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Town of North Hempstead
Board of Zoning Appeals
PUBLIC HEARINGS

Wednesday, March 19, 2025
10:00 a.m.

Board MEMBERS PRESENT:

- David Mammina, Chairman
- Leslie Francis, Member
- Patricia Goodsell, Member
- Daniel Donatelli, Member
- Jay Hernandez, Member

ALSO PRESENT:

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

1 CHAIRMAN MAMMINA: Good morning, I'll give my little
2 speech about iPhones, iPads, or anything else that might make noise.
3 Just turn off the beeper or volume or whatever. If you need to make
4 a phone call, see or take a phone call, see a message that you want
5 to respond to, stretch your legs, use the ladies' room or men's or
6 whatever, absolutely fine. Just stand up, come on over, walk out
7 into the hallway. That's fine. If there's anybody who's going to
8 be joining you, and they're not here yet, just please tell them that
9 same thing.

10 We're a quasi-judicial proceeding, and so we a young lady who
11 takes all of your transcription, and that way she can hear, we can
12 hear. Sometimes, we have to control ourselves about cross-talking,
13 but that's just really how it goes.

14 Just getting our computers set up here. The days of paper are
15 gone. What a great world?

16 MEMBER GOODSSELL: Oh, it's wonderful.

17 CHAIRMAN MAMMINA: I'll give a little bit of an introduction.
18 What I like to say is, first of all, is that we'll ask anyone who's
19 never been a zoning Board, anyone might have been before another
20 zoning Board, or anyone been here a bunch of times, just stay relaxed,
21 and then we'll come up on when we call and you'll give your name and
22 address to the stenographer. And at that point then the -- I will
23 call the case. And we'll just ask again that you come on up, be
24 relaxed, and pretend we're just talking across. I know that can be
25 difficult if you're not used to doing this.

26 After the case is called, you'll give your name and address to

1 the stenographer, and we will -- you then own the microphone. It's
2 yours. You put your case onto the record. The Board asks whatever
3 questions that we would like to ask. You have the ability to respond
4 to those. I left this out that when I call the case, I'll ask if
5 there's anyone in the room who's interested in the case, so then we'll
6 see their hands, and then we'll know that there are other people who
7 wish to speak regarding the application.

8 Once you put your presentation on and the Board has asked
9 whatever questions it's going to ask, and if there's no one else who
10 wishes to speak, then at that point, the Board will do one of four
11 things. We will either approve the application. We will disapprove
12 the application. We would reserve the application.

13 Reserving means, we don't need any other information from you.
14 The Board's not looking for any other information from the Building
15 Department or whatever the information that you may need. That we
16 may asking for do you have a survey of the property, you know, from
17 when you bought the house 25 years ago. Can you give us a closing
18 document? Is there some sort of a quote from a contractor? So we're
19 gonna continue in order to give you the ability to bring forward.

20 We're also going to reserve that application, and then when we
21 reserve the application means we have all the information that we
22 need. You provided all the information that we need, and we're not
23 looking for anything further. There are no second hearings, so you
24 don't have to come back.

25 As we just said, we've been doing it now, it is live-streamed,
26 so you can watch it from home. You're certainly welcome to come on

1 back to hear the Board deliberate. We deliberate in person, and the
2 live stream is considered being in person, so you can watch and hear.
3 There is no testimony at that point. There is no back and forth,
4 but you get to hear what the Board has to say.

5 Les, have I left anything else out?

6 VICE CHAIRMAN FRANCIS: I don't think so.

7 CHAIRMAN MAMMINA: I think with all of that said -- oh, like
8 I said, if anybody else is coming that you please tell them the same
9 thing in terms of phones or iPads or whatever it might be.

10 DEPUTY TOWN ATTORNEY ALGIOS: You can do the prelim, but can't
11 start yet.

12 CHAIRMAN MAMMINA: We have a three-minute limit on anyone else
13 who wishes to speak, either for or against an application. The
14 applicant has all time that they need to put their application onto
15 the record, so if people wish to speak against or for, we limit that
16 to three minutes, but I like to say, we're not chopping anybody head's
17 off, you know, at the end of the three minutes. We just like to keep
18 some order within the hearing. And the other thing that we ask is
19 that if you're here to speak for or against an application, that if
20 somebody says the school buses come that way in the morning, and I'm
21 concerned about the view that they're going to have 'cause of some
22 bushes. You needn't put it on the record again if somebody comes,
23 but you can say, I agree with the person that spoke about the school
24 buses and the visibility, and then it's on the record. What I like
25 to say is if something is on the record 25 times and it's the same
26 thing, it doesn't make it any stronger.

1 I think now that does it. As our counsel said, we can do the
2 Pledge of Allegiance. So Vice Chairman, please.

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

4 CHAIRMAN MAMMINA: We can't call the first case as of yet, so
5 I'll just add one other thing on there that I don't usually do, but
6 one of the things that I think besides the villages and these boards,
7 is that everybody is in town. We understand the way things work.
8 We have people here who are from generally, not the villages, but
9 it doesn't prelude anyone from the village to be here. They also
10 have to be made aware. We try to keep it very personal in that way.
11 We all pay lots of taxes, and we get that, so we try to be fair as
12 we possibly can be.

13 SECRETARY WAGNER: We're just waiting for the live stream to
14 start. Chairman, take it away.

15 CHAIRMAN MAMMINA: Just for the record, in an effort to save
16 some time, the Board has gone through some of the typical procedures
17 about turning off your phones, and the way people get called up. The
18 applicant gets called up first. Everybody gives their name and
19 address. Applicant puts onto the record their case. If there is
20 anybody who wishes to speak 'cause we ask for that show of hands in
21 the beginning, then they'll have the opportunity to speak after that.
22 The applicant and only the applicant speaks two times. We have a
23 three-minute limit on anyone who wishes to speak in support or in
24 opposition. As I like to say, we're not gonna chop your hand off
25 at the end of three minutes, but we try to keep repeat testimony to
26 a minimum. The example I gave is if somebody says that the bus at

1 the corner is gonna be a hazard. Well, then somebody else agrees,
2 all they need to do is stand up and say I agree that the bus at the
3 corner is gonna be a hazard. So I think that covers enough.

4 Secretary Wagner will call the case, and I will then repeat the
5 case, and ask if there's anyone who has interest in the case.

6 SECRETARY WAGNER: Chairman, we have one modification to the
7 calendar. Appeal #21661, Paul Friedman; 8 Old Hills Lane and 37
8 Bogart Avenue, Port Washington; Section 6, Block 83, Lot 4 and Section
9 6, Block 83, Lot 15; Zoned: Residence-A.

10 Variance from 70-202.1(C) to legalize a retaining wall that is
11 too tall; is adjourned to April 2nd.

12 CHAIRMAN MAMMINA: If you are here for the 21661, that is
13 adjourned until April 2nd. You are certainly able to stay and, you
14 know, hear a case or two if you would like to, and if not, then you
15 get out of school early today.

16 With that said, we have no other modifications. Please call
17 the first case.

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1 SECRETARY WAGNER: Appeal #21677, Kristin DiStefano; 60 Irma
2 Avenue, Port Washington; Section 5, Block 18, Lot 141; Zoned:
3 Residence-C.

4 Variances 70-50.C to construct additions that would be too close
5 to the street.

6 CHAIRMAN MAMMINA: You heard #21677, Kristin DiStefano. Is
7 there anyone in the room interested in the application other than
8 the applicant? Seeing no one, please give your name and address.

9 MR. HIGGINS: My name is Donald Higgins. I'm an attorney with
10 the offices at 76 Hillside Avenue, Manhasset, New York.

11 Good morning, Mr. Chairman, Members of the Board.

12 CHAIRMAN MAMMINA: Good to see you, Mr. Higgins.

13 MR. HIGGINS: Thank you. I represent Kristin DiStefano, who
14 is here with me today, together with her dad, Anthony DiStefano.
15 Anthony is the general contractor on the home improvement project
16 we're here to speak about.

17 Kristin owns and lives at 60 Irma Avenue. She lives there with
18 her husband and their young child. We're here because we are
19 attempting to expand the second floor of the house. It was a
20 renovation that was undertaken as the contractor opened the existing
21 doghouse dormers, he found that they were full of rot and insects.
22 At that point, the decision was made to go up and have a full second
23 floor, and that way, when the house was finished, they have
24 approximately 1700 square feet of living area, which certainly is
25 a reasonable amount.

26 We're here because the front yard -- the existing front yard

1 was established in anyone 1945 when the house was built, and the
2 proposed second-floor addition covers only the existing house, so
3 that decision will be no closer to the street than the first floor.

4 Our existing front yard depth is 20.3 feet, and when the
5 surveyor analyzed the front yard depths of the ten homes on the same
6 side of the street, his conclusion it was 20.2. So we're slightly
7 above the average, and I note when I looked at those ten front yards,
8 six of the front yards are less than ours.

9 So what we're proposing is really not changing anything. The
10 front yard setback we have now, will be the same front yard setback
11 when the second floor is finished, and it will allow this young family
12 to have a reasonable amount of living area.

13 Just on the legal criteria for the moment. Will the proposed
14 variance propose an undesirable change to the neighborhood? In this
15 case, it's residential to residential, and the setbacks are not
16 changing, so there's no undesirable change.

17 Whether the benefit sort by applicant can be achieved by other
18 feasible means? We have no other way to do it other than to live
19 with the existing setback that we have.

20 Whether the benefit sort by the applicant is substantial? It's
21 certainly not substantial. Again, we're just continuing the front
22 yard that already exists.

23 Whether the requested application will have any environmental
24 concerns? Not the case here. We're just slightly expanding the
25 existing residential use.

26 And the final issue is, whether it's self-created? Well, we

1 didn't create it. We bought the house, and we're kind of stuck with
2 the front yard setback of this home. We can't change that.

3 With those thoughts in mind, I would respectfully request that
4 the Board grant an area variance of the front yard to allow us to
5 complete the second-floor addition. Once again, it will be no closer
6 than the existing front yard of the first floor.

7 VICE CHAIRMAN FRANCIS: Based on the plans, it looks like it
8 gonna be similar in height to the house right to the right of you.
9 Looking at the house from the street.

10 MR. HIGGINS: That's correct, sir.

11 VICE CHAIRMAN FRANCIS: It's a straight-up second-floor
12 addition, so it's not coming any further.

13 MR. HIGGINS: No, it's no closer to the road. It is, in
14 fact -- I drove by, it's straight up, yes.

15 MEMBER GOODSSELL: Mr. Higgins, I notice the house is covered
16 with blue tieback. I take it that this damage was discovered, and
17 what I'm seeing at the house, this is the house is originally built.
18 When was the decision made to change the plans?

19 MR. HIGGINS: I think the decision was made the day the
20 contractor was there and was ripping off the existing doghouse
21 dormers. I questioned him on this, and he said he was concerned about
22 rain, and he figured since he had the men there, he would frame it
23 up, and quite frankly, there was no appreciation that a variance was
24 necessary. The thinking was as long I'm no closer to the road, it
25 didn't occur to them that it would be necessary to come before you
26 folks.

1 MEMBER GOODSSELL: I think that's a common misconception.

2 MR. HIGGINS: Yes.

3 MEMBER GOODSSELL: So what I'm seeing is actually the facade that
4 the applicant is asking for?

5 MR. HIGGINS: That's correct.

6 MEMBER DONATELLI: Any other Members have questions?

7 MEMBER HERNANDEZ: No.

8 MEMBER DONATELLI: I'm very familiar with Irma Avenue, and of
9 course, it is one of those old streets that do exist in Port
10 Washington, and while I was not born in 1945, I can attest that many
11 of the houses there do predate the current code. In light of the
12 fact that we're coming no closer. We're merely building up on the
13 existing footprint of the house; I make a motion that we grant the
14 application.

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

16 MEMBER GOODSSELL: I will second.

17 CHAIRMAN MAMMINA: Second from Member Goodsell. Please poll
18 the Board.

19 SECRETARY WAGNER: Member Hernandez?

20 MEMBER HERNANDEZ: Aye.

21 SECRETARY WAGNER: Member Goodsell?

22 MEMBER GOODSSELL: Aye.

23 SECRETARY WAGNER: Member Donatelli?

24 MEMBER DONATELLI: Aye.

25 SECRETARY WAGNER: Vice Chairman Francis?

26 VICE CHAIRMAN FRANCIS: Aye.

1 SECRETARY WAGNER: Chairman Mammina?

2 CHAIRMAN MAMMINA: Aye. Application is granted.

3 MR. HIGGINS: Thank you very much. Appreciate your attention.

4 VICE CHAIRMAN FRANCIS: Have a great day.

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8 SECRETARY WAGNER: Next Appeal #21678, John Maura; 40 Orchard
9 Farm Road, Port Washington; Section 6, Block 82, Lot 22; Zoned:
10 Residence-A.

11 Variance from 70-100.2(K) to legalize a generator that is too
12 far away from a house.

13 CHAIRMAN MAMMINA: You heard Appeal #21678, John Maura. Is
14 there anyone in the room interested in the application other than
15 the applicant? Seeing no one, please give your name and address.

16 MR. ALBERTO: Good morning. Don Alberto, architect. 68
17 Hyland Avenue, Port Washington. Good morning, Chairman and Board
18 Members.

19 CHAIRMAN MAMMINA: Good morning.

20 MR. ALBERTO: I'm here with the owner of 40 Orchard Farm Road,
21 John Maura. He's here as well. We're here to maintain a generator
22 that is further than 5 feet from the house. Now, John Maura has been
23 living here 37 years. He's actually second generation of three
24 generations of contractors in Port Washington that go back 85 years.
25 He's one of the original founders of North Hempstead Contractors
26 Association. I bring this up because John knows the importance of

1 getting permits and playing by the rules. And he didn't -- tried
2 to play by the rules because of this one little mishap that happened.

3 In 2018, he filed for his -- plumber and electrician filed for
4 a generator in the rear yard of the property. The permit of was
5 approved, and both his agent and the Town Planning Examiner didn't
6 pick up that there was a code change a few years prior that says
7 generators must be no more than 5 feet from a house, and in this 30
8 some odd. When he was going to close permits on his house -- I have
9 done work on this. We started closing permits, and the town got the
10 survey and said, wait a minute. This doesn't look right. The permit
11 was issued in error.

12 I'm going to walk you through -- I have some documents. I have
13 eight copies.

14 SECRETARY WAGNER: Thank you. This will be Exhibit 1.

15 MR. ALBERTO: And I'll walk through each item. I think it will
16 explain the story, and then I'll sum with the standards.

17 So on the first page is the notice of disapproval, and I
18 highlighted at the very bottom of the notice. "The subject
19 application was approved on June 28, 2018, and issued a permit. This
20 approval was in error. The site code was adopted by the Town Board
21 in Local Law 19214 on December 9, 2014, and was in effect at the time
22 this application was approved and permit was issued." So some three
23 years prior, there was a code change.

24 If you turn the page, you'll see the survey. That's the present
25 survey and I highlighted the generator. It's in the southeast
26 corner. It's 8 and 7.2 feet from the property line.

1 If you go to the next page, I did provide a copy of the approved
2 site plan from 2018. The prior code was no more than 5 feet -- no
3 less than 5 feet from the property line, so that was the survey.
4 There was a site plan issued as described in error.

5 The next two page is the actual permit. That was approved in
6 2018, and then finally, we get to the photos, and this tell the whole
7 story. You can see the generator. In fact, in the upper left-hand
8 corner of the photo page, you'll see the generator and you'll see
9 behind a 6-foot solid fence. There's a pool on the property, so
10 there's a 6-foot fence with a permit, and there's a garage, so the
11 generator is very well screened from the neighbor that's to the east.

12 If you look at the top right photo, you see the generator, you'll
13 see another 6 foot solid fence on the rear and a solid line of
14 screening, landscape screening. I think on the bottom left -- it's
15 a little hard to tell, but the property slopes, so the generator is
16 at a low point kind of in a gully. So it's very well landscaped and
17 hidden from the neighbors.

18 The following page is an aerial view.

19 VICE CHAIRMAN FRANCIS: What's the fuel source for the
20 generator.

21 MR. ALBERTO: Gas. Natural -- street gas.

22 VICE CHAIRMAN FRANCIS: So there's a gas line running how far
23 from the house to the generator?

24 MR. ALBERTO: It's underground, all the -- how far is it from
25 the -- it's about 30 -- they cite that in the disapproval. It's
26 36 feet from the house to the -- and then the next page after the

1 photos, you'll see -- I actually had to draw in pencil to highlight
2 the property line to the building, but you can see the generator.
3 You can see the garage that blocks it, and the nearest house behind
4 is a -- Lot 50, is about 55 feet from the generator.

5 I'm gonna go through the five standards quickly. Is there
6 undesirable change to the neighborhood? Well, the generator is in
7 the rear yard, so no one in the street is affected. It's well shield
8 on all sides by landscaping, fencing, and garage, and it's a low
9 elevation, so we don't think it's any undesirable change to the
10 neighborhood because of it.

11 Can the benefit be achieved by some other method? Well, if you
12 look at that survey again of existing conditions, there's a deck in
13 the back of the house, so you can't put it anywhere near the deck.
14 I also provided on the very last page of photo, the back of the house
15 and you'll see there are window, and there's building code that says
16 you can't put a generator closer than 5 feet to a window because of
17 exhaust. He can't put this generator in the rear of his house. On
18 the east side, I have a photo of a walkway that would be obstructed
19 if the generator was there. On the west side, there's an
20 air-condition unit and the windows. He would of had no other -- he
21 can't comply with code, so there really is no other option. Had he
22 come here in the beginning, I think the Board would of understood
23 he has no choice but to locate this somewhere other than 5 feet, and
24 I think the place it was put is probably the best place for least
25 impact. We don't believe there's any other method or benefit to
26 achieve this variance.

1 Is it substantial? If it is substantial, we think it's well
2 remediated by where it is and all the items around it.

3 Is there any environmental impact? No.

4 Is it self-created? Well, he did file a permit, and should get
5 some credit for that, but as you know that standard shouldn't be the
6 sole reason for evaluating. We think when you look at the whole
7 picture, it's a good application.

8 I do have two consent from two neighbors as well.

9 MEMBER GOODSELL: Is one of those neighbors be the neighbor to
10 the -- has the greatest impact? The neighbor who owns the garage
11 next to where the generator is.

12 MR. ALBERTO: No, that is not. I think the neighbor to the
13 west. It's not that neighbor.

14 MEMBER GOODSELL: Okay.

15 MR. ALBERTO: But it's been there --

16 SECRETARY WAGNER: Consents will be Exhibit 2.

17 MR. ALBERTO: Thank you. It's been there since 2018 without
18 complaint.

19 MEMBER DONATELLI: And that was gonna be one of my questions.
20 Have there been any complaints to your knowledge?

21 MR. ALBERTO: Mr. Maura can you come up? I think I'd like Mr.
22 Maura to -- have any of the -- name and address first.

23 MR. MAURA: John Maura, 40 Orchard Farm Road, Port Washington.

24 MR. ALBERTO: Has anyone complained --

25 MR. MAURA: Has anyone complained?

26 MEMBER DONATELLI: Yeah, to your knowledge.

1 MR. MAURA: To my knowledge, no. They complaining about the
2 dogs.

3 MEMBER GOODSELL: One of the reasons we have a rule about where
4 the generators should go is so that it's quiet for you, but your
5 neighbors hear it, so we have now got rules about where the generator
6 goes. What they're asking -- what we're asking is, did any of your
7 neighbors come to you and say, you know that's really noisy.

8 MR. MAURA: No, and I haven't complained about there's.

9 MEMBER DONATELLI: I notice on the photograph that much of the
10 back yard is tiled, and I believe there's a swimming pool there.

11 MR. MAURA: There's a swimming pool. I -- correct.

12 MEMBER DONATELLI: I imagine that if you had to move the
13 generator, you would have to rip up many of the tiles and rerun the
14 gaslines; is that correct?

15 MR. MAURA: Correct.

16 MEMBER DONATELLI: Do we know approximately what the cost might
17 be to relocate the generator?

18 MR. MAURA: No, I'd just be guessimating.

19 MEMBER DONATELLI: Are you able to estimate?

20 MR. MAURA: But I'm gonna say at least 50-grand.

21 MEMBER DONATELLI: \$50,000?

22 MR. MAURA: Because you got to dig everything up. Can I speak
23 freely, though? I started this project, my wife calls it the
24 five-year project from the beginning, and it was. Because I have
25 wires in the back of the house with -- for 40 houses that go behind
26 my house.

1 MEMBER GOODSSELL: Come a little closer to the microphone.

2 MR. MAURA: There's a electric system with 40 houses on it,
3 okay, which runs in the back yard two properties. Mine divides the
4 property line. So when we first moved up there, we found that we're
5 the first to go out on the storm, and the last to put back on because
6 there not enough houses anywhere. So everybody else put generators
7 in, but I unfortunately couldn't because I was young. We just bought
8 the house. It's 37 years ago. I started this project 2014. I had
9 get to Lilco at the time to raise the wires up, put a new poll,
10 transformer on the pole back there, and then we designed the lot with
11 my landscaping architect, New York State licensee, who accordingly
12 could go right there because the pole was there, and the transformer
13 is on the pole, so we go down, and we a have a short run to underground
14 from the pole to the generator, then goes under the ground to the
15 house, which is -- everything was in the back corner of the house
16 too, so now we designed the rest of the yard. The pool's in. The
17 masonry is all in. The decks are out, so.

18 MEMBER GOODSSELL: So that's why it would be more expensive to
19 move the generator.

20 MR. MAURA: Yes.

21 MEMBER GOODSSELL: You already made a lot of other improvements.

22 MR. MAURA: And the reason we filed this late 'cause at the time
23 when it was still going on, it's the pandemic, and I didn't -- we
24 just didn't get around to closing the permits, so I would have known
25 about this sooner, too, but short story. It's -- worse scenario,
26 if I got to do what I got to do. Just take it out. Abandon it, and

1 come back in the old way. Thank you.

2 CHAIRMAN MAMMINA: I think also -- if I could. I know what the
3 ordinate says, and the ordinate as I've always understood it, says
4 they want it in that area close to the house because they don't want
5 to have any environmental or noise imposition on the neighbor next
6 door, and while we do look at these carefully, my opinion is that
7 the garage to the neighbor next door blocks any noise from it. The
8 one neighbor who talks about the distance from where that generator
9 is to their house, which I believe is 55 feet, and then your back
10 yard would be the only thing that is affected by it. The generator
11 doesn't run constantly. It has to be tested for short period of time,
12 and I don't know how long you do it, but it's just a test to see if
13 it's still working, and in the event in the power outage there, you
14 might be the lucky one that your neighbors are coming to say, hey,
15 can I plug something in over here. I understand both sides. I
16 understand the ordinates, and I understand how the location happened.
17 When you started the process, when the law changed. So in defense
18 of the Building Department and your contractor, almost coincidental.
19 I'm familiar with the -- having to raise the power lines because at
20 my house, the power lines go through the back esthetically, which
21 is much nicer than having them out in the street, so that takes time.
22 Also, to get that done. So it just to me seems like a series of
23 circumstances that kind of got you on this one, but it is mitigated.

24 MEMBER DONATELLI: I would also indicate for the record, and
25 it's indicated in your notice of disapproval that when you did get
26 the original approval, it was granted in error, and so while that

1 is -- certainly, we understand how it may come about, it's
2 unfortunate, but I'm very familiar with the area. I live around the
3 block, and I will tell you that you're fortunate to live in an area
4 that some many tress. The downside of that is, of course, when you
5 get a windstorm, we all lose electricity. So having said that, if
6 the other Members of the Board have no other questions, I do believe
7 that it's probably a reasonable assumption to say that it would cost
8 about \$50,000 to relocate the generator. As I weigh the five factors
9 and especially with the mitigation of sound, detonated material
10 around the generator, and also the location of the garage next door,
11 and giving the cost to relocate the Getah, I make a motion that we
12 grant the application.

13 CHAIRMAN MAMMINA: We have a motion from Member Donatelli. Do
14 we have a second?

15 MEMBER HERNANDEZ: Second.

16 CHAIRMAN MAMMINA: Second by Member Hernandez. Please poll
17 the Board.

18 SECRETARY WAGNER: Member Goodsell?

19 MEMBER GOODSSELL: Aye.

20 SECRETARY WAGNER: Member Donatelli?

21 MEMBER DONATELLI: Aye.

22 SECRETARY WAGNER: Member Hernandez?

23 MEMBER HERNANDEZ: Aye.

24 SECRETARY WAGNER: Vice Chairman Francis?

1 VICE CHAIRMAN FRANCIS: Aye.

2 SECRETARY WAGNER: Chairman Mammina?

3 CHAIRMAN MAMMINA: Aye. Application is granted.

4 MR. MAURA: Thank you.

5 MR. ALBERTO: Thank you.

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9 SECRETARY WAGNER: Next appeal, Appeal #21679, Amad Mirza; 1
10 Hilltop Road, Searingtown; Section 7, Block 151, Lot 14; Zoned:
11 Residence-A.

12 Variance from 70-102.C(1) to construct a deck in a front and
13 side yard, and a pool in a side yard.

14 CHAIRMAN MAMMINA: You heard Appeal #21679, Amad Mirza. Is
15 there anyone in the room interested in the application other than
16 the applicant? Seeing no one, please give your name.

17 MR. MONTAG: Just want to enter a medical letter.

18 MR. PERROTTA: This will be Exhibit 1.

19 CHAIRMAN MAMMINA: Good to see you.

20 MR. MONTAG: Good to see you.

21 CHAIRMAN MAMMINA: It's been a long time.

22 MR. MONTAG: And Don Alberto, who was my first professor. It
23 was good to see him.

24 CHAIRMAN MAMMINA: There you go.

25 MR. MONTAG: And anything I say wrong, blame Alberto.

26 CHAIRMAN MAMMINA: That's right. He did say you were sleeping

1 a lot.

2 MR. MONTAG: He was a good professor, I have to tell you.
3 Really, you know, 'cause he was a working architect, who really
4 understood, not a textbook guy.

5 Good morning, Members of the Board and Chairman Mammina. My
6 name is Arnold Montag, architect, and my client is Samina and Amad
7 Mirza, right here, the owners of 1 Hilltop Road in Albertson. I was
8 about to say in the Town of North Hempstead, but you guys know that.

9 We're here seeking variances, and it's really a minor case. The
10 premises is the southwest corner of Hilltop in Searingtown Road.
11 It's an RA-Residential District. It's an oversized lot because you
12 only require 8,500 square feet, and we have 12,480 square feet;
13 however, the issue here is when the home was built in 1949, it was
14 a variance case back then. So it has an undersized rear yard. The
15 home was pushed back from the street approximately 45 feet on
16 Searingtown Road, and also, 35 feet along Hilltop Road.

17 What we're seeking a variance for is for the front yard of the
18 deck. Now, if this was only a deck being constructed, we would actual
19 be permitted the 5 foot encroachment into the front yard, where we
20 already have an additional 18 inches beyond the minimum required 43
21 for the average front yard setback; however, because there's a swim
22 spa that Amad needs for medical reasons, which I fully understand
23 as someone who's had two back surgeries on L4/L5 disc, I live by the
24 hydrotherapy, so swimming -- there are day, I cannot get out of bed
25 and getting into a pool and a hot tub, it's a lifesaver. I really
26 understand what he's going through.

1 In this case, because the swim spa is attached to the deck, it
2 has created that we cannot use that 5-foot permitted encroachment,
3 and therefore, we are the now encroaching 3.5 feet with into the
4 required front yard setback. The outdoor pool states that no
5 swimming pool shall be installed or maintained as authorized in the
6 proceeding subsections and such pool shall be installed in the rear
7 yard of the premises. A pool and deck shall only be in the rear yard.
8 So in this case, the pool is not in the front yard, but it's physically
9 attached to the deck.

10 The existing property, again, is a corner property, so
11 therefore, it requires two front yards. There's the primary yard
12 and the secondary yard. The primary is on Searington Road, and we
13 are encroaching; however, there's a living fence along the entire
14 Searington Road. There's coniferous trees running even along his
15 property line between himself and the south neighbor. So the swim
16 spa pool will definitely be well-screened and not create any
17 hardships.

18 It's definitely not any adverse effect on the adjacent neighbor.
19 Again, they won't be able to see it. Mr. Mirza has some photos of
20 all the screening, if you guys would like to see if the Board wants
21 to understand that the neighbor will not be able to see the swim spa
22 at all.

23 MR. PERROTTA: Thank you.

24 MEMBER GOODSELL: Mr. Montag, I'm very familiar with that area.
25 I had three children that went to the middle school, which is very
26 close by.

1 MR. MONTAG: Right.

2 MEMBER GOODSSELL: I have seen the property. In fact, I think,
3 all of the board members have seen the property, and I just to want
4 to comment for the record that the medical note that you have
5 submitted as an exhibit is -- we'll take for what it's worth, but
6 I am absolutely certain that not only your client, but his family,
7 his friends, his neighbors; other people will be using the swim spa,
8 and for them, it will be recreational, and perhaps the next owner
9 of the property will be using it for recreation. I would love to
10 have a swim spa in my back yard. I don't have sufficient space. I'm
11 envious Mr. Mirza does have sufficient space. This property is
12 screened by arborvitae and these are the pictures. I'll pass down
13 to the board members. The screening looks to be several years old.
14 It creates a sense of privacy. The immediate adjacent item if you
15 will Searington Road, which is extremely busy road. A very very busy
16 road, and so -- our standard is not to allow something simply because
17 no one objects.

18 Our standard is not to allow something simply because no one
19 can see it. However, in this case, both of the those items are true,
20 and no one barreling down Searington Road is going to pause and say,
21 I think that swim spa is a bit too close to the property line. So
22 as one board member, I think there is a way to slightly reposition
23 this so that it doesn't require as much of a variance, but as one
24 board member, I do not have an objection to this application.

25 MR. MONTAG: Thank you.

26 CHAIRMAN MAMMINA: I'm gonna agree with that. I agree with

1 that.

2 SECRETARY WAGNER: Wait, hold on.

3 CHAIRMAN MAMMINA: I do think that it would require moving the
4 pool but it would be moving it just for the sake of moving it. There
5 is illustrated seen in fields the very very well established
6 evergreen plantings that surround the entire area in there, so I think
7 that should be a requirement if that remains in place. That's the
8 only concern of the application.

9 MEMBER DONATELLI: I think just for the sake of clarity, I will
10 note that 'cause I -- you addressed this in your comments, but for
11 the sake of clarity, you're not being cited for a front yard or
12 secondary front yard setback variance. You're being cited only for
13 having a pool --

14 MR. MONTAG: Attached.

15 MEMBER DONATELLI: -- in the location where it is because this
16 house is situated but the pool is in the functional back yard.

17 MR. MONTAG: Correct.

18 MEMBER DONATELLI: But, of course, definitionally, it is in the
19 side as the house presents itself.

20 MR. MONTAG: Correct.

21 MEMBER DONATELLI: I would also note that in my opinion as one
22 board member that the house and the situation of the pool and the
23 deck is such that because it is well screened and because Searington
24 Road is such a heavily traveled road, I think this would be
25 appropriate to grant a variance for this location.

26 MEMBER HERNANDEZ: I have one question 'cause I can't see it.

1 Mr. Chairman, maybe you can see in the plan. I can't find it. I
2 know the pool is being filed under a separate application, but I don't
3 see anywhere the distance of the pool to the -- call it side yard
4 or all though it's a functional back yard; I don't see that
5 measurement.

6 MR. MONTAG: So that's 12-foot-6 on the plan, but it's far away
7 from the pool. I can show you where it is.

8 MEMBER HERNANDEZ: I found it. You pointed it out.

9 MR. MONTAG: I, myself, took a second glance and said, wait a
10 minute. The dimension is way out there.

11 MEMBER HERNANDEZ: I just wanted to make sure there wasn't going
12 to be a variance required for the pool under that plan.

13 MR. MONTAG: Correct.

14 MEMBER GOODSSELL: Anyone else have any further comments?

15 MEMBER HERNANDEZ: I have no further questions.

16 MEMBER GOODSSELL: I make a motion that we grant the application.

17 CHAIRMAN MAMMINA: Motion, Member Goodsell.

18 MEMBER DONATELLI: Second.

19 CHAIRMAN MAMMINA: Second, Member Donatelli. Excuse me.

20 (WHEREUPON, a discussion was held amongst Board Members.

21 MEMBER GOODSSELL: If it is considered to be a pool and not just
22 a spa, we would of required a fence.

23 MR. MONTAG: Right, and the examiner wanted us to call it a pool
24 for the guardrails.

25 MEMBER GOODSSELL: Would you just briefly -- before -- let me
26 hold my motion in advance. Would you just briefly address the issue

1 of the fence that's required around this particular pool and/or deck.

2 MR. MONTAG: So you would be required a 48 inch high guardrail,
3 safety guardrail around the deck in this case because of the pool.

4 MEMBER GOODSSELL: Which I believe is shown on the plans. What
5 about between the pool and the rear yard property line?

6 MR. MONTAG: Amad, is there existing fencing? No. There's
7 just a living fence there. There's no fence along the property line.
8 It's only protecting the spa.

9 MR. PERROTTA: Do you have the plans?

10 MR. MONTAG: Yes.

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

12 MR. PERROTTA: What he's saying is that they're looking at this
13 as one unit.

14 MR. MONTAG: If you remove the pool, they go, oh, now, you're
15 allowed. You're allowed a 5-foot bonus. You're allowed a 5-foot
16 encroachment into the front yard for a deck. It would be a considered
17 like a porch 'cause you're 5 feet --

18 SECRETARY WAGNER: Yeah, but not with a fence.

19 MR. MONTAG: Well, it would be the railing on a porch. Porch
20 railing like this. It's not a 6-foot fence. It's only --

21 MEMBER HERNANDEZ: But for a pool you're required --

22 SECRETARY WAGNER: My question is, did you specifically talk
23 to him about this?

24 MR. MONTAG: Not personally, but Catherine, the architect
25 listed project manager, she spoke to him.

26 SECRETARY WAGNER: So it was addressed.

1 MR. MONTAG: Yes.

2 SECRETARY WAGNER: Okay. We just want to make sure --

3 MR. PERROTTA: If they think afterward then it's possible you
4 have to come back.

5 MR. MONTAG: You're saying if he considered a yard variance?

6 MR. PERROTTA: Yeah.

7 MR. MONTAG: But he was saying that -- again, I didn't speak
8 directly, but --

9 SECRETARY WAGNER: But that's going to be a 6-foot fence, I'm
10 assuming.

11 MR. MONTAG: No, it's just a guardrail like this. It's only
12 a railing to keep --

13 MR. PERROTTA: Is the deck elevated.

14 SECRETARY WAGNER: But you have a pool.

15 MR. MONTAG: The deck is pretty close to grade.

16 SECRETARY WAGNER: But wouldn't it be required a 6-foot fence?

17 MR. MONTAG: No, because the pool -- the space is raised. Let
18 me show you this section.

19 MEMBER GOODSSELL: Why don't we put that on the record. No fence
20 seems to be required for the pool/spa --

21 MR. MONTAG: I can bring the contractor up. He can explain
22 the --

23 AUDIENCE MEMBER: I think there's chain-link in the evergreens.

24 MEMBER GOODSSELL: Let's not muddy the record.

25 SECRETARY WAGNER: We just want to make sure that you don't have
26 to come back.

1 MR. MONTAG: Two and a half feet plus the property.

2 MR. PERROTTA: It's gonna end up being 6 feet.

3 MR. MONTAG: Oh, total. I meant not a 6-foot fence.

4 SECRETARY WAGNER: I think if he addressed the problem, and he
5 doesn't have a problem, then --

6 MR. PERROTTA: And he recognizes that if things --

7 SECRETARY WAGNER: We just don't want you to have to come back
8 for a variance.

9 DEPUTY TOWN ATTORNEY ALGIOS: Its's not before the Board, so
10 the Board doesn't have to require it, but as long -- we just don't
11 want him to have a problem.

12 SECRETARY WAGNER: Right, exactly.

13 DEPUTY TOWN ATTORNEY ALGIOS: He's okay with the Board moving
14 forward and making a decision, they pass it. Hopefully, you don't
15 have to come back.

16 MR. MONTAG: Right, but I want to show that we didn't hide it.
17 It's not like the same --

18 SECRETARY WAGNER: No, no, no.

19 MR. MONTAG: -- plan that we have very detailed.

20 SECRETARY WAGNER: It's obvious to us that it's on there.
21 That's why we --

22 CHAIRMAN MAMMINA: I think taking the Building Department's
23 denial or lack there of --

24 SECRETARY WAGNER: Yeah.

25 CHAIRMAN MAMMINA: That this is enough, and the only other
26 argument I could make in support of it is that if this was a 4 foot

1 above-ground swimming pool, it would only require a fence at the
2 perimeter of that pool.

3 MEMBER GOODSSELL: That is correct.

4 CHAIRMAN MAMMINA: So I see it as being the same thing.

5 SECRETARY WAGNER: Right.

6 MEMBER GOODSSELL: After that discussion, I will renew my motion
7 to grant the application.

8 CHAIRMAN MAMMINA: We have a motion from Member Goodsell. Do
9 we have a second?

10 MEMBER DONATELLI: I'll renew my second.

11 CHAIRMAN MAMMINA: Okay, a lot of renewals. Second by Member
12 Donatelli. Please poll the Board.

13 SECRETARY WAGNER: Member Hernandez?

14 MEMBER HERNANDEZ: Aye.

15 SECRETARY WAGNER: Member Goodsell?

16 MEMBER GOODSSELL: Aye.

17 SECRETARY WAGNER: Member Donatelli?

18 MEMBER DONATELLI: Aye.

19 SECRETARY WAGNER: Vice Chairman Francis?

20 VICE CHAIRMAN FRANCIS: Aye.

21 SECRETARY WAGNER: Chairman Mammina?

22 CHAIRMAN MAMMINA: Aye. Application is granted.

23 MR. MONTAG: Thank you.

24 (Whereupon, a discussion was held off the record.)
25
26

1 SECRETARY WAGNER: Appeal #21680, Evan Dackow; 208 Jerome
2 Avenue, Carle Place; Section 9, Block 470, Lot 45; Zoned:
3 Residence-C.

4 Variances 70-50.C & 70-103(A)(1) to construct additions too
5 close to the street and interior alterations that would result in
6 having too few parking spaces.

7 CHAIRMAN MAMMINA: You heard Appeal #21680, Evan Dackow, 208
8 Jerome Avenue. Is there anyone in the room interested in the
9 application other than the applicant? Seeing no one, please give
10 your name and address.

11 MR. DACKOW: Good morning, Board. I also give you guys a copy
12 of this. Evan Dackow, 208 Jerome Avenue, Carle Place, New York.
13 Purchase this home coming up on a year ago from my aunt and uncle.

14 MEMBER GOODSSELL: I'm sorry. For your uncle or from your
15 uncle?

16 MR. DACKOW: From my uncle.

17 MEMBER GOODSSELL: From.

18 MR. DACKOW: John and Cathy Lizza were the previous owners.

19 MEMBER GOODSSELL: Okay.

20 MR. DACKOW: As you see with myself and my wife are taking on
21 the full renovation of the home, and due to the location of the steps
22 in the front of the house, we needed a bump-out to get around the
23 stairs. As you see, my home has single-line symmetry, so to get
24 around my steps, and to maintain the single-line symmetry, we needed
25 to make the addition 10 feet wide. If we made it only 8 feet wide,
26 as per -- whatever -- everything. It wouldn't even require an

1 amended -- it wouldn't require a variance. So to maintain our 10
2 foot -- sorry. Maintain a single-line symmetry, had to make it 10
3 feet wide. The setback would come between 7 feet, which is above
4 the average setback. One of the homes on my block is only -- has
5 a 16 foot setback. We are the last home on the dead-end, so, you
6 know, no one -- we're not obscuring anyone's view. The neighbor
7 to the right of me is Mineola Village. Every neighbor, you know,
8 throughout the last year and previous when we were cleaning out the
9 home 'cause it was left vacant for eight years due to illness of my
10 uncle and subsequently of my aunt. You know they've been all more
11 excited, you know, every time myself and my wife are there. Oh, what
12 are doing now? What's going on? When are you guys moving in? If
13 anybody has any questions?

14 MEMBER GOODSELL: Well, talk to us about what kind of cars you
15 have. Talk to us about the parking that the Building Department
16 issued denial.

17 MR. DACKOW: Oh, I was taking them one at a time. Doing them
18 both; oh, okay. Myself and my wife, this is a picture of our cars.
19 It requires a 10-by-40 foot area. My driveway is 47 feet long, which
20 then brings me 39 feet. The differential was less than the length
21 of my shoe.

22 CHAIRMAN MAMMINA: Forty-seven --

23 MR. DACKOW: Forty-seven feet is --

24 CHAIRMAN MAMMINA: -- is on the property, correct?

25 MR. DACKOW: Yeah, from my garage door to the curb here.

26 MEMBER DONATELLI: To the curb?

1 CHAIRMAN MAMMINA: Yeah.

2 MR. DACKOW: Yeah.

3 CHAIRMAN MAMMINA: I'm not saying that dams it, but the zoning
4 measurement is to the property.

5 MR. DACKOW: Yes.

6 CHAIRMAN MAMMINA: Just for the record.

7 MR. DACKOW: It's 39 feet.

8 CHAIRMAN MAMMINA: I would want that, you know, to be
9 understood.

10 MR. DACKOW: Yeah, 39 feet.

11 MEMBER HERNANDEZ: Thirty-nine is to the street.

12 MR. DACKOW: My driveway is 47.

13 VICE CHAIRMAN FRANCIS: To the street.

14 MR. PERROTTA: Forty-seven to the street.

15 MR. DACKOW: Forty-seven to the street.

16 VICE CHAIRMAN FRANCIS: Thirty-nine to the property.

17 MEMBER HERNANDEZ: So it's 39.

18 MR. DACKOW: Thirty-nine.

19 MEMBER GOODSELL: But in your area of the street, in fact most
20 of the street, there are no sidewalks.

21 MR. DACKOW: No.

22 MEMBER GOODSELL: So when you park both of your cars, as you
23 show, you're not overhanging a sidewalk, you're not blocking any
24 pedestrians?

25 MR. DACKOW: No, nobody's -- no one to block there. There's
26 no impediment of any kind.

1 VICE CHAIRMAN FRANCIS: And there's no parking restrictions on
2 the your street.

3 MR. DACKOW: No.

4 MEMBER GOODSSELL: I see there are two neighbors that park at
5 the very end of the street in the dead -- where the sign says dead
6 end.

7 MR. DACKOW: Yes.

8 MEMBER GOODSSELL: Are you one of those people that park there?

9 MR. DACKOW: No. That's the gentleman across the street. He
10 parks his Tahoe there and previously -- I've been coming to this home
11 my entire life. Previously, to that he was parking a boat at the
12 end of the street as well.

13 MEMBER GOODSSELL: When I first looked at this, I couldn't
14 understand why you have a parking problem because you have a very
15 good size piece of property.

16 MR. DACKOW: Well, yeah.

17 MEMBER GOODSSELL: But in order to park in the driveway,
18 particularly because you got that nice big truck, I see where the
19 Building Department expresses some concern.

20 MR. DACKOW: Yes.

21 MEMBER GOODSSELL: Had you had two smart cars, we wouldn't be
22 talking about this.

23 MR. DACKOW: This is my car -- my trunk and my wife's SUV.

24 MEMBER DONATELLI: So I'd like to talk a little bit what you
25 intend to do inside the garage, the existing garage.

26 MR. DACKOW: Yeah.

1 MEMBER DONATELLI: Can you address that with us and explain
2 what's in front of us.

3 MR. DACKOW: Currently, the heat, my gas burner and hot water
4 heater are under my steps, so we have plan to move that out to the
5 garage.

6 MEMBER DONATELLI: That would be the rear --

7 MR. DACKOW: Yes, the rather of the garage. We're also -- my
8 wife -- we all come from very large families. We're the middle point
9 for a lot of our siblings, so we're going to host a lot of the holidays,
10 so the dryer and my washing machine, were at the end of my gallery
11 kitchen. We're then moving those into the garage as well, which then
12 got my wife very happy when we found that we can make the kitchen
13 six feet longer.

14 MEMBER DONATELLI: So we're putting the utilities, the washer
15 and dryer in the what was the back of the garage.

16 MR. DACKOW: Yes.

17 MEMBER DONATELLI: What's gonna be toward the front of the
18 garage?

19 MR. DACKOW: Storage.

20 MEMBER DONATELLI: Storage.

21 MR. DACKOW: Just storage.

22 MEMBER DONATELLI: Okay, but not enough for a car.

23 MR. DACKOW: Nah.

24 MEMBER DONATELLI: Hence parking the two cars tandem on your
25 driveway.

26 MR. DACKOW: Yes. You know, in the long run, I eventually plan

1 to, you know, relandscape the property. You know, widen my driveway.
2 I'm in the green industry. I actually sat on the Landscaping
3 Advisory Board for North Hempstead when they had the back-blower
4 issue. I plan to, you know, relandscape the property, widen the
5 driveway and such, but I'd like to live in the house first before
6 I spend 20-grand to redo my driveway.

7 MEMBER DONATELLI: Right.

8 MEMBER GOODSSELL: Would that tree shown in the picture act as --

9 MR. DACKOW: Yes, the pignut.

10 MEMBER GOODSSELL: -- impediment to widen the driveway?

11 MR. DACKOW: No, not at all. I can go to the other side.

12 MEMBER GOODSSELL: Or eventually, your wife is gonna get tired
13 of asking you to move your truck, so she can get out.

14 MR. DACKOW: Yes. Well, I leave around 6:15 in the morning.
15 My wife's a kindergarten teacher, she leaves several hours after me.

16 MEMBER GOODSSELL: So she's shortly after that.

17 MR. DACKOW: Shortly after that. Usually, actually, she like
18 twenty minutes, half hour after me.

19 MEMBER DONATELLI: Part of your application --

20 MR. DACKOW: Yes, sir.

21 MEMBER DONATELLI: -- is for a variance for the front yard
22 setback, and I think that's for the enclosure --

23 MR. DACKOW: The addition.

24 MEMBER DONATELLI: -- in the front.

25 MR. DACKOW: Yeah.

26 MEMBER DONATELLI: Do you know what the height of that enclosure

1 in front is? Is that a vestibule? A foyer?

2 MR. DACKOW: Yeah, more foyer, yeah.

3 MEMBER GOODSSELL: Enclosed.

4 MEMBER DONATELLI: Oh, the height.

5 MR. DACKOW: I have the plan here if you'd like.

6 MEMBER DONATELLI: We have it here. Let me see it on our plans.

7 CHAIRMAN MAMMINA: We're just blowing it up.

8 MEMBER GOODSSELL: Is that an open foyer?

9 MR. DACKOW: No, closed. Closed foyer.

10 MEMBER DONATELLI: It looks like 13 feet 9 inches.

11 MR. DACKOW: Yeah.

12 MEMBER DONATELLI: And that is the part that requires the
13 variance?

14 MR. DACKOW: No, the distance -- the setback.

15 MEMBER HERNANDEZ: The encroachment.

16 MR. DACKOW: The encroachment into the front yard.

17 VICE CHAIRMAN FRANCIS: Right.

18 MEMBER HERNANDEZ: It's 10 feet wide.

19 MEMBER DONATELLI: Because that protrudes because it's 10 feet
20 wide.

21 MEMBER HERNANDEZ: Right.

22 MR. DACKOW: Yeah.

23 MEMBER DONATELLI: So my question to you, you're not an
24 architect, are you?

25 MR. DACKOW: No, I actually have a design degree in landscape
26 design.

1 MEMBER DONATELLI: Would it be possible, would it be feasible
2 to make that lower in height so that it's not quite so imposing. I
3 mean to me, it looks like it's about half of the height of your house.
4 Perhaps even more. Would it be possible to lower that closer to the
5 front door?

6 CHAIRMAN MAMMINA: The ordinate talks about porticos and their
7 height.

8 MR. DACKOW: Yes.

9 CHAIRMAN MAMMINA: So I mean, it is something that we look at.
10 It hasn't been cited by the Building Department.

11 MEMBER DONATELLI: No, no it hasn't.

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

13 MEMBER DONATELLI: Would it be possible to make it less high?

14 MR. DACKOW: Hypothetically, I think we put that there to make
15 sure snow comes off when I spoke to the architect. Pitching it like
16 that is for snow and other substance.

17 MEMBER DONATELLI: You know, I'm mindful of the fact that you
18 live on a cul-de-sac.

19 MR. DACKOW: A dead end, yeah.

20 MEMBER DONATELLI: And I'm mindful of the fact that it's really
21 not gonna be seen by a great many people. Only by the people who
22 live local. One of the things we try to do is when we grant a variance
23 we try to grant the minimum variance required. And I guess my
24 question is, you know, a less raised roof or slightly lower roof
25 instead of 13 feet 19 inches; 12 feet, 10 feet high. Something like
26 that. Might actually accomplish the very same thing and be less of

1 a variance, but it's just the opinion of one Board member. Have you
2 considered that? Would you consider that?

3 MR. DACKOW: I'd consider it, yeah. You know, it's, you know,
4 it was done like that for ratios, and you know, maintaining the
5 straight lines and everything else.

6 CHAIRMAN MAMMINA: You can still have the straight lines.

7 MR. DACKOW: Oh, I know I can still have straight lines.

8 CHAIRMAN MAMMINA: We try to be consistent --

9 MR. DACKOW: Yeah.

10 CHAIRMAN MAMMINA: -- with what we do.

11 MR. DACKOW: Yeah.

12 CHAIRMAN MAMMINA: Based on this house that is an historian.

13 MEMBER HERNANDEZ: It's 13 feet 7 inches high. It's basically
14 one-and-a-half stories, so it's taller than it normally would be.

15 MEMBER DONATELLI: Right.

16 CHAIRMAN MAMMINA: I mean, get everything else that you want
17 within the house.

18 VICE CHAIRMAN FRANCIS: Right.

19 CHAIRMAN MAMMINA: As you probably know, these Levitt Houses
20 are all over Carle Place.

21 MR. DACKOW: Yes, it was 6,000 of them built.

22 CHAIRMAN MAMMINA: As a matter of fact, I researched it. Carle
23 Place was his testing ground --

24 MR. DACKOW: Yes, it was.

25 CHAIRMAN MAMMINA: -- for the various style of houses. My
26 house is on Titus Avenue over by the schools. We have no sidewalks

1 there, and I've landscaped right up to the front line where the pavers
2 are, and you're correct, everybody walks in the street.

3 MR. DACKOW: Yeah.

4 CHAIRMAN MAMMINA: I mean that's the why the way its always.

5 MR. DACKOW: Maybe three people walk down my street on a given
6 day.

7 CHAIRMAN MAMMINA: So from that perspective, I certainly don't
8 have any issue with it, even being too close to the street. Where
9 you're located, you know, for all intensive purposes is a dead end
10 in there, so I mean, that contributes to that as well.

11 MEMBER DONATELLI: If you, as a homeowner, have no objection
12 to trying to minimize the height of this because it is an enclosed
13 foyer, so it's something as we said, even it's on a dead end it's
14 still gonna be --

15 MR. DACKOW: It's still there.

16 MEMBER DONATELLI: Well, it's still gonna be noticeable.
17 Would you be willing to go back to your architect to see if he can
18 make it slightly smaller. I would leave that to you and your
19 architect to come up with. Would that create a huge delay for you?

20 MR. DACKOW: It depends. Are we gonna hold up the building
21 permit to wait for me to come down a foot or?

22 MEMBER DONATELLI: The way it works is that we really work off
23 the plans.

24 MR. DACKOW: Yes, I understand that.

25 MEMBER DONATELLI: My question is, how quickly could your
26 architect get us plans with a smaller foyer?

1 MEMBER GOODSSELL: More than two weeks?

2 MEMBER HERNANDEZ: Lower height. Just lower.

3 MEMBER DONATELLI: Lower height.

4 MEMBER GOODSSELL: Just a lower height. That's all.

5 MR. DACKOW: By how much?

6 MEMBER DONATELLI: We routinely will -- when we have the
7 occasion to variances such as this we typically look for one-story.
8 Now, this as I said appears to be one-and-a-half stories.

9 MR. DACKOW: Yeah.

10 MEMBER DONATELLI: So I would ask it brought down. It doesn't
11 have to be strictly one-story, but I would say not one-and-a-half
12 stories.

13 MR. DACKOW: Okay.

14 MEMBER DONATELLI: I will give you a general range. I'm not
15 the architect on the Board.

16 CHAIRMAN MAMMINA: I would driveway through the neighborhoods
17 of --

18 MR. DACKOW: It's very typical.

19 CHAIRMAN MAMMINA: I know it is, but I think that it is high.

20 MR. DACKOW: Yeah. No, driving around, that's -- it's like a
21 story and a half is on average. It'll stick about half way up into
22 the first floor. You know, up and down Raff and Dow and everything
23 else.

24 CHAIRMAN MAMMINA: I don't know, you know, only because, you
25 know, it's a lot of years in Carle Place, you know, for me.

26 MR. DACKOW: Did you grow up there?

1 CHAIRMAN MAMMINA: I have to say, generally -- no, I grew up
2 in Mineola.

3 MR. DACKOW: Do you remember the blind man who used to teach
4 people to ride the unicycle?

5 CHAIRMAN MAMMINA: No, I don't.

6 MR. DACKOW: That was my uncle.

7 CHAIRMAN MAMMINA: Really?

8 MR. DACKOW: Yeah. He taught Steve Hyde to ride a unicycