition is in the rear. It

1 is replacing an existing roofed over patio. No trees or shrubs will
2 need to be removed for the construction to take place, and some may
3 believe that the difficulty is self-created, and it is as his family
4 is before you requesting this extension, and his family has grown
5 over time. So it is self-created in that aspect, however, we feel
6 it was really created when the dwelling was originally constructed
7 as it is nonconforming.

8 If the Board has any questions.

9 MEMBER GOODSSELL: Well, I do. I do have to take issue with one
10 thing that you said.

11 When I looked up the property tax card, the house was built,
12 I think, 1945, and the garage shortly thereafter, and the house was
13 built as a box and probably exactly where it is, so you're stuck with
14 the location. But there is no raised terrace. Despite the fact that
15 I agree with you, many of the houses in that area, you have a raised
16 terrace in front of the house, the property card does not show the
17 raised terrace. Someone, somewhere has added it along the line, and
18 it does match the character of the neighborhood.

19 MS. LASPINA: Mm-hmm.

20 MEMBER GOODSSELL: I would just like assurance that your client
21 did not build that, it's probably older than 2009. Is that, in fact,
22 correct?

23 MS. LASPINA: Correct, he did not build that, and I guess,
24 because of the character of the neighborhood, a lot of the homes do
25 have these raised terraces. I will find many years ago, COs,
26 permits, they weren't as restrictive as they are today. So many

1 years ago, a raised terrace wasn't even acknowledged on a CO.

2 So I can't really speak to property cards, I don't understand
3 how to read them sometimes, you know, but I wouldn't be surprised --

4 MEMBER GOODSSELL: They're supposed to tell you what tax
5 percentage you pay for each variance.

6 MS. LASPINA: No, I understand that, but I don't know if back
7 when the house was built that they specified, really, raised terraces
8 because they do adjust those property cards as the years go on; you
9 know? So I don't know when they started documenting that.

10 So that's really my only stance for it because a lot of the
11 community does have these raised terraces but some have just been
12 altered over time, either eliminated --

13 MEMBER GOODSSELL: I have noticed that most of the raised that
14 I see --

15 MS. LASPINA: Mm-hmm.

16 MEMBER GOODSSELL: -- are smaller than this one. This is almost
17 20 feet. It's 19.8 feet by 9.5 feet which is fairly substantial.

18 MS. LASPINA: Right.

19 MEMBER GOODSSELL: And it does come -- because this is a corner
20 property, it comes fairly close to Beech Street. But the house
21 itself lines up very neatly with the house next door, and it lines
22 up very neatly with the houses on the other side of Bryant Avenue,
23 and your client is stuck -- the point I'm trying to make is they're
24 stuck with the setbacks they've got because it's just the way the
25 house was built.

26 The second story addition that you are -- your client is

1 proposing does not violate floor area ratio, the GFA, and other than
2 the setback, it seems that the addition proposed complies with the
3 code. It's really -- the setback of the open porch, and then
4 extending the preexisting nonconforming setback of the house.

5 MS. LASPINA: Correct.

6 MEMBER GOODSELL: That being said, as one Board member, I don't
7 have an objection to this. It's going to look just like every other
8 house in this neighborhood, you know, the open porch, and I might
9 have some reservation if your client was going to roof over the open
10 porch because not all of them are roofed over and big ones are not
11 roofed over.

12 MS. LASPINA: I know that.

13 MEMBER GOODSELL: If the plans do not include a proposal to roof
14 over the open porch, I do not have an objection to this.

15 MEMBER HERNANDEZ: This is the typical New Hyde Park second
16 floor, essentially. Four walls straight up.

17 MS. LASPINA: We did one around the corner, too, and they have
18 the same raised terrace where they didn't roof it over. That's kind
19 of where my mindset went. Because it is odd, you know, typically,
20 people do the porches the width of the house, narrower. It's, you
21 know, they don't typically build porches like this anymore, so that's
22 why I think it's --

23 MEMBER GOODSELL: That's good.

24 VICE-CHAIRMAN FRANCIS: Just for purposes of the record, I just
25 want to point out that with regard to the property cards, they're
26 not always correct, and so it's not something that we should rely

1 on in terms of making a decision. I've seen way too many mistakes
2 on these property cards to say that that's the gospel.

3 MS. LASPINA: Yeah, that's kind of where I was going, too, you
4 know, and they've -- they alter them over the years. I have to
5 wonder, I'd be curious to learn how to figure out when they're altered
6 because they add different things when they come to reassess. So
7 how do you figure that date out? Because it would be helpful for
8 me to know as well, but --

9 MEMBER GOODSSELL: And that's what I was looking for when I look
10 at the property tax card to see whether or not there was an alteration
11 or if it was something --

12 MS. LASPINA: Mm-hmm.

13 MEMER GOODSSELL: And if it was handwritten on there, the
14 handwriting is atrocious.

15 MS. LASPINA: Yeah.

16 MEMBER GOODSSELL: It's not possible.

17 SECRETARY WAGNER: I think sometimes they do have notes on
18 there.

19 MS. LASPINA: They do.

20 SECRETARY WAGNER: Once things are added, they are hard to --

21 MS. LASPINA: But the notes are a little hard to read.

22 MEMBER GOODSSELL: With that being said, I am going make a motion
23 that we approve the application.

24 CHAIRMAN MAMMINA: Motion from Member Goodsell.

25 Do I have a second?

26 VICE-CHAIRMAN FRANCIS: Second.

1 CHAIRMAN MAMMINA: Second by Vice-Chairman Francis.

2 Please poll the Board.

3 SECRETARY WAGNER: Member Goodsell?

4 MEMBER GOODSSELL: Aye.

5 MS WAGNER: Member Donatelli?

6 MEMBER DONATELLI: Aye.

7 SECRETARY WAGNER: Member Hernandez?

8 MEMBER HERNANDEZ: Aye.

9 SECRETARY WAGNER: Vice-Chairman Francis?

10 VICE-CHAIRMAN FRANCIS: Aye.

11 MS. WAGNER: Chairman Mammina?

12 CHAIRMAN MAMMINA: Aye.

13 Application is granted.

14 MS. LASPINA: Thank you. Have a happy holiday.

15 CHAIRMAN MAMMINA: You, too.

16 ATTORNEY ALGIOS: With that condition that it will not be roofed

17 over.

18 MEMBER GOODSSELL: Correct.

19 ATTORNEY ALGIOS: Make that clear on the record.

20 (WHEREUPON, this application was approved.)

1 SECRETARY WAGNER: Appeal number 21631, Leroy Barroca; 71
2 Percheron Lane in Roslyn Heights; Section 9, Block 538; Lot 15; in
3 the Residence-AA Zoning District.

4 Variances from §§70-22.3(A), 70-22.6 and 70-101.A to legalize
5 a new dwelling that pierces the sky exposure plane, having too much
6 front yard paving and a chimney that is too close to the side property
7 line.

8 CHAIRMAN MAMMINA: You heard appeal number 21631, Leroy
9 Barroca.

10 Is there anyone who is interested in the application other than
11 the applicant?

12 (WHEREUPON, there was no response.)

13 CHAIRMAN MAMMINA: Seeing no one.
14 Please give your name and address.

15 MR. MARTINS: Thank you, Mr. Chairman, my name is Jack Martins,
16 I'm with Harris Beach, 333 Earle Ovington Boulevard, Uniondale, New
17 York 11553. Good afternoon.

18 Mr. Chairman, members of the Board, I'm here today, joined by
19 the owners of the property, Leroy and Maria Barrocca, as well as Paul
20 Barrocca, professional engineer with PR Consulting Engineering, PC.
21 Mr. Barroca, Paul Barroca, will be speaking specifically to the front
22 yard, paving issues, and also with regard to configuration of the
23 house and what it will take to conform to the requirement of the sky
24 exposure plane.

25 This property is otherwise -- well, it's 71 Percheron Lane in
26 Roslyn Heights, otherwise known as Section 9; Block 538; Lot 15; it's

1 in a Residence-AA District. It's a five bedroom, four and a half
2 bath, 4,340 square foot two-story home on 14,000 square feet. The
3 lot is 100 feet by 140 feet.

4 The house was built approximately 20 years ago per plans that
5 had been approved by the Town of North Hempstead and inspected
6 throughout the construction. The plans themselves were approved on
7 December 2nd, 2005. The Barrocas purchased the house just a couple
8 of months before October of 2005. Mr. and Mrs. Barroca have
9 triplets, and this house was built for them, for their family, and
10 for them to live in, and they've lived there ever since. That's why
11 there are five bedrooms. The three children, themselves, and
12 Mrs. Barroca's family visits from Portugal, and when they do visit,
13 that's where they stay.

14 So this has been their family's home where they've grown up,
15 and that's important to contextualize this because I know that this
16 area has had a history of developers and developments on the property
17 maximizing use, but this is their house, and it was built to be their
18 house.

19 We're here seeking three variances pursuant to a Notice of
20 Disapproval which is dated August 7th, 2024. The three variances
21 that we'll be asking the Board to consider is of Section 70-22.3(A)
22 as the sky plane exposure. The home, as constructed, does extend
23 into the sky plane -- sky exposure plane 5-foot 6 inches.

24 The second variance is of Section 70-22.6, front yard paving.
25 The restriction in the code is 30 percent. There's 50.25 percent
26 of the front yard paved, and I will add, and we'll tie this back a

1 little later, that's how the house was originally constructed and
2 approved and Certificate of Occupancy issued for the house as it
3 currently sits including that paved front yard which has a circular
4 driveway.

5 Last is Section 70-101.A, chimney encroaching into the side yard
6 setback. There is a 15-foot side yard setback. The code allows for
7 an 8-foot encroachment of a chimney into the side yard. The chimney
8 is 24 inches.

9 MEMBER DONATELLI: Mr. Martins, sorry to interrupt, but I don't
10 see the sky plane exposure encroachment in the BZA files.

11 (WHEREUPON, there was an off-the-record discussion.)

12 SECRETARY WAGNER: So I believe this was based on plans that
13 were submitted with older applications where they didn't show that.

14 MEMBER DONATELLI: Is that in the original application for the
15 original plans?

16 SECRETARY WAGNER: No.

17 MR. MARTINS: No, the -- there is no angle, Member Donatelli,
18 with regard to the portions that are affected. Certainly, we could
19 have done that. It was our choice to use the original plans that
20 had been originally reviewed by the Building Department and approved
21 by the Building Department. Those same plans were also, again,
22 reviewed by the Building Department when they chose to reevaluate
23 the house with regard to the gross floor area in 2007, and those plans
24 were, again, reviewed by the Building Department, again, in 2011.
25 In each one of those there were different things that were brought
26 up, and I think it's important to go back to those original plans

1 because those were the ones that were reviewed each time. Nothing
2 has changed from when this house was originally constructed, but for
3 purposes of explaining that 5-foot 6 inch encroachment, we're
4 certainly prepared to do that, we can certainly describe it, we could
5 talk about what is in that portion of the house. If you're looking
6 at the house, it's the top left corner of the house, and --

7 MEMBER GOODSELL: Facing the house from the street. The top
8 left corner where the chimney is?

9 MR. MARTINS: Top left corner where the chimney is, the top
10 5-foot 6 inches of that, and it would be on the diagonal, and so we
11 can certainly explain what's behind it, and certainly what the costs
12 and impacts would be of having to remove that entire portion of the
13 house, and the costs associated with that, the impact to the family,
14 as well as the impact to the property value of this property and the
15 systems in the house and whatnot that would be required of doing just
16 that.

17 But to answer your question, we do not have a document that was
18 submitted that shows an imaginary line diagonally through that area.

19 MEMBER DONATELLI: But just to be clear, the house was built
20 at a period of time when the sky plane exposure requirements existed;
21 is that correct?

22 MR. MARTINS: Correct.

23 MEMBER DONATELLI: Okay.

24 MR. MARTINS: They actually did.

25 MEMBER DONATELLI: Thank you, please continue.

26 MR. MARTINS: Thank you.

1 So to the point, and I got to thank Member Donatelli because
2 it does bring me to that next point. The house was inspected, the
3 Building Department did review the plans, approve the plans, and they
4 were built to those specifications. The Barrocas hired people to
5 do that. They were -- they did the work, frankly, well, and they
6 were built to those specifications.

7 It turns out that the specifications were wrong, and so as a
8 result, in 2007, after the house was built and completed, they
9 reevaluated the plans, and they found that the gross floor area for
10 the house had been miscalculated, and therefore, required a variance.
11 The Barrocas came before this Board back then and requested a
12 variance. Their variance was denied, and they eventually resolved
13 that issue with the Town of North Hempstead through the
14 reconciliation program the town has in paying a fee, and so that was
15 that. They believed that the issue had been resolved, the plans had
16 been reviewed, once again, all of the issues they believe that had
17 to be addressed had been addressed, and they moved forward.

18 Again, their family had moved in, raising their children there,
19 until a few years later, in 2010, they submitted an application for
20 a pool permit, they built a pool. Again, per plans, per
21 specifications, the permits were taken out, all of the inspections
22 were done, and in the final inspection, an inspector from the Building
23 Department here in North Hempstead went to the house to give the final
24 inspection, which they gave with regard to the pool, looked at the
25 house, and said, gee, I think there's a problem with the sky plane,
26 and he came back and reevaluated the plans again, and issued a letter

1 to the Barrocas advising them that they had an issue with sky plane,
2 with the chimney and with the front yard. They required the Barrocas
3 to submit a survey at the time, and in providing the survey, they
4 confirmed that, and again, here we are. So --

5 VICE-CHAIRMAN FRANCIS: Mr. Martins, just -- if you would just
6 say again when they bought this house and when they moved in.

7 MR. MARTINS: They bought the house in 2005.

8 VICE-CHAIRMAN FRANCIS: Okay.

9 MR. MARTINS: In October of 2005, they -- it was an existing
10 typical Levitt home, as was very typical for the Country Club section
11 of Roslyn Heights at the time. They started -- they demolished the
12 house, and they started construction later that year per plans that
13 had been approved. In December of 2005, they completed construction
14 per those plans, inspected properly, and then there was a
15 reevaluation. They found that the gross floor area had exceeded the
16 requirements. They addressed that issue, they thought everything
17 was done, the pool was built, and now they have a sky plane issue,
18 and they're addressing it.

19 I did take the opportunity to read a number of the decisions
20 that the Board has had with regard to the Country Club section dating
21 back almost 15 or 20 years, and those earlier decisions spoke to the
22 character of the neighborhood as including, you know, a significant
23 number of Levitt homes, and for context, here we are in 2024 and
24 looking at the 300-foot radius, which is the notice requirement for
25 this application. It turns out that 70 percent of the homes within
26 that 300-foot radius are currently of a size, of a type, of the house

1 that we're speaking of here today. Over 4,000 square feet, 30 feet
2 high, setbacks of about 35 feet to 40 feet and very much similar,
3 not to those original Levitt homes, but to the homes we have before
4 us today -- the home we have before us here today.

5 In fact, if you look at Percheron itself, in that 300-foot
6 radius, there are 15 homes, and of those 15 homes within the 315
7 radius, excuse me, that 300-foot radius, 13 of the 15 homes are of
8 a type of this one.

9 So that is now the predominant home and type of home in the area,
10 is a 4,000 plus square foot house, 30 feet high, with -- on a 14,000
11 square foot lot, and that's what we're dealing with today, and I want
12 to emphasize that because I do know in looking at some of these older
13 decisions that the character of the neighborhood may very well have
14 been different, but that is not the case today.

15 VICE-CHAIRMAN FRANCIS: We've had several of those homes before
16 us on Percheron, so I would agree with you that the character of the
17 neighborhood has changed over the years.

18 MR. MARTINS: I agree, Vice-Chairman Francis, and frankly,
19 there are a couple of examples that I would like to give the Board,
20 one of which isn't on Percheron, it is actually on Arbor Lane, it's
21 18 Arbor Lane, which is just two blocks away, a little beyond the
22 300-foot radius, but that application was heard by this Board in
23 September of 2010. The application was made by a colleague of ours,
24 John Turano (phonetic). He brought a professional with him, a design
25 professional, Mr. Clemens (phonetic), and he made an application
26 that was pretty similar to the application we're making here today,

1 and I think, you know, in relying on, or looking at that decision,
2 there were two sky plane deficiencies on that house, although one
3 was nearly 2 feet, the other one was about a foot and a half, that
4 came before this Board and asked for relief, and the Board gave them
5 the relief at the time, back in 2010, realizing that even in 2010,
6 as the record shows, the nature of the community had changed and the
7 types of homes that were in the Country Club section were more like,
8 in that case, the homeowner was an Avelino DeSousa, it was more like
9 Mr. DeSousa's house and much more like Mr. Barroca's house than the
10 original Levitt homes, and again, in keeping with the Board's
11 decision in 2010, I use it just as a placeholder because it is very
12 similar.

13 In that variance application, Mr. DeSousa was seeking not only
14 sky plane -- sky exposure plane relief on both sides of the house
15 but also gross floor area and both were granted by this Board with
16 the understanding, and I can go back, I did bring a copy of the
17 transcript with me, with, you know, one of the Board's former
18 colleagues, Mr. Alo (phonetic) on taking the lead in making that I
19 think we all understand why I'm highlighting Mr. Alo's (ph.) Making
20 the motion is that -- is that, frankly, he understood and did
21 understand and iterated on the record the importance of the house
22 and the changes in the community in terms of granting that variance.

23 Now, for Mr. Barrocas' house, Mr. and Mrs. Barroca's house, if
24 you look at the house from the street, we're talking about the left
25 side of the house or the west side of the house, at that second floor
26 level, along that house from front to back are two bedrooms and a

1 bathroom, which, if the Barrocas were required to remove that portion
2 of the house, would require demolishing and no longer being able to
3 utilize those rooms. Again, each one of those rooms was built
4 specifically for one of the children. There's an impact, obviously,
5 to the family. There's a financial impact of demolishing the house,
6 and obviously, I think the Board can understand, that there would
7 be a significant impact to the property value of this house if that
8 were to happen.

9 This house, and this is really the unfortunate part of this
10 reality, if this house had been flipped so that the left was on the
11 right and the right was on the left, it would meet sky exposure plane
12 requirements, but because of the way that the house was built, this
13 house is not any more -- any larger or bulkier than any other house
14 that's in the area, but for whatever reason, when this house was
15 designed, the setback on that west side was left at 15 feet, the
16 setback on the other side was at 22 feet, and if it had been inverted,
17 given where the garage is and the height of the garage, there would
18 not be a need for a sky exposure plane variance, but here we are.

19 So in terms of impact to the community, in terms of impact to
20 the other homes in the area, it's exactly of a size and type that
21 does not add any additional bulk to the neighborhood and is
22 conforming, certainly, to the prevailing condition in this
23 neighborhood.

24 The other house I would like to bring to the Board's attention
25 is almost directly across the street from 71 Percheron. It is at
26 60 Percheron. It was an application that was brought, again, before

1 this Board, and the Board denied the application, and an Article 78
2 was brought, and that Article 78 was settled by the town allowing
3 for, not one, but two sky plane -- sky exposure plane variances to
4 be resolved through that so ordered stipulation, and so in that
5 particular case, one side of the house intruded into the sky exposure
6 plane by just over 4 1/2 feet, and on other side it was about a foot
7 and a half, and yes, there is a code provision in the town code that
8 allows for reconciliation, but I would suggest that for purposes of
9 our discussion here today, that that shows a predisposition by the
10 Town Board, through the town code, to allow for intrusion into the
11 sky exposure plane up to 7 feet. You can take away the dollar figure
12 associated with that and it almost becomes irrelevant for purposes
13 of the Board's consideration because the policy of this town would
14 allow for intrusion into a sky exposure plane up to 7 feet without
15 consideration of impact to the community, or how it fits within the
16 character of the community. They have put a dollar figure to
17 allowing for that intrusion, but for purposes of determining and
18 balancing the interest, one or the other, the fact that there is a
19 provision in the town code that allows for a 7-foot intrusion into
20 a sky exposure plane, regardless of what the dollar amount is, is
21 an indication to this Board and certainly to the public that that
22 is something that the Town Board, from a policy standpoint, has
23 allowed, and I would ask the Board to consider that, as well, and
24 that came up in Mr. Turano's (ph.) application on behalf of Mr.
25 DeSousa regarding 18 Arbor, specifically, because Mr. Turano (ph.)
26 Came to this Board seeking a variance because Mr. DeSousa did not

1 have the wherewithal, according to the record, to make that payment
2 that would be required if they were to do a reconciliation, and I
3 would offer that the Barrocas don't either, and so leaving them with
4 the option of coming back before this Board asking for relief in the
5 form of a variance, but understanding that there is a provision of
6 the code that does allow for a 7-foot intrusion into that sky exposure
7 plane that I would urge the Board to consider when considering the
8 totality of the circumstances here, and as we go through the five
9 points and the balancing test, looking at the prevailing condition
10 in the neighborhood, the size of the homes that are there and the
11 reason for the sky exposure plane to be part of this, you'll find
12 that, and I'll go through some pictures that I've introduced so we
13 can -- we can highlight that, the area between the adjoining home
14 and the Barroca home is actually 15 feet on our side and nearly 20
15 feet on their side.

16 VICE-CHAIRMAN FRANCIS: And that's one of the factors, in terms
17 of sky exposure. The whole issue is whether or not the house, with
18 an inappropriate sky exposure, is going to cast a shadow on the
19 adjoining property, and with regard to this house, I, as a Board
20 member would say there's enough room between the two houses where
21 that's not going to be an issue.

22 MR. MARTINS: Vice-Chairman Francis, I agree, and I think the
23 pictures actually bear that out. We didn't specifically choose a
24 sunny day to take that picture, but it's pretty clear that it's pretty
25 clear and pretty bright. You know, people have said, when we deal
26 with sky exposure plane issues, that the simple planting of a Leyland

1 cypress in the side yard, which is not prohibited, over years, will
2 reach that 25 or 30-foot height, and you'll see from some of the
3 photos, that the neighbor, when they did build their house, actually
4 have Leyland cypresses in the back that have reached that height,
5 and if those had been brought forward, they would interfere with that
6 sky exposure plane, as well.

7 The last point before I get into some of the photos, and I think
8 it's important, this house, as I said, was built in 2006. We have
9 photos that, thanks to Google Earth and the fact that they have older
10 photos from the street view of 2007. So you can see in 2007, clearly,
11 that this house was there as it currently sits with the driveway as
12 it currently sits. You can see that there was a Levitt-style home
13 on either side of the house. Those two homes have subsequently been
14 torn down, and the two homes that are built on either side of this
15 one is of a size and character to the one that's here now.

16 So with that, if I may, let's perhaps -- I know that I had
17 submitted, or my office had submitted some photos for the Board's
18 consideration. If you have them I'd be happy to -- otherwise, I did
19 bring copies if you prefer to have hard copies of the photos.

20 MEMBER GOODSELL: I would like a hard copy.

21 MR. MARTINS: Thank you.

22 (WHEREUPON, there was an off-the-record discussion.)

23 MR. MARTINS: So looking at the photos, first page, and I would
24 ask the Board's indulgence. At the top of the page there's a
25 different address, and you're going to find that there are different
26 addresses. As they captured the photo from Google Earth, they

1 perhaps were capturing a different address, but all of these are
2 related to 71 Percheron.

3 The first one is a photo, street view, from 2007, which shows
4 both the homes to the right and to the left, historically, of that
5 typical Levitt-type home that existed previously and that was the
6 original development by Mr. Levitt in that area.

7 The second photo, again, from 2007, shows a similar view, again,
8 just from up the block. The house is, frankly, exactly as it is
9 today.

10 The third shows the houses up the block on Percheron from
11 immediately east of 71 Percheron which is the house adjacent to the
12 Barroca's home to the east, and it shows the Barroca house, and then
13 the other homes, and I think quite clearly captures the character
14 of the neighborhood and the style, architecturally, of the
15 neighborhood, of a type to the Barroca home.

16 The next one is a similar photo, but again, it is from 2012 and
17 shows the house next door that is the one immediately to the west
18 of the Barroca home, under construction. The one to the east is still
19 a Levitt-type home.

20 The next house -- the next photo is precisely the same and as
21 is the next one. It's the house next door being constructed. If
22 you get to the photo right after that, again, it's a 2012 photo. It
23 shows -- and it's this one, just for clarity, it shows 71 Percheron
24 as it existed and as it exists. The driveway, the home, the house
25 to the east is still a Levitt-style home, and the large home to the
26 west is being constructed.

1 The next photo was taken just last week and shows, Vice-Chairman
2 Francis, to the point you made, the area between the homes, the light,
3 the openness and clearly shows that there is space there between the
4 two homes. I just would not, as you look down the property line,
5 you'll see the arborvitaes --

6 VICE-CHAIRMAN FRANCIS: Yes.

7 MR. MARTINS: -- or the Leyland cypresses that we were talking
8 about that just in a few years, although they had been planted back
9 in 2012, in 12 years, appear to have grown at least to the height
10 of the home if not little taller.

11 VICE-CHAIRMAN FRANCIS: Yep.

12 MR. MARTINS: The next photo's the same, and frankly, I think
13 the point, with regard to the prevailing condition in the
14 neighborhood as well as the immediate impact, if any, to the neighbor
15 to the west, is pretty clear.

16 Now, as I mentioned, there are three variances that we're
17 looking at today. The second variance has to do with the chimney
18 and the intrusion of the chimney into the side yard setback. There's
19 a 15-foot side yard setback. Chimneys, pursuant to the code, are
20 only allowed to intrude 18 inches. This chimney intrudes 24 inches.
21 It is clad in brick. It is the brick, that cladding, that has added
22 the additional dimension to the chimney. There is a working
23 fireplace as well as this serves as the exhaust in the flue for the
24 furnace and heating system for the home. It is, dimensionally, of
25 a certain size, but I would urge the Board to consider that the
26 increase, that 6 inch intrusion beyond the 18 inch, to be de minimus

1 and request that you consider that.

2 Again, I can't say that it is an extraordinary hardship,
3 although it would be to have to take off the brick facade and have
4 to find another material, perhaps paint or something that is less
5 deep, and it would take away from the home, and I don't know whether
6 or not it actually adds anything to the aesthetic of the neighborhood
7 to force a homeowner to take down a brick facade around an existing
8 chimney. This is the way the house was built, it was the way it was
9 approved, and it was there, and I'm not suggesting this, by any means,
10 is a factor. It was there when the neighbor's house was built, and
11 frankly, and I didn't make this point but I will, there has not been
12 a single complaint from a neighbor on Percheron with regard to the
13 Barrocas, their home, their use of their home, construction or
14 anything else. Every time they built something, they built it with
15 permits, inspected, and had people come in and actually participate
16 and the town participate in doing those inspections, including that
17 chimney, including the driveway, including that house and the sky
18 exposure plane, including the pool. That's just who they are.

19 It's unfortunate that we're now back here again, no fault of
20 this Board, certainly no fault of the town, but also, I want to make
21 it clear, no fault of the Barrocas. They didn't hire somebody to
22 design a home that they were going to live in and say, you know what?
23 Make one side of the house a little taller than we're allowed to or
24 flip the house because if someone had told them that they could have
25 avoided the headaches, the heartache, the stress that they've had
26 to go through over the last 20 years by simply having built this house

1 differently from scratch, because they built the house from scratch,
2 they would have done that, and yet, here we are.

3 This is now our second Zoning Board application. They have
4 gone, you know, obviously, dealt with professionals, people like me,
5 their architects, engineers, the Building Department, and I want to
6 make it clear, this is not a situation where somebody went out and
7 built something in the middle of the night without having permits.
8 Everything here was permitted and was built pursuant to those permits
9 and inspected every step of the way.

10 With that, let me introduce Paul Barroca. Paul is a
11 professional engineer, and I'd like him to speak to the issue of the
12 front yard and the coverage and the lot coverage on the front yard.
13 Before he comes up I just wanted to point out, every drop water on
14 this property is maintained on this property. There's a dry well,
15 including water that runs off of this driveway. It is captured at
16 the end of the driveway. It all goes back to a dry well onsite. He
17 can speak more eloquently to that issue but I know that the importance
18 of maintaining water and having that water percolate back into the
19 ground onsite and not having it enter the street or the neighbor's
20 properties is the reason for this provision being in the town code,
21 and the fact that that is all covered and was designed that way, I
22 think is also important.

23 Mr. Barroca?

24 MR. BARROCA: Good afternoon, Mr. Chairman, members of the
25 Board. My name is Paul Barroca, I work for PR Consulting
26 Engineering, PC. We have offices at 147 Glen Street, Glen Cove, New

1 York 11542.

2 As the original designer of this site who worked on this
3 property, everything that was designed for this property was designed
4 according to the standards of the time and the town codes of the time
5 regarding drainage. We tried to make every attempt to comply with
6 everything with the code. The driveway, I understand, exceeds the
7 lot coverage in the front by -- you're talking about front yard area
8 is roughly 4,720 square feet. The driveway area is 2,197 square
9 feet, okay, and we have an area of the front portico, it's 163 square
10 feet. So we come up with about a coverage of roughly 50 percent;
11 okay?

12 The driveway became circular for the simple reason of, they
13 thought -- my brother thought he was allowed to do it that way. It
14 was originally designed without being circular, and he needed more
15 space for the cars that he knew he was going to have with his children
16 and his parents living there -- his grandparents -- I mean, his wife's
17 parents. He didn't think it was an issue at the time that we built
18 it.

19 However, when I design a site plan, I never cut corners in terms
20 of the drainage. I always provide extra drainage for a site, and
21 that's why this one dry well that's in the back that's 12-foot in
22 diameter and 18-foot deep is taking all the drainage from the site.

23 To detract, more or less, the needed area to remove from the
24 asphalt that would have to be there and replace it with something
25 else would compromise about half the driveway or most of that circular
26 area there and would remove almost 1,000 square feet of driveway.

1 His children, which, you know, are in their 20s now, they each
2 have a car, they, you know, they're trying to keep their vehicles
3 on the property. Typical of what most of the people in the
4 neighborhood are doing, the similar driveways, you know, circular
5 construction throughout the area and can be seen on Google Earth very
6 simply. It's not an atypical condition of the area. I think it's
7 more of a needed condition in the area. It's been done just because
8 of necessity, for the most part, throughout the area. We request
9 consideration leaving it as is. As I said, it's been there for 20
10 years -- Mr. Martins has said, and we've had no complaints about it,
11 and we've been maintaining it, and we're not looking to set precedents
12 that are above and beyond the requirements, but at the same time,
13 this is a needed factor to keep vehicles off the streets for snow
14 plowing, for maintenance, for the general conditions in the
15 neighborhood.

16 If you take a look at the Country Club Drive area, in general,
17 nowadays, most vehicles aren't parked on the road over there, they're
18 only parked in driveways, and I would request --

19 MEMBER GOODSELL: The circular driveway was or was not in the
20 original plans submitted and approved?

21 MR. BARROCA: We -- the circular driveway was originally not
22 on the original plan; okay? It was built as an afterthought, but
23 the design of the drainage did include enough sufficient capacity
24 to handle it.

25 VICE-CHAIRMAN FRANCIS: In your opinion, what would cost be to
26 make the front yard compliant? Roughly.

1 MR. BARROCA: Roughly, I would say you would be talking about
2 a cost of over, when all is said and done, \$20,000 or more, you know,
3 and it would be a hardship for them to do it, and especially since,
4 again, it's no, really, extreme condition here or any complaints
5 against this property that we're aware of.

6 MEMBER DONATELLI: Are there any traffic conditions on
7 Percheron Lane that require a circular driveway?

8 MR. BARROCA: The Percheron Lane in that particular section is
9 a fairly used cut-through street to cut around from I.U. Willets Road
10 and jump onto Roslyn Road instead of waiting at the light. So people
11 take that one block before the light, shoot down and cut through
12 Percheron to loop around. So we get a fair amount of traffic through
13 there, and you know, it's the type of thing that having cars on the
14 street becomes a problem.

15 Also, to point out a fact, even with street cameras over there
16 in that area, that area has been getting hit quite a bit with theft
17 of vehicles, of homes. My brother's home, to just bring up this
18 issues, this past year, was robbed twice with them at home, and then
19 people trying to break in, not caring about the cameras, and one of
20 the times they broke right into the cars to get into the house and
21 that's their cars in the driveway, much less on the street.

22 So I bring that up to the Board for your consideration, as well.

23 If there's any questions.

24 MR. MARTINS: Thank you.

25 So if we go through the five, I guess, factors under 267B, I
26 think it's pretty clear. Yes, was this a self-created hardship?

1 Yes, it was. The Barrocas built the house, they paid people to build
2 the house, and so yes, that was something that was done, albeit, with
3 the understanding that they were doing so properly and lawfully,
4 Member Goodsell, except for the circular driveway, which, again --

5 MEMBER GOODSSELL: I have issues with circular driveways --

6 MR. MARTINS: I understand.

7 MEMBER GOODSSELL: We've had several applications for circular
8 driveways. I am more sympathetic to -- as a layperson, I'm more
9 sympathetic to someone who submits plans to the town, builds them
10 according to the plans, gets a certificate, and then finds out
11 afterwards, oops, we have an issue.

12 MR. MARTINS: Right.

13 MEMBER GOODSSELL: I do feel that's their fault. That's why I'm
14 asking about the circular driveway.

15 MR. MARTINS: I appreciate that, I do.

16 So going through the five points, you know, the guidelines that
17 the Board is asked or urged to consider has to do with, you know,
18 the benefit to the applicant --

19 VICE-CHAIRMAN FRANCIS: Excuse me.

20 (WHEREUPON, there was an off-the-record discussion.)

21 MR. MARTINS: Mr. Chair, if I may? I did not bring copies of
22 these for everyone but I certainly can make copies and make them
23 available digitally and hard copies, but this is a survey from 2005.
24 Again, I'm told, was submitted to the Building Department at the time
25 which shows exactly that, the circular driveway. So I'll hand
26 it -- I'll ask that it be marked as an Exhibit.

1 MEMBER GOODSSELL: Well, you indicated that your client
2 purchased the property in 2005 and construction was at the end of
3 2005. What's the date on that survey?

4 MR. MARTINS: The date on the survey -- it was surveyed
5 September 14th, 2005.

6 MEMBER GOODSSELL: So during construction.

7 MR. MARTINS: And so it was what was submitted to the town that
8 shows the circular driveway. That's the only purpose that I would
9 have --

10 VICE-CHAIRMAN FRANCIS: Yup.

11 MR. MARTINS: -- just to pass it up, not so much -- and it's
12 just to clarify since there have been some statements made over the
13 last few minutes or so, this may clarify that.

14 SECRETARY WAGNER: I believe we have a copy of that survey in
15 the old -- in the other, the BZA for the old appeal.

16 MR. MARTINS: From 2007.

17 SECRETARY WAGNER: But, you know, I don't want to not take if
18 it's a little bit different.

19 MR. MARTINS: I'm happy to -- I'm happy, if the Board will
20 permit, I'm happy to scan it and resubmit it later today, and that
21 way you have it digitally.

22 SECRETARY WAGNER: Yeah, why don't you do that.

23 MR. MARTINS: But I can at least reflect that it is dated
24 September of 2005, and that it reflects that there was a circular
25 driveway, as depicted, on the survey for purposes of the Board's
26 consideration.

1 MEMBER GOODSSELL: The only survey that I have is from the
2 application from 2010.

3 MR. MARTINS: Yes, which was done after the pool inspection in
4 which the town had requested a survey in order to --

5 MEMBER GOODSSELL: Final survey.

6 MR. MARTINS: Thank you.

7 SECRETARY WAGNER: But it's the same driveway.

8 MR. MARTINS: It is the same driveway, and coincidentally, you
9 know, and I think I mentioned it as I reviewed those photos, if you
10 look back at the Google photos from 2007, the driveway is there
11 exactly as it is there today. If you look at the photo from 2007,
12 the historic photo from Google, then look at the one from 2020 -- I'm
13 sorry, 2017 I think is the last one or 2024, the one that was taken
14 last week, they're all consistent. That driveway's been there ever
15 since.

16 So if we go to the five factors. An undesirable change or
17 detriment to the community. I think we've spoken to the issue that
18 this property, and this property, the building itself and the house
19 itself conforms to the prevailing condition in the neighborhood.
20 The percentage of homes in the area that are of a type, size and bulk
21 to this house are significant. If you go to a 300-foot radius in
22 toto, it's over 70 percent. If we go just to the homes on Percheron,
23 it's over 80 percent. I calculated it at 13 out of 15 of the homes
24 are 87 percent.

25 So certainly, a prevailing condition in allowing it to remain
26 there, notwithstanding the intrusion into the sky plane, would not

1 create an undesirable change or detriment to the community.

2 Two, no feasible alternatives. I think speaking to the issue
3 of tearing off that portion of the home in order to allow it to
4 conform. We spoke to the fact that there are two bedrooms there.
5 There is a bathroom there that is shared by those two bedrooms.
6 Removing them, that portion of the house, would impact the house,
7 those two bedrooms, the bathroom, the usability of the house, the
8 market value of the house, and I think it goes to that issue quite
9 well. It is not feasible other than through a variance.

10 The substantiality of the variance. It is 5-foot .6 feet into
11 the sky plane. It is, by that measure, substantial. But I would
12 urge the Board to consider that if this house were reversed, and if
13 this were on the east side of that house, this house would be
14 conforming. It doesn't add any additional bulk to the neighborhood,
15 and it is of a type and size, this house, to the other homes in the
16 community.

17 No adverse environmental impact. Again, similarly, it is not
18 going to create any noise, smells, vibrations or other things that
19 could be offensive to the surrounding neighborhood, and lastly, I
20 think I mentioned already, it is self-created. But under the
21 circumstances and under the facts as we presented them, I would ask
22 the Board also to understand, although self-created, there were
23 design professionals and municipal professionals and officials who
24 reviewed and approved these plans and inspected each step of the way.
25 Not once, not twice, but a third time, and here we are, again.

26 With regard to the chimney, I can to speak that. Same issue

1 in using these five factors, but I'll just simply say the variance
2 there is 6 inches. There are bushes in front of it between the two
3 homes. On the house immediately to the west, there are some
4 air-conditioning compressors along their side as well. This is not
5 the kind of intrusion into that community, given the distance, that
6 I think is meaningful or would make any significant change, not only
7 to the home immediately to the west, but certainly, not to the entire
8 neighborhood or community of a kind that would prevent this Board
9 from considering granting this variance, and with regard to the
10 driveway. The driveway's been there for 18, 19 years. It's there.
11 It has plenty of drainage. We'd like keep it there.

12 I mentioned that they have three children, triplets. They're
13 all driving age. They're driving. The ability to get on and off
14 and out of that house and to circulate, it's important. It's been
15 convenient for them all this time, and it's not created a hardship
16 to the community. There have been zero complaints, and there's no
17 one here today to speak to the issue. They would like to keep the
18 driveway. If the Board feels inclined to not allow them to keep the
19 driveway, certainly, we'll do it. But under the circumstances and
20 weighing the benefit to the Barrocas and the impact to the community,
21 which I would argue, notwithstanding the fact that it is a significant
22 variance, the impact to the community I would argue is nonexistent.

23 Water is maintained onsite, it has been there since before the
24 surrounding houses were even built, and yet, there has been no impact
25 one way or the other, and so measuring and balancing between their
26 benefit and some perceived detriment I would argue is not significant

1 enough to prevent it.

2 I just wanted to read a quote that I think is important. It's
3 from a case that was appealed from the Country Club section of Roslyn
4 here to the New York State Supreme Court in Nassau County, and Mr.
5 Chairman, no surprise, it's Davidoff against Mammina. It's a case
6 from 2010. It was before Judge Daniel Palmieri, and the judge, in
7 reaching a decision in the case, citing the supplemental practice
8 commentaries to McKinney's 267B said, "in assessing the
9 substantiality of a variance, the overall effect of granting the
10 relief and not the percentage deviation from the mandated
11 requirements is a zoning -- of the zoning regulation is the relevant
12 inquiry."

13 So it's not the percentage. It's whether that percentage or
14 whether there is an impact to the community that is at issue, and
15 so, I'm not one to disagree with Judge Palmieri, and certainly, not
16 one to disagree with the practice commentaries. But I would just
17 stress that, although that percentage, when it comes to the driveway,
18 seems significant, it's the impact to the community that is really
19 the question, and I would argue that it is de minimus, and it has
20 been demonstrated by the fact that it's been there as long as it has
21 with no complaints. But yet, we can clearly say that there is a
22 benefit to the Barrocas in keeping that driveway the way it is, and
23 with that, I thank the Board for their time.

24 I'm more than happy to answer any questions that you may have.

25 MEMBER DONATELLI: So I do have some questions.

26 I took a look at the survey, and I didn't see, offhand, any

1 notations as to the width of the driveway. Do you know what the width
2 of the driveway is?

3 MR. MARTINS: Offhand, I don't. The original survey --

4 MEMBER GOODSSELL: Well, this is --

5 MR. MARTINS: The one that I submitted -- yes, the one that we
6 submitted.

7 MEMBER DONATELLI: Yes.

8 MEMBER GOODSSELL: No, the original survey doesn't show the
9 width of the driveway. Can two cars pass each other on the circular
10 part?

11 MR. BARROCA: No, they can't.

12 MEMBER GOODSSELL: They can't.

13 MR. BARROCA: The cars can't pass each other.

14 MR. MARTINS: Now, as Mr. Barroca -- as you said, they can't
15 pass each other there. I don't have a dimension here.

16 MR. BARROCA: It's approximately 10 feet wide, 10 to 11 feet
17 wide,

18 MR. MARTINS: I understand that it may be perhaps 10 -- about
19 10 feet wide for the record and that it's approximately 10 feet wide
20 which would not allow for two cars to pass each other in that driveway.

21 VICE-CHAIRMAN FRANCIS: From the photo, I would tend to agree
22 that that's not wider than 10 feet for sure.

23 MR. MARTINS: Thank you, yes.

24 MEMBER DONATELLI: As I drove through the neighborhood in
25 preparation for today's hearing, I saw several driveways that were
26 circular in nature. But they did appear to be more narrow than the

1 driveway that is on the subject application, but that's my own
2 impression. I can certainly go back and take another look at it but
3 it does seem to be wider than many of the other houses that do have
4 that.

5 The other observation that I would make is that I personally,
6 as one Board member, would like to see the actual diagram of the sky
7 plane exposure encroachment so that if we can get an elevation of
8 the house showing exactly where the encroachment is so that we can
9 get a better sense because it's one thing for us to hear 5 feet, 6
10 feet --

11 MR. MARTINS: Sure.

12 MEMBER DONATELLI: -- it's another for us to see where the sky
13 plane exposure actually is, and as I take a look at the floor plan
14 of the house, the second floor, I guess I would also like to see,
15 I think it's marked bedroom 1 and bedroom --

16 MR. MARTINS: Two.

17 MEMBER DONATELLI: -- 2, that would be affected. So I'd like
18 to get a visual sense for exactly how those rooms would be affected.

19 MR. MARTINS: I do understand, and apologies, we should
20 have -- we should have thought ahead and had that done. But I will
21 get that done, and we can submit it. I don't think it will take us
22 very long, but for purposes of context, I understand that the second
23 floor is approximately 8 feet tall. So if you go from the eave and
24 come down 8 feet, that's the second floor of the house, typically.
25 Five foot 6 would be a little more than half of that, and then it
26 would go off at a 45 degree angle, taking off that piece of the house,

1 5-foot 6 and 5-foot 6 across it, but I will get the -- I'll get a
2 depiction that shows the line along that plane for that, and then
3 get you a cross-section going back through the house.

4 MEMBER DONATELLI: Thank you, that would be helpful.

5 If I understand correctly, you're saying approximately half of
6 the rooms on the west side would have a knee wall; is that what you're
7 saying? If we were to respect the sky plane, then essentially, those
8 rooms on the west side would be cut in half.

9 MR. MARTINS: The rooms would be cut in half, and I would say,
10 and I'd have to go back and look at the dimensions of the room, but
11 taking away 5-foot 6 by 5-foot 6 would render the rooms uninhabitable,
12 the bathroom uninhabitable and make that area of the house no longer
13 useful either as bedrooms or as a bathroom.

14 MEMBER DONATELLI: If you can, please get us that rendering,
15 that would be very helpful.

16 MR. MARTINS: I appreciate that, yes.

17 (WHEREUPON, there was an off-the record discussion.)

18 MR. MARTINS: I would be, you know, and I don't think it'll take
19 us that long, if the Board allows, we will, along with the survey,
20 take those and provide them digitally for the Board's consideration.

21 MEMBER DONATELLI: That would be great.

22 CHAIRMAN MAMMINA: That's fine.

23 (WHEREUPON, there was an of-the-record discussion.)

24 MEMBER DONATELLI: I'm sorry, one more question.

25 Is there an approval for the second curb cut for the circular
26 driveway; do you know?

1 I think your client --

2 MR. MARTINS: It's interesting.

3 MR. BARROCA: Yes.

4 SECRETARY WAGNER: He could come up and speak.

5 MEMBER DONATELLI: You can, certainly -- my only comment is if
6 your client would like to testify, and he certainly can, all you have
7 to do is give out your name and address or if you'd like, Mr. Martins
8 can certainly present it for you.

9 MR. MARTINS: Yeah, I'm happy to do it, it's okay, but I do have
10 curb cut permits, and I will scan them, and I will provide them as
11 well, but they do have them.

12 MEMBER GOODSELL: What's the dates on the curb cut permit?

13 MR. MARTINS: I have a curb cut permit, April 13th, 2006; April
14 13th, 2006, all of them.

15 MEMBER DONATELLI: Thank you. If you can just scan those as
16 well.

17 MR. MARTINS: I'll get them to you.

18 MEMBER DONATELLI: Thank you.

19 So we're continuing?

20 CHAIRMAN MAMMINA: We're continuing the application for
21 submission of some documents, and we'll wait to get those. You can
22 send them digitally and take as much time as you need, but I'm sure
23 you understand that, you know, so we're not setting a date now for
24 another hearing.

25 VICE-CHAIRMAN FRANCIS: Right.

26 MR. MARTINS: Would you -- do you believe we would need to come

1 back for a further hearing?

2 CHAIRMAN MAMMINA: No, no, no, no, no.

3 MR. MARTINS: Okay.

4 So the only -- and here's -- first off, thank you all, very much,
5 I appreciate the questions, I appreciate your allowing us to
6 supplement our application this way. Certainly, if there are any
7 other questions you may have, we stand ready to answer any questions
8 you have.

9 CHAIRMAN MAMMINA: I apologize for the confusion because I said
10 another hearing only because we have to wait for the next hearing
11 for us to --

12 MR. MARTINS: Oh, of course.

13 CHAIRMAN MAMMINA: -- make a decision.

14 MR. MARTINS: Of course.

15 Thank you all.

16 CHAIRMAN MAMMINA: Thank you.

17 MEMBER HERNANDEZ: Thank you.

18 VICE-CHAIRMAN FRANCIS: Merry Christmas, happy holidays.

19 MR. MARTINS: Thank you.

20 VICE-CHAIRMAN FRANCIS: I think when all this is said and done,
21 Mr. Barroca, you should get an honorary law license for everything
22 you've gone through, you really should.

23 MR. MARTINS: Of course.

24 Merry Christmas and happy holidays to everyone.

25 (WHEREUPON, this application was continued.)

1 SECRETARY WAGNER: I believe Mr. Filipazzi is requesting to
2 hear the next two appeals as companion cases since they involve the
3 same --

4 CHAIRMAN MAMMINA: Sure.

5 SECRETARY WAGNER: -- property.

6 MR. FILIPAZZI: Lighten your load tonight.

7 CHAIRMAN MAMMINA: Thank you.

8 MEMBER HERNANDEZ: Thank you.

9 SECRETARY WAGNER: So we have appeal number 21088, PK 800
10 Northern, LLC, DermWalk; 800 Northern Boulevard, Suite 6, Great Neck,
11 Section 2; Block 116; Lot 1; in the Business-A Zoning District.

12 Variances from §§70-103.A(1), 70-103.B, and 70-103.F and
13 70-103.O to convert a retail space to a doctor's office with not
14 enough parking onsite, parking stalls that are too small, parking
15 interfering with loading areas, and access aisles that are too
16 narrow.

17 We also have appeal number 21594, Michael Park, B Square Realty;
18 800 Northern Boulevard, Suite 2, Great Neck; Section 2, Block 116,
19 Lot 1; in the Business-A Zoning District.

20 Variances from §§70-103.A(1), 70-103.B, and 70-103.F and
21 70-103.O to convert a retail space to an office with not enough
22 parking onsite, parking stalls that are too small, parking
23 interfering with loading areas, and access aisles that are too
24 narrow.

25 CHAIRMAN MAMMINA: For appeals number 21088, PK 800 Northern,
26 LLC, and that's DermWalk, and appeal number 21594, Michael Park, B

1 Square Realty.

2 Is there anyone interested in the application other than the
3 applicants?

4 You're the applicant; right?

5 We'll let him do the work.

6 MR. FILIPAZZI: Good afternoon, Chairman, members of the Board.
7 Again, I'm Andrew Filipazzi of Harris, Bloom & Archer, 445 Broad
8 Hollow Road, Melville, New York, on behalf of the applicant and owner
9 on both these cases.

10 As Secretary Wagner introduced these cases, these are interior
11 renovations for two of the tenant suites in the strip center. The
12 four variances that are being sought all deal with the parking and
13 site, nothing dealing with the individual tenant spaces themselves,
14 and so that's the basis for having these heard together as companion
15 cases.

16 Suite 6 is changing from a retail space to a doctor's office,
17 that's the DermWalk who are classified as a medical use. Suite 2
18 is changing from a retail space to a general office space for a real
19 estate office.

20 So pursuant to the two letters of denial for these two appeals,
21 October 23rd and October 30th, we're seeking a parking variance of
22 six spaces, where 64 are required, 58 are provided. A variance for
23 parking spaces less than the required size of 10-by-20 feet. A
24 variance for parking spaces which interfere with the ingress and
25 egress of loading zones, and a variance of 4.3 feet for a backup access
26 aisle for parking stalls that are in the rear of the building.

1 With me today is Ed McIgor (phonetic) of UR Architecture
2 (phonetic), the project architect, as well as Aaron Machtay of VHB
3 Engineering who is the traffic engineer for this project.

4 Aaron has prepared a parking study that's been submitted as part
5 of this application that I hope everybody on the Board has a copy
6 of, and so I'm going to allow him to do most of the speaking on these
7 items as they're all within his level of expertise. I'll just give
8 you a brief introduction or a brief summary of that before I bring
9 him up.

10 This study concluded that there is sufficient onsite parking
11 available to accommodate the additional parking demand that would
12 be generated by these two new tenants spaces -- tenant uses, as well
13 as being able to satisfy the existing parking demand from the other
14 tenants at the premises.

15 He'll also provide some further detail and expert testimony with
16 respect to the backup aisles and the parking stall size and the
17 interference with the loading zone, and so the building was
18 constructed in the late 1970s, configuration of the building, and
19 parking has not materially changed since that time, and that brings
20 us to today where the landlord has two tenants looking to fill these
21 vacant spaces, and we're here before you seeking these variances.

22 So with that, I'll bring Aaron up to give his expert testimony
23 on the variances.

24 MR. MACHTAY: Thank you.

25 Chairman, members of the Board, for the record, Aaron Machtay
26 with VHB Engineering, offices at 100 Motor Parkway in Hauppauge, New

1 York. As Mr. Filipazzi mentioned, VHB prepared a parking study which
2 was submitted to your attention, and I'll just try and go into a high
3 level summary.

4 So, as with anything, this is an existing shopping center, so
5 the first step of preparing a parking study or something like this
6 is obviously to go out and observe which we went and did back in April
7 of this year on a typical weekday and a typical Saturday, and we
8 observed it during what we would assume to be and would know to be
9 the peak times of activity from prospective tenants that are moving
10 in.

11 What we saw was that the activity in the shopping center was
12 highest on a weekday amounting to as many as 32 parked vehicles in
13 all. That includes all of the different areas in the shopping
14 center, including the areas in the rear, including areas in the front,
15 et cetera.

16 So that sort of tells us what the existing activity that's being
17 generated, what would be in the future, assuming that the existing
18 occupancy stays the same. Then we just have to project the activity
19 associated with the additional office spaces. To do that, we
20 referenced our, you know, our IT rates from the Institute of
21 Transportation Engineers and the Parking Generation Manual for both
22 a medical office and for general office, all right, and we assume
23 that those spaces would be occupied at the peak rates that are
24 contained in that publication, and what that suggests is that an
25 additional ten vehicles would be generated during the peak times on
26 top of the existing activity.

1 So if we just take the existing observed activity and take this
2 peak activity that's associated with the medical and non-medical
3 office, you get 42 parked vehicles, and supplied 58. So right there,
4 there's enough parking with a pretty comfortable level of, you know,
5 factor of safety, if you will, that we would not expect in any scenario
6 that there would be infiltration into the on-street areas in the area.

7 Again, though, that assumes this overlay with the peak parking
8 demand for medical office and the peak parking demand for the general
9 office is occurring at the same time as peak the parking demand for
10 the shopping center as it presently exists. There's nothing to say
11 that that's actually going to be the case. I won't opine on the
12 dreaded hair salon, as this Board has heard many times before, but
13 there are, suffice it to say, other uses that could occupy these space
14 that would not necessarily have that alignment and could generate
15 more activity at times when it's even busier.

16 Regardless, even if we take the peak that we observed and the
17 peak that we projected and coincide everything and assume that all
18 the peaks occurred at the same time, there's still more than enough
19 parking.

20 As a -- in regards to the size, the size of the spaces, the backup
21 aisle, one of things that's important to note is, you know, while
22 this is a shopping center, this isn't, you know, a big retail center.
23 This isn't Macy's, this isn't Roosevelt Field Mall, and in general,
24 it's not going to be as high turnover, and it's not going to have
25 as much activity coming in and out continually, and because of that,
26 the smaller stall size, which is, for the most part, is still enough

1 to accommodate most full-sized vehicles. Obviously, there's some
2 oversized trucks, but you know, most full-sized vehicles that people
3 own can be accommodated by those spaces, but just the fact that it's
4 lower turnover means that there's less friction within the parking
5 lot, and as a result, those spaces can still function just as well
6 as we would want if they were fully sized according to the town code.

7 With regard to the backup aisle, the same thing, and in fact,
8 we believe that those spaces -- we had been talking about potentially
9 having -- being reserved for employees of the center. Obviously,
10 that's even lower turnover and creates a situation where there's no
11 conflict when you're entering and exiting, and the reduced aisle size
12 can very easily be accommodated by that level of activity.

13 So overall, based on the parking generated by this facility,
14 it's my opinion that there's more than adequate parking, that that
15 variance should be granted, and then based on the nature of the
16 shopping center as a whole, as well as the constituent uses within
17 in it, it is my further opinion that the property -- the size of the
18 parking stalls and the drive aisles are adequate to accommodate any
19 activity that may be generated, and I'm happy to answer any questions.

20 MEMBER GOODSELL: Would your answer change if the businesses
21 decided to reserve a certain number of spaces for FedEx, a certain
22 number of spaces for the medical office, a certain number of
23 spaces -- does reserving parking spaces affect the ability of people
24 to park? I mean, we all violate that, anyway, but --

25 MR. MACHTAY: Yeah, I don't -- again, so we project somewhere
26 roughly at, you know, a factor of safety is 20 to 25 percent. So

1 with that in mind, I don't think -- I think there would probably be,
2 you know, it would just be a matter, maybe a little trial and error
3 to see, you know, okay, the medical office is this many spaces, the
4 real estate office maybe only needs, two, whatever it may be. I don't
5 think it would change things too significantly at this ratio. I
6 think there would still be, you know, there would still be available
7 parking in each ratio.

8 MEMBER GOODSSELL: I will say it was very difficult to turn
9 around when I pulled in, and I parked at the far end of the parking
10 lot, on the upper level close to Northern Boulevard. It's very
11 difficult to back up and turn around. Those end two spaces seem to
12 be very, very small and located very close to the end of the parking
13 lot, and do you feel there's enough turn around space to accommodate
14 an average vehicle over there?

15 MR. MACHTAY: I think it is less than ideal, but I think that,
16 for the most part, you know, again, because maybe --

17 MEMBER GOODSSELL: I mean, if I had a smaller car, yes.

18 MR. MACHTAY: Yeah, yeah, you know, it would probably be best
19 if those spaces are reserved for compact vehicles or something to
20 that effect, but it certainly is less than ideal.

21 The other thing, you know, if there's a little more space, it
22 could be integrated to have like a little 2 or 2 to 5-foot backup,
23 you know, you kind of have that, like, that little, like, keyhole
24 that the cars can backup into. That's something that perhaps could
25 be investigated if it was --

26 MEMBER DONATELLI: My problem with that parking lot, and I know

1 it well because I go to the FedEx often, it's not really the subject
2 of either of these two applications, but they park a very large FedEx
3 truck in that parking lot directly outside of the FedEx store.

4 MR. MACHTAY: Right.

5 MEMBER DONATELLI: Which makes entry and exit into that parking
6 lot very, very difficult. If FedEx had been one of the applicants
7 here, we certainly -- I certainly would have raised that as an issue.
8 But since it is a shared parking lot, and since FedEx is there, since
9 FedEx is not really subject to either of these two applications, I
10 think we're probably limited in what we can do in that respect.

11 CHAIRMAN MAMMINA: Mm-hmm.

12 VICE-CHAIRMAN FRANCIS: Other than sending a message to the
13 owner of the property.

14 MEMBER DONATELLI: -- the property, which hopefully we just
15 did.

16 VICE-CHAIRMAN FRANCIS: Yes.

17 MEMBER DONATELLI: But getting back to the issue at hand, I
18 mean, is the -- well, these are two separate applications. One to
19 convert retail into a medical office, and the other to convert retail
20 to office space. I would imagine that the building is built as it
21 is. If there is a problem, as we've often said, there is no parking
22 on Northern Boulevard, so if there is a problem, it's going to be
23 self-limiting that the tenants are going to discover amongst
24 themselves that parking is a problem and that there really is no
25 alternative. So your tenants will either succeed or fail based on,
26 how can you accommodate the parking.

1 MR. MACHTAY: I would say I agree. I think in particular, these
2 types of office uses, again, they're complementary to what else might
3 go into the FedEx store and things of that nature. What else might
4 be -- fit into this shopping center.

5 MEMBER DONATELLI: Now, we had approved the restaurant P.F.
6 Chang's recently; is that correct?

7 MR. FILIPAZZI: Yes, this Board did grant a conditional use for
8 the P.F. Chang's. For some reason a few of these existing variances
9 that we're asking for today, were not raised at that time, and that's
10 why we're asking for those today.

11 But yes, there was a conditional use for the P.F. Chang's takeout
12 in this strip center. I think there was a condition if it was
13 exceeding --

14 MEMBER GOODSELL: According -- yeah, according to the -- what
15 we put into the occupancy diagram, there was no seating in this P.F.
16 Chang's.

17 MR. FILIPAZZI: Correct.

18 MEMBER GOODSELL: It's takeout only.

19 MR. FILIPAZZI: And that was one of the conditions -- yes.

20 MEMBER DONATELLI: Is that still open? Is that being built?
21 What is the status?

22 SECRETARY WAGNER: I don't think it was ever --

23 MEMBER DONATELLI: Okay, so this conversion of the -- one of
24 the these two applications is for the space that had been considered
25 for P.F. Chang's; correct?

26 MR. FILIPAZZI: Yes, yes.

1 The two tenant spaces that are being filled by these proposed
2 tenants are going into vacant spaces and just to give some more
3 background on who those tenants are, one is a real estate office,
4 you know, generally, there aren't too many customers coming in and
5 out of the real estate office. It's mostly going to be agent coming
6 in and out and whoever's working in the office that day. The DermWalk
7 is -- it's considered a medical use, it's kind of a medical spa.
8 Those are by appointment. So that also helps limit the number of
9 people coming in and out. It's not a CityMD or some sort of urgent
10 care that you're going to have a large number of people, you know,
11 in and out throughout the day.

12 MEMBER DONATELLI: Thank you.

13 MR. FILIPAZZI: And just to add on to a couple of things that
14 Aaron had with respect to the backup aisle in the rear, that's only
15 with respect to, I think, one or two spaces that are in the rear of
16 the building. We would propose and accept as a condition stamping
17 those or marking those as "employee only" parking for employees of
18 the entire center. Doing that would limit the amount of ins and outs
19 to those spaces making it easier to navigate that slightly less backup
20 aisle, and I'm not sure if Aaron had touched on it but with respect
21 to interference with the loading zone, I think that goes to your
22 comment, Member Donatelli, with the FedEx trucks. There's one space
23 that is tandem with the two loading zones on the side of the property.
24 That, we would propose, you know, as a condition that we would accept,
25 marking that as 10 or 15 minute parking so that there isn't conflict
26 with those loading zones. The message was received and will be sent

1 to the landlord that the FedEx trucks need to utilize those and not,
2 you know, in front of the driveway where it could create issues for
3 cars coming in and out of the parking lot.

4 MEMBER DONATELLI: I think that would be helpful. I think that
5 that would not only be better for the landlord and for the other
6 tenants, but also for FedEx. They use a truck --

7 MR. FILIPAZZI: Mm-hmm.

8 MEMBER DONATELLI: -- which is oversized, so it sticks into what
9 is already an undersized access aisle.

10 MR. FILIPAZZI: Right.

11 MEMBER DONATELLI: So I think it would be a win-win all around.
12 So if you would express that to the landlord.

13 MR. FILIPAZZI: I will pass that along to the landlord who I'm
14 sure will pass that to FedEx to make sure that they are utilizing
15 the two loading zones on the side of the property and not impacting
16 the access.

17 MEMBER DONATELLI: I actually discovered, as an aside,
18 it -- there's an increased incidence of people breaking into FedEx
19 boxes which requires those of us that use FedEx to actually go onsite
20 to drop off packages. So again, that's all part of the mix, I
21 understand that's not part of the application but anything that we
22 can do to increase accessibility to this parking lot, to these parking
23 spaces would be appreciated.

24 MR. FILIPAZZI: Understood, and that'll be relayed to the
25 landlord and the FedEx.

26 MEMBER DONATELLI: Anyone else?

1 VICE-CHAIRMAN FRANCIS: Nope.

2 MEMBER GOODSSELL: I make a motion that we grant the application
3 despite the shortfall because I think that, yes, if people cannot
4 park to go to the DermWalk medical office, they will not come.

5 So I make a motion that we grant the application.

6 MEMBER DONATELLI: So your motion is as to both?

7 ATTORNEY ALGIOS: No, I think we should -- two separate -- let's
8 make two separate motions.

9 MEMBER GOODSSELL: So this is as to the first application.

10 SECRETARY WAGNER: Appeal number 21088.

11 MEMBER GOODSSELL: Yes.

12 MEMBER DONATELLI: Second.

13 CHAIRMAN MAMMINA: Please poll the Board.

14 SECRETARY WAGNER: Member Hernandez?

15 MEMBER HERNANDEZ: Aye.

16 SECRETARY WAGNER: Member Goodsell?

17 MEMBER GOODSSELL: Aye.

18 SECRETARY WAGNER: Member Donatelli?

19 MEMBER DONATELLI: Aye.

20 SECRETARY WAGNER: Vice-Chairman Francis?

21 VICE-CHAIRMAN FRANCIS: Before I say aye, are you agreeing to,
22 in terms of the rear parking, to designate that as employee parking
23 with some kind of stencil or something?

24 MR. FILIPAZZI: Yes, yeah, that's a condition that we'd agree
25 to if the Board so deems it necessary. You can impose that on the
26 second decision.

1 SECRETARY WAGNER: Which -- you got to be specific, which one?

2 VICE-CHAIRMAN FRANCIS: Yes, behind the building, yes.

3 SECRETARY WAGNER: So all of the spaces --

4 VICE-CHAIRMAN FRANCIS: Behind the building will be designated
5 as employee parking only.

6 MR. FILIPAZZI: Yeah, the six space in the rear.

7 VICE-CHAIRMAN FRANCIS: Right.

8 CHAIRMAN MAMMINA: That's the south side of the building.

9 SECRETARY WAGNER: Six spaces.

10 ATTORNEY ALGIOS: So let's just place that condition on both.

11 MR. FILIPAZZI: On both, yes.

12 ATTORNEY ALGIOS: So the motion that you just made, you want
13 to just -- I'm sorry, make it again with that condition, and then
14 Ginny will poll the Board.

15 MEMBER GOODSSELL: Okay, with respect to the second
16 application --

17 SECRETARY WAGNER: No, no.

18 VICE-CHAIRMAN FRANCIS: No, the first one.

19 SECRETARY WAGNER: The first one.

20 MEMBER GOODSSELL: The first one, the first one, 21088.

21 I make a motion that we grant the application and impose the
22 condition that the spaces to rear of the building are designated
23 employee parking spaces.

24 MEMBER DONATELLI: And I second that.

25 SECRETARY WAGNER: Member Goodsell?

26 MEMBER GOODSSELL: Aye.

1 SECRETARY WAGNER: Member Hernandez?

2 MEMBER HERNANDEZ: Aye.

3 SECRETARY WAGNER: Member Donatelli?

4 MEMBER DONATELLI: Aye.

5 SECRETARY WAGNER: Vice-Chairman Francis?

6 VICE-CHAIRMAN FRANCIS: Aye.

7 SECRETAR WAGNER: Chairman Mammina?

8 CHAIRMAN MAMMINA: Aye.

9 Granted with that condition.

10 MEMBER GOODSELL: I just want to ask a question with respect
11 to the second application, 21594. It is for 800 Northern Boulevard,
12 Suite 2, retail space to conform. That's a substantial size. Let
13 me just check on Suite 2.

14 What is currently in Suite 2? It isn't designated on the
15 occupancy diagram in Suite 2.

16 MR. FILIPAZZI: That space is presently vacant.

17 MEMBER GOODSELL: I'm sorry, that's what?

18 MR. FILIPAZZI: It's presently vacant but that was previously
19 approved for the conditional use as P.F. Chang's takeout.

20 MEMBER GOODSELL: That is only slightly larger than the
21 DermWalk. This is -- the parking conditions and the parking
22 requirements don't change when you consider both of them; is that
23 correct?

24 MR. FILIPAZZI: Correct.

25 MEMBER GOODSELL: The totality would be eight spaces, the
26 parking lot is 64 spaces would be required.

1 MR. FILIPAZZI: Correct, and for exactly that reason is why
2 I asked that these be heard as companion cases because if we did one
3 and then the other we would be saying the same thing twice.

4 MEMBER GOODSSELL: Can we also impose the condition on this?

5 ATTORNEY ALGIOS: Yes.

6 MEMBER HERNANDEZ: Yeah.

7 MEMBER GOODSSELL: Then I make a motion that we grant the
8 application with the condition that -- the additional condition as
9 before that employees park in the rear of the building.

10 MEMBER HERNANDEZ: Rear parking spaces should be marked
11 "employees only" because there isn't enough space back there for all
12 the employees.

13 MEMBER GOODSSELL: Add that.

14 MEMBER DONATELLI: Second.

15 CHAIRMAN MAMMINA: Please poll the rest of the Board.
16 So Member Hernandez seconded not Donatelli.

17 SECRETARY WAGNER: So Jay is seconding that one.

18 MEMBER HERNANDEZ: Yes.

19 SECRETARY WAGNER: Poll the Board?

20 CHAIRMAN MAMMINA: Yes.

21 SECRETARY WAGNER: Member Goodsell?

22 MEMBER GOODSSELL: Aye.

23 SECRETARY WAGNER: Member Donatelli?

24 MEMBER DONATELLI: Aye.

25 SECRETARY WAGNER: Member Hernandez?

26 MEMBER HERNANDEZ: Aye.

1 SECRETARY WAGNER: Vice-Chairman Francis?

2 VICE CHAIRMAN FRANCIS: Aye.

3 SECRETARY WAGNER: Chairman Mammina?

4 CHAIRMAN MAMMINA: Aye.

5 Application is granted with the stipulated conditions.

6 MR. FILIPAZZI: Thank you, very much, Chairman, members of the
7 Board. I appreciate your time today. Happy holidays.

8 MEMBER HERNANDEZ: Same to you.

9 (WHEREUPON, both applications were approved.)

1 SECRETARY WAGNER: Appeal number 21646, RH 361, LLC; 1575-1595
2 Northern Boulevard, Manhasset; Section 3, Block 181, Lot 402; in the
3 Business-A and Residence-B Zoning District.

4 Variances §§70-103(B), 70-103(O), 70-132(A) to redevelop a
5 commercial property with parking spaces that are too small, parking
6 access aisles that are not wide enough, and a masonry wall within
7 a required front yard which is too close to the street.

8 CHAIRMAN MAMMINA: We heard appeal number 21646, RH 361, LLC.

9 SECRETARY WAGNER: Yeah.

10 CHAIRMAN MAMMINA: Is there anyone in the room interested in
11 the application other than the applicant?

12 Seeing one hand up, and you'll have the opportunity after the
13 presentation.

14 MS. GONZALEZ: Good afternoon, everyone. Taylor Gonzalez of
15 Forchelli Deegan Terrana, 333 Earle Ovington Boulevard, Uniondale,
16 New York.

17 Before I forget I just want to hand up these Exhibits for you.

18 SECRETARY WAGNER: This will be Exhibit 1.

19 Were these previously submitted?

20 MS. GONZALEZ: No. If you need them submitted online --

21 SECRETARY WAGNER: What's that?

22 MS. GONZALEZ: If you need them submitted online --

23 SECRETARY WAGNER: We can scan them.

24 MS. GONZALEZ: Okay, I didn't know --

25 SECRETARY WAGNER: In the future, if you can just --

26 MS. GONZALEZ: Okay.

1 SECRETARY WAGNER: -- submit them beforehand.

2 MS. GONZALEZ: Yeah.

3 So here with me today is the property owner, Adam Mann, and he
4 can answer any questions you may have.

5 This application before you today is for minor variances related
6 to six parking stalls and the drive aisle, as well as a 2-foot knee
7 wall within a required front yard.

8 In 2022, this Board granted relief relating to extensive site
9 upgrades which included the demolition of approximately 5,935 square
10 feet from the center at 1577-1595 Northern Boulevard. That relief,
11 granted under appeal 21288 which is in your Exhibit packet as Exhibit
12 2, included variances for too few parking spaces, undersized parking
13 spaces and drive aisles, no loading area, a retaining wall exceeding
14 the permitted height, elimination of required landscape buffers and
15 a sign variance. In addition, this Board also granted conditional
16 uses for parking within a residential area as the property is
17 split-zoned Business-A and Residence-B and for interior alterations
18 for a new restaurant.

19 As mentioned above, the sector of 1575 and 1595 Northern
20 Boulevard was demolished instead of a full raze and rebuild of the
21 building. As a result, during the prior application, the exact
22 amount to be demolished was an estimation. Now that demolition is
23 complete, the exact dimensions for the parking stalls and drive aisle
24 can be determined.

25 As can be seen in Exhibit 4, the six parking stalls along the
26 west side of the entrance driveway were previously granted a variance

1 as they measured 18 feet in length by 9 feet in width, the same size
2 as the stalls to the east. Now the stalls on the west will be reduced
3 by a little over a foot in length to measure 16.8 feet where the
4 eastern parking stalls have actually increased in size to 18.5.
5 These stall changes are a combination of the demolition and the
6 driveway location which has been approved by the town and by New York
7 State DOT because, Northern Boulevard.

8 The solution proposed is the most feasible option, and overall,
9 the six smaller stalls will still offer valuable parking spaces on
10 the property which was already granted a parking variance.

11 As for the entrance drive aisle, a variance was previously
12 granted for the aisle with a 17.2 feet. The proposed width before
13 you today is 17 feet. The reduction of .2 feet is de minimus.

14 As discussed in the parking dimension letter provided by LaBella
15 Associates here in Exhibit 5, according to the Urban Land Institute
16 for Dimensions of Parking, 5th Edition, acceptable access aisle for
17 60 degree parking is 13 feet 6 inches. The access aisle proposed
18 here is 4 feet 6 inches greater, and this can accommodate vehicles
19 maneuvering in and out of parking stalls. LaBella's letter also
20 explains that although the stalls are 1.2 feet shorter than
21 recommended by the code, the shortfall is accommodated by the
22 oversized drive aisle.

23 Finally, the 2-foot knee wall, not previously proposed, has been
24 added due to the steep slope in front of the building located at 1575
25 Northern Boulevard. The knee wall is meant to create two tiered
26 areas to allow for landscaping which was previously approved as far

1 as the site plan application in May of 2023. Without the knee wall,
2 which will be set back 9.3 feet from the property, where a 10-foot
3 setback is required, it will be difficult to plant and maintain the
4 landscaping that was approved. The wall has been kept at a low height
5 and been designed to keep the aesthetic of the property. Given the
6 site's commercial nature and the minor nature of the variances
7 requested, there will be no physical or environmental impact to the
8 surrounding community. Neither slope nor the amount of building
9 demolished are within the applicant's control. Therefore, the
10 variances are not self-created.

11 At this time, we would like to answer any questions you may have.

12 MEMBER HERNANDEZ: All right, so the net result is that the
13 spacing for the the length of the stalls --

14 MS. GONZALEZ: Mm-hmm.

15 MEMBER HERNANDEZ: -- have marginally changed.

16 MS. GONZALEZ: Yes.

17 MEMBER HERNANDEZ: But the amount of space, wall to wall,
18 remains the same.

19 MS. GONZALEZ: It may be off by a slight bit. I don't know the
20 exact amount off the top of my head.

21 MEMBER HERNANDEZ: Yeah, less than a half a foot.

22 MS. GONZALEZ: Yeah.

23 MEMBER HERNANDEZ: Less than a half a foot.

24 MS. GONZALEZ: Yes, it's just a slight change, yeah. Yeah,
25 it's the location of the driveway which would be quite difficult to
26 change.

1 MEMBER HERNANDEZ: So shifted everything a little bit --

2 MS. GONZALEZ: Yes.

3 MEMBER HERNANDEZ: -- to the west.

4 MS. GONZALEZ: It kind of shifted everything.

5 MEMBER HERNANDEZ: Everything west a little bit.

6 MS. GONZALEZ: Mm-hmm.

7 MEMBER GOODSSELL: I'm not a fan of smaller parking spaces but
8 if you can't park, then I'm not going to go to the bank.

9 CHAIRMAN MAMMINA: Let's hear from the gentleman.

10 MEMBER GOODSSELL: Yes.

11 CHAIRMAN MAMMINA: Sir?

12 MR. HENRICKSON: Robert Henrickson, 41 Plandome Road,
13 Manhasset.

14 I just had a straightforward question, and unfortunately, I was
15 here for 4 hours, but I got a notice that a medical office, Small
16 Door veterinarian --

17 MR. MANN: It's not for this project.

18 CHAIRMAN MAMMINA: You have to be on the record.

19 MEMBER HERNANDEZ: Ask a question and then answer.

20 SECRETARY WAGNER: If you want to ask the developer a question
21 in person on the side, that's up to you, but --

22 MR. MANN: This isn't for this project.

23 SECRETARY WAGNER: Yeah, if you have -- if you have a question
24 for the Board or regarding, you know, the variances that are --

25 MR. HENRICKSON: This isn't the property that's --

26 MR. MANN: There is no Small --

1 MR. HENRICKSON: But you have a medical office --

2 CHAIRMAN MAMMINA: We still have to -- we have to get it on the
3 record, so --

4 VICE-CHAIRMAN FRANCIS: If you want to talk to him outside of
5 the hearing.

6 SECRETARY WAGNER: You can ask the question to say I'm concerned
7 about a medical office, and then Mr. Mann could come up and answer
8 that question. But it can't be a dialogue between --

9 MR. HENRICKSON: Okay, I'm concerned about a small dog
10 veterinarian going in that building.

11 SECRETARY WAGNER: You can't -- yeah.

12 And now, would you like to come and respond?

13 MR. MANN: Adam Mann, 2 Jericho Plaza, Jericho, New York 11753,
14 representative of the landlord.

15 There is no Small Door veterinary office located at this
16 project, so --

17 VICE-CHAIRMAN FRANCIS: Are you saying Small Door or dog?

18 MR. MANN: Small -- there is a veterinary company called Small
19 Door that I'm familiar with but they will not be a tenant at that
20 project.

21 VICE-CHAIRMAN FRANCIS: Okay.

22 MR. HENRICKSON: Okay.

23 MEMBER DONATELLI: Okay, the only thing before us in this
24 application is the parking.

25 MR. MANN: And the knee wall in the front of the building to
26 the west. That is all that is before the Board this afternoon.

1 VICE-CHAIRMAN FRANCIS: Right.

2 MEMBER DONATELLI: Thank you.

3 MR. MANN: Thank you.

4 MEMBER DONATELLI: I don't know if you want the opportunity to
5 speak to this gentleman outside.

6 MR. MANN: Sure, sure.

7 MEMBER HERNANDEZ: I'm trying to find the knee wall in your
8 plan.

9 MS. GONZALEZ: Yeah.

10 MEMBER HERNANDEZ: I'm looking at C-701.

11 MS. GONZALEZ: Yeah.

12 MEMBER HERNANDEZ: So I guess that's it; yeah?

13 MS. GONZALEZ: So it's going to be right here in front of this.

14 MEMBER HERNANDEZ: Oh, yeah, the far western end.

15 MS. GONZALEZ: Mm-hmm.

16 MEMBER HERNANDEZ: Okay.

17 SECRETARY WAGNER: The old Ethan Allen building.

18 MEMBER HERNANDEZ: Yeah, yeah, the far west end.

19 MR. MANN: The knee wall -- the knee wall is really serving two
20 purposes. One, functionality, and two, aesthetics. There's about
21 a 4-foot grade change on right-of-way sidewalk elevations and
22 finished floor elevation, and this was just a functional and nice
23 way to bridge that as opposed to a steep slope up with landscaping.

24 CHAIRMAN MAMMINA: Okay.

25 MEMBER HERNANDEZ: Fine.

26 Yeah, okay, any other questions?

1 Mr. Chairman --

2 MEMBER DONATELLI: I think we're still waiting for an answer.

3 SECRETARY WAGNER: We can't vote on it.

4 MEMBER HERNANDEZ: We can't vote.

5 VICE-CHAIRMAN FRANCIS: Oh, right, we can't vote.

6 SECRETARY WAGNER: And you are aware of that.

7 MR. MANN: Yeah, yes, yes.

8 MEMBER HERNANDEZ: All right, thank you, very much.

9 MR. MANN: Thank you.

10 MS. GONZALEZ: Thank you, everyone.

11 MR. MANN: Thanks everybody, have a great holiday.

12 MS. GONZALEZ: Happy holidays.

13 MEMBER HERNANDEZ: You, too. Enjoy.

14 SECRETARY WAGNER: So then we have to continue this.

15 MEMBER HERNANDEZ: Yes.

16 (WHEREUPON, this application was continued.)

1 SECRETARY WAGNER: 21642, SFR Realty Associates, LLC, a sign;
2 697-A Hillside Avenue in New Hyde Park; Section 8, Block K9, Lot 44;
3 in the Business-A and Business-AA Zoning District.

4 Variance from §§70-196.J(2) (b) and 70-196.J(2) (d) to construct
5 a sign that is too large and with not enough clearance between the
6 sign and the ground.

7 CHAIRMAN MAMMINA: We heard appeal number 21642, SFR Realty
8 Associates, LLC.

9 Is there anyone in the room who is interested in the application
10 other than the applicant?

11 (WHEREUPON, there was no response.)

12 CHAIRMAN MAMMINA: Seeing no one.

13 Please give your name and address.

14 MR. KOUTSOUMBIS: Good afternoon, members of the Board. My
15 name is Dean Koutsoumbis, my address is at 121 Newbridge Road,
16 Hicksville, New York 11801. We're seeking permission to enlarge an
17 existing sign located at the shopping center at 697-A Hillside
18 Avenue.

19 The existing sign is a pylon sign, it's a directory sign located
20 at -- between the curb and the sidewalk, and it directs traffic
21 towards the building. It's a larger shopping center, it's got the
22 Stop & Shop, Old Navy, Panera, Five Below and other stores.
23 HomeGoods is the newest store to this shopping center. They would
24 like to add an additional panel onto the existing sign that's at the,
25 you now, the directory sign that's at the street. In doing so, it
26 will enlarge the existing sign to 60 square feet total. Their panel

1 is only 7 1/2 square feet. It is 96 inches by 16 1/2 inches. It
2 will be located at the bottom of this existing sign.

3 The sign, it is a two-sided pylon sign, visible from both
4 directions. It is located at the easterly driveway entrance to the
5 property. It has -- the driveway there is a one-way access only
6 accessible to drivers traveling west on Hillside Avenue, and it
7 provides direct access to the parking lot without having to wait at
8 the light which is the main entrance which is approximately 300 feet
9 to the west of this sign, and this would also -- having a sign here
10 would also alleviate some of the traffic which -- for the vehicles
11 going to the main entrance. So anybody traveling
12 eastbound -- traveling westbound could enter -- could see the sign
13 and enter directly into the parking lot without having to go and wait
14 at the light which is up ahead.

15 This sign -- the proposed sign will not cause any change in the
16 character of the neighborhood or detriment to any nearby properties.
17 This is, as I mentioned before, this is an enlargement of an existing
18 directory sign. It is located along a busy street already surrounded
19 by multiple businesses and other signs. Question as to whether or
20 not this could have been achieved by another method, and you know,
21 unfortunately, there is -- other than not having a sign, there is
22 no other alternative to, you know, to getting their panel up on this
23 directory sign, and whether or not this variance is substantial. I
24 don't think this is substantial as we're only adding 7 1/2 square
25 feet to this existing sign.

26 MEMBER GOODSELL: Mr. Koutsoumbis?

1 MR. KOUTSOUMBIS: Yes.

2 MEMBER GOODSSELL: Can I correct you on one point?

3 MR. KOUTSOUMBIS: Sure.

4 MEMBER GOODSSELL: You already put the sign up. Your client has
5 already put the sign up, it's there.

6 MR. KOUTSOUMBIS: It's there.

7 MEMBER GOODSSELL: So it's to maintain --

8 MR. KOUTSOUMBIS: All right.

9 MEMBER GOODSSELL: -- the existing sign.

10 MEMBER DONATELLI: It's adding a --

11 MEMBER GOODSSELL: It's already there. It's already there. I
12 know. I shop at HomeGoods. I know where the signs are. I don't
13 disagree with you --

14 MR. KOUTSOUMBIS: Okay.

15 MEMBER GOODSSELL: -- that you need some direction as you
16 approach the shop, but I knew it was there because I go to HomeGoods
17 and the sign is already there.

18 MR. KOUTSOUMBIS: Please accept my apologies, I was unaware
19 that they went ahead --

20 MEMBER GOODSSELL: You don't shop at HomeGoods.

21 MR. KOUTSOUMBIS: I don't shop at HomeGoods or Stop & Shop.

22 SECRETARY WAGNER: Patricia, I think they might be replacing
23 it with a bigger sign. But they got a variance to install a sign
24 of 60 square feet.

25 MEMBER GOODSSELL: Well, if I look at --

26 SECRETARY WAGNER: The sign was installed at 48 square feet,

1 and now they're requiring a variance to put it back at 60.

2 MEMBER GOODSSELL: If I look at what is shown as before and what
3 is shown as after, this is very clear, the after.

4 CHAIRMAN MAMMINA: Yeah.

5 SECRETARY WAGNER: I don't -- yeah.

6 MEMBER GOODSSELL: I'm only pointing this out because we might
7 have jumped the gun a little bit because Christmas is coming, and
8 we need to know now where HomeGoods is, but it's there, and I don't
9 have any objection to it to be quite honest with you.

10 MR. KOUTSOUMBIS: Again, please accept my apologies. I was
11 unaware that my clients went ahead and installed it. I understand
12 there was a recent store opening, that I do understand. There is
13 a sign on the building that did not need a variance. This sign did
14 need a variance.

15 MEMBER GOODSSELL: I saw the sign.

16 MEMBER DONATELLI: So I would just, I guess, note for the record
17 that the -- regardless of whether or not HomeGoods is there at the
18 present time or not, to require HomeGoods to have a smaller sign would
19 be totally out of character with the before photographs of the
20 shopping center because it would be so small as to be out place, and
21 it wouldn't be helpful.

22 So in an instance like this, I think whether it's the height
23 above the ground or whether it's the height of the HomeGoods sign,
24 it would be better keeping it in context with the existing signs.

25 Well, the setback, I think, it wasn't --

26 MEMBER HERNANDEZ: Well, the purpose of the -- of the distance

1 from the sign to the ground to some degree is for the visibility
2 underneath the sign in case someone is driving out so you could see
3 someone walking --

4 MEMBER GOODSSELL: Yes.

5 MEMBER HERNANDEZ: -- see if there's a car coming. Where this
6 sign is located, however, there is nobody coming out. It is only
7 for cars coming in, and because of the way it's cut, it's unique in
8 that direction.

9 MR. KOUTSOUMBIS: Correct, and also I'd like to point out, the
10 sign sits on a pedestal, it's not on a -- it's like when you see signs
11 like this, sometimes, and it's on two poles or a single pole.

12 MEMBER HERNANDEZ: Right.

13 MR. KOUTSOUMBIS: This is a pedestal, which, essentially, it
14 looks like it -- it appears to be maybe 6 inches smaller than the
15 main sign on each end. So it's not the type of sign that you want
16 to see underneath, anyway, and just being where it's located, as you
17 said, it's an entrance to the driveway or you're either going to the
18 driveway or you're going just straight. You're not -- there's no --

19 MEMBER HERNANDEZ: But again, because you have the solid
20 pedestal, as you described, if that was an exit, that would be
21 completely wrong because somebody coming out would not see someone
22 walking --

23 MR. KOUTSOUMBIS: Correct.

24 MEMBER HERNANDEZ: -- on that sidewalk, so that would be
25 dangerous. In this case, in this instance, because the sign is past
26 the entrance, so therefore, if I'm driving in, I see anybody walking,

1 whether they're behind the sign or in front of it, because that sign
2 is behind the entrance.

3 MR. KOUTSOUMBIS: Because it's only one-way.

4 MEMBER HERNANDEZ: It's only one-way, exactly. If people were
5 coming out of that or coming from the other side, it would be very
6 difficult.

7 MR. KOUTSOUMBIS: Yeah.

8 MEMBER HERNANDEZ: But it is a unique situation.

9 MEMBER DONATELLI: Good pick up.

10 CHAIRMAN MAMMINA: You're not denied for the location of the
11 sign, setback 10 feet. As I'm looking at the drawing, it doesn't
12 look like it's 10 feet; okay? You're saying that now they've made
13 it -- added another one onto it.

14 MEMBER GOODSSELL: Yes.

15 CHAIRMAN MAMMINA: But I'm not going to make a big deal. Just
16 be aware that that could potentially pop up.

17 MEMBER GOODSSELL: All right, I would -- having discussed all
18 of this, and I agree with Member Hernandez, I make a motion that we
19 grant the application allowing HomeGoods to add their name to the
20 bottom of the sign which they've already added their name to.

21 CHAIRMAN MAMMINA: We have a motion.

22 Can I get a second?

23 MEMBER DONATELLI: Second.

24 CHAIRMAN MAMMINA: Motion by Member Goodsell, and Member
25 Donatelli is the second.

26 SECRETARY WAGNER: Poll the Board?

1 Member Hernandez?

2 MEMBER HERNANDEZ: Aye.

3 SECRETARY WAGNER: Member Donatelli?

4 MEMBER DONATELLI: Aye.

5 SECRETARY WAGNER: Member Goodsell?

6 MEMBER GOODSELL: Aye.

7 SECRETARY WAGNER: Vice-Chairman Francis?

8 VICE-CHAIRMAN FRANCIS: Aye.

9 SECRETARY WAGNER: Chairman Mammina?

10 CHAIRMAN MAMMINA: Aye.

11 Application is granted.

12 MR. KOUTSOUMBIS: Thank you, all. Enjoy your holidays

13 MEMBER HERNANDEZ: Thank you.

14 SECRETARY WAGNER: You, too.

15 (WHEREUPON, this application was approved.)

1 SECRETARY WAGNER: Appeal number 21643, Gordon Jericho Corp.;
2 801 Willis Ave., Albertson; Section 9, Block 657, Lot 23; in the
3 Business-A and Residence-C Zoning District.

4 Conditional use of §70-208 to permit the continued use of the
5 premises for the storage and sale of the materials at retail and
6 wholesale.

7 CHAIRMAN MAMMINA: You heard --

8 MR. GLEASON: Good morning, Chairman --

9 CHAIRMAN MAMMINA: -- appeal number 21643, Gordon Jericho Corp.,
10 801 Willis Avenue in Albertson.

11 Is there anyone interested in the application other than the
12 applicant?

13 (WHEREUPON, there was no response.)

14 CHAIRMAN MAMMINA: Seeing no one.
15 Give your name and address.

16 MR. GLEASON: Good afternoon, Chairman, members the Board, my
17 name is Edward Gleason from Certilman, Balin, Adler & Hyman, 90
18 Merrick Avenue, 9th Floor, East Meadow, New York. My firm represents
19 Gordon Jericho Corp., the applicant and property owner at 801 Willis
20 Avenue. I'm here today to respectfully request an extension of our
21 conditional use 70-208 which permits the use of the property for the
22 storage of materials at the wholesale and retail level.

23 A bit of background on the property. The building and the
24 property has been used continuously for commercial purposes prior
25 to April 29th, 1922. As you're aware that's when the building zoning
26 ordinances of the Town of North Hempstead was in effect.

1 The property was most recently being used as a party supply and
2 paper goods store. Previous to that, it was the staging area for
3 the Northern State Parkway, prior to that, a plumbing store and prior
4 to that a gravel store. The building is in good repair. We've had
5 no complaints from the neighbors, and there are no complaints or
6 violations received by the town.

7 I'd like to point out that this is the 14th time this matter
8 has been before the Board. The previous 13 times, Lou Salite
9 (phonetic) was the -- standing before you, so --

10 CHAIRMAN MAMMINA: I remember him very well.

11 MR. GLEASON: Yes.

12 With that said, I respectfully request the extension of the
13 conditional use.

14 ATTORNEY ALGIOS: So I just have a question.

15 MR. GLEASON: Yes.

16 ATTORNEY ALGIOS: So I was looking at the historical
17 information for this appeal, and it looks like, originally, this came
18 to the Board as an appeal for determination and saying that this was
19 a preexisting nonconforming.

20 MR. GLEASON: Correct.

21 ATTORNEY ALGIOS: And it looks like it was granted.

22 MR. GLEASON: Not to my knowledge. Our last was from 2019, we
23 got --

24 ATTORNEY ALGIOS: No, prior --

25 SECRETARY WAGNER: No.

26 ATTORNEY ALGIOS: -- to that.

1 SECRETARY WAGNER: She's talking about the original appeal.

2 ATTORNEY ALGIOS: The original appeal, the first time.

3 MR. GLEASON: That, I'm unaware of. We've been, again, like
4 I said, we've been before the Board 13 times before.

5 ATTORNEY ALGIOS: Because there's a lot of confusion. At some
6 point, then, it seems like it converted to a conditional use, but
7 prior to that it seemed as though the Board was acknowledging that
8 it was preexisting nonconforming, and if that was the case, then I'm
9 not quite sure why there was a time limitation placed on it.

10 MR. GLEASON: And as in the previous 13 appearances, as well,
11 we've requested that it be continued in perpetuity but every time
12 it's been the five year extensions.

13 SECRETARY WAGNER: What we're saying is, we don't necessarily
14 think it's a conditional use under 70-208 --

15 MR. GLEASON: Mm-hmm.

16 SECRETARY WAGNER: 70-208 involves expansion of nonconforming
17 uses. So we're just questioning that.

18 (WHEREUPON, there was an off-the-record discussion.)

19 MEMBER DONATELLI: Have you completed your presentation?

20 MR. GLEASON: Yes.

21 MEMBER DONATELLI: Okay.

22 So as I review the record, I see that five years ago I had made
23 a motion to grant the application five years ago with the limitation.

24 I now make a motion that we grant the application without any
25 limitation.

26 CHAIRMAN MAMMINA: We have a motion by Member Donatelli.

1 Do we have a second?

2 MEMBER GOODSSELL: I'll second.

3 CHAIRMAN MAMMINA: Second by Member Goodsell.

4 Please poll the Board.

5 SECRETARY WAGNER: Member Hernandez?

6 MEMBER HERNANDEZ: Aye.

7 SECRETARY WAGNER: Member Donatelli?

8 MEMBER DONATELLI: Aye.

9 SECRETARY WAGNER: Member Goodsell?

10 MEMBER GOODSSELL: Aye.

11 SECRETARY WAGNER: Vice-Chairman Francis?

12 VICE-CHAIRMAN FRANCIS: Aye.

13 SECRETARY WAGNER: Chairman Mammina?

14 CHAIRMAN MAMMINA: Aye.

15 Application is granted without limitation.

16 MR. GLEASON: Thank you, very much. Happy holidays, everyone.

17 (WHEREUPON, this application was approved.)

1 SECRETARY WAGNER: Okay, appeal number 21645, LDC Consulting
2 and Development, LTD; 51 Kinkle Street in Westbury; Section 11, Block
3 75, Lot 69; in the Industrial-B Zoning District.

4 Variance from §70-103(A) (1) to construct interior alterations
5 to an existing industrial building for use as a wastewater receiving
6 and pretreatment facility with not enough parking.

7 CHAIRMAN MAMMINA: You heard appeal number 21645, LDC
8 Consulting and Development, Ltd.

9 Is there anyone in the room interested in the application other
10 than the applicant?

11 (WHEREUPON, there was no response.)

12 CHAIRMAN MAMMINA: Seeing no one.

13 Please give your name and address.

14 MR. CLAYTON: Lorenzo Clayton, 505 Alicia Drive, Westbury, New
15 York, it's been a while. I do have a previous variance that was
16 granted for parking that I'd like to hand up.

17 SECRETARY WAGNER: This will be Exhibit 1.

18 MR. CLAYTON: Yes, and the Board's had long day and ours is so
19 straightforward and so simple that we won't belabor the point more
20 than we have to, but it's an important project both in the service
21 that the operator provides as well as the fact that we are going to
22 now take an otherwise inactive parcel and make it active again. It
23 is minimal, almost de minimus causing no stress on the parking. It's
24 already, as you know, congested, very congested in that area. You
25 could not have a more ideal business where there's zero office space,
26 you know, and really, on the premises we have enough off-street

1 parking except for one spot. I know the last time in that area you
2 guys have only needed one spot. So I'm sure it's been a while.

3 VICE-CHAIRMAN FRANCIS: I don't remember.

4 MR. CLAYTON: Wow, look at that, precedent.

5 Okay, so with that said, I'm going to invite our traffic
6 specialist. I'll go through the criteria just because I know the
7 Board needs it.

8 Again, the owner cannot reasonably expect a return on his
9 property just because the area, I mean, I was there this morning,
10 and Urban Avenue is just unbelievable. I mean, it's -- you have to
11 wait, literally, sometimes trucks that have nowhere so they have to
12 stop for deliveries. I must have waited almost a good four or five
13 minute before I could get through. So this type of business will
14 enable the owner to realize a profit on his property.

15 The use is unique in that we don't really need much parking at
16 all, and again, it's state-of-the-art, what we're doing, in terms
17 of handling water, wastewater treatment, you know, in a very
18 responsible way. The use is so transient that when the trucks come
19 in everything's interior, so it's all inside of the premises.

20 ATTORNEY ALGIOS: Mr. Clayton?

21 MR. CLAYTON: Yes.

22 ATTORNEY ALGIOS: So this is not a use variance.

23 MR. CLAYTON: No.

24 ATTORNEY ALGIOS: This is a parking variance.

25 MR. CLAYTON: Yeah, yeah, I'm sorry.

26 ATTORNEY ALGIOS: You don't even have to go into --

1 MR. CLAYTON: Okay, all right, all right, all right.

2 SECRETARY WAGNER: Don't scare us, it's at the end of the day.

3 MR. CLAYTON: Sorry, it's not -- it's not -- it's not -- again,
4 it's minimal stress. It's not really self-created because this is
5 the nature of where this project is, and again, I'll have the traffic
6 expert, if he hasn't left.

7 MEMBER DONATELLI: He's on the groom's side not on the bride's
8 side.

9 MR. MACHTAY: I like to move around where I'm sitting in the
10 back. Sometimes it's way back, I try to get around.

11 For the record, Aaron Machtay with VHB Engineering, offices at
12 Motor Parkway in Hauppauge, New York.

13 So we did prepare a parking traffic study which was submitted
14 to your attention. I'll do my best to briefly summarize.

15 The most important thing with consideration to parking is noting
16 the area where this site is located. Kinkle Street is in the middle
17 of what may be the most industrial area of the town, certainly, of
18 Westbury, and is filled with uses that are very similar in character
19 to this, not just in terms of the industrial nature, but in terms
20 of the way that we handle traffic and parking. Very few have a
21 substantial amount of onsite parking available. You sort of go ad
22 hoc where they park where they can park or they park on the streets.
23 This is something that I think we expect to happen for this particular
24 application.

25 With respect to that, in terms of understanding what the parking
26 and traffic activity will be for this type of use, there's no, my

1 IT man, who works for a transfer station, as you might imagine, so
2 we're sort of relying on the description of the activities that the
3 operator provided him. To that end, what he told me is that, we
4 expect no more than three employees, there are two spaces onsite.
5 So the general infiltration for into the on-street areas will only
6 be one individual.

7 Obviously, there's a high level of congestion in this area. As
8 I said, the other uses similar to this one rely somewhat on the
9 on-street areas, but I think it's pretty easy to fit that one
10 additional car as necessary.

11 Regarding other activities, the truck uses, in particular, are
12 scheduled. So what that means is they may have, I believe he said
13 as many as five in an hour but never more than one or two at a time,
14 and that's important because with two loading zones, you need to be
15 able to enter the site and exit the site without creating a back up,
16 and if there was a third vehicle coming that would create a situation
17 where the backups may occur and it may infiltrate out into the street.
18 That won't happen because they schedule these deliveries, they
19 schedule these activities, and they're able to do so on a pretty
20 stringent-type basis.

21 The other thing that's important that he told me about is the
22 loading activities, is that in addition to being very transient,
23 they're also not -- they don't take very long. So the trucks may
24 only be on the site for a few minutes at a time to dump their loads
25 and then park.

26 To that end, this site is pretty ideal for that type of use,

1 you know, if not here, where? The fact of the matter is is that the
2 area, again, is industrial in nature. Obviously, it is very dense,
3 very congested, but that's sort of the idea of this area. It keeps
4 this type of activity away from other areas while it's still necessary
5 for these types of uses to be provided.

6 So with that in mind, just based on the description of the
7 activities that's been provided to me, I think that this site is
8 pretty much ideal for it. I think that, it's my opinion, that the
9 parking variance should be granted, that the infiltration of parking
10 into the on-street areas would be, pretty much, de minimus, and the
11 truck activity can be accommodated by the site and by the surrounding
12 roadway in that area, and as always, I'm happy to answer any
13 questions.

14 MR. CLAYTON: While the Board's -- I'm sorry. While the Board
15 is reviewing it's paperwork, I also -- we do have consents also from
16 some of the adjoining property owners. I'll hand those up.

17 MEMBER DONATELLI: I'll just note for the record that it is
18 zoned Industrial-B.

19 MR. CLAYTON: Yes.

20 (WHEREUPON, there was an off-the-record discussion.)

21 MR. CLAYTON: I highlighted it. You'll see one at Cambridge
22 Road and 67 Sylvester.

23 SECRETARY WAGNER: Right, got it.

24 MEMBER GOODSSELL: Honestly, everybody there parks on top of
25 everybody else. It's just the way it is.

26 MR. CLAYTON: Right.

1 MEMBER GOODSSELL: It's the wild west.

2 MR. CLAYTON: Yeah, any other business would require a whole
3 lot more parking, you know, so this is actually a blessing.

4 VICE-CHAIRMAN FRANCIS: Can we go off the record for a minute?

5 (WHEREUPON, there was an off-the-record discussion.)

6 ATTORNEY ALGIOS: All right, we're back on the record.

7 MR. CLAYTON: And then we do want to get a statement on the
8 record from Viviana Russell.

9 MS. RUSSELL: Good afternoon, Board, and good to see familiar
10 faces.

11 VICE-CHAIRMAN FRANCIS: Good to see you.

12 MS. RUSSELL I do have a statement here I prepared, and I'll
13 hand it up.

14 COURT REPORTER: Could you just introduce yourself; please?

15 MS. RUSSELL: I'm sorry.

16 My name is Viviana Russell, Westbury, New York.

17 COURT REPORTER: Thank you.

18 MS. RUSSELL: I have a copy. I did not make copies for the
19 entire Board.

20 ATTORNEY ALGIOS: This is Exhibit 3. This is your statement?

21 MS. RUSSELL: Yes.

22 So as many of you know, I'm a former Councilwoman here in the
23 Town of North Hempstead where Westbury/New Cassel was my district,
24 and so I'm here in support of the applicant for his request for a
25 variance.

26 This is the least intrusive type of business for this area, and

1 not only do I have a vested interest, as a former Councilmember, but
2 I'm also a resident that's within a half mile radius of this facility.
3 So your concerns that you mentioned earlier are my concerns, as well.

4 Mildred Little, who was my mentor, convinced me to get involved
5 in the community. That involvement meant both the residential and
6 the commercial areas of the Westbury/New Cassel area, and this type
7 of business not only is designed to not be intrusive on the community,
8 but it's also designed in an environmentally friendly way.

9 Many of the codes that we have in Industrial-B for the Town of
10 North Hempstead, many of them I helped to rewrite, putting
11 performance standards in place, and my job here, for my client, as
12 well as for my community, is to ensure that any businesses that come
13 into the community abide by those standards, and I can say that this
14 is a client that does.

15 So that's just -- I didn't read the entire thing, but you have
16 the gist of it there, and so I lend my support to this application,
17 and I am asking for your consideration to be favorable.

18 VICE-CHAIRMAN FRANCIS: Thank you.

19 MEMBER HERNANDEZ: Thank you.

20 CHAIRMAN MAMMINA: And your statement is part of the record now.

21 MS. RUSSELL: Yes.

22 MR. CLAYTON: Any other questions?

23 VICE-CHAIRMAN FRANCIS: As I kind of indicated before, I'm a
24 resident of New Cassel, as is Ms. Russell, and I totally agree that
25 this is the least intrusive application for this particular area of
26 New Cassel.

1 So with that said, I would move that we grant the application.

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

3 Do I have a second?

4 MEMBER DONATELLI: Second.

5 MEMBER HERNANDEZ: Second.

6 MEMBER DONATELLI: Oh, sorry, go for it.

7 CHAIRMAN MAMMINA: I think Member Hernandez beat you to that
8 one.

9 Please poll the Board.

10 SECRETARY WAGNER: Member Goodsell?

11 MEMBER GOODSSELL: Aye.

12 SECRETARY WAGNER: Member Donatelli?

13 MEMBER DONATELLI: Aye.

14 SECRETARY WAGNER: Member Hernandez?

15 MEMBER HERNANDEZ: Aye.

16 SECRETARY WAGNER: Vice-Chairman Francis?

17 VICE-CHAIRMAN FRANCIS: Aye.

18 SECRETARY WAGNER: Chairman Mammina?

19 CHAIRMAN MAMMINA: Aye.

20 Application is granted

21 MS. RUSSELL: Thank you.

22 MR. CLAYTON: Thank you, very much. Happy holidays.

23 (WHEREUPON, this application was approved.)

1 SECRETARY WAGNER: Does somebody want to move to approve SEQR,
2 S-E-Q-R?

3 VICE-CHAIRMAN FRANCIS: I'll move.

4 SECRETARY WAGNER: Les moved it.
5 Somebody second?

6 MEMBER HERNANDEZ: Second.

7 SECRETARY WAGNER: All in favor?

8 (WHEREUPON, there was a unanimous, affirmative vote of the Board
9 members present.)

10 SECRETARY WAGNER: The SEQR's approved.

11 (WHEREUPON, this meeting was concluded at 4:10 p.m.)

C E R T I F I C A T E

STATE OF NEW YORK)

SS:

COUNTY OF NASSAU)

I, DEBBIE BABINO, a certified Shorthand Reporter in the State of New York, do hereby certify:

That the foregoing is a true and accurate transcript of my stenographic notes.

IN WITNESS WHEREOF, I have set my hand on this 15th day of January, 2025.

A handwritten signature in dark ink, appearing to read 'Debbie Babino', with a long, sweeping horizontal stroke extending to the right.

Debbie Babino, Certified Reporter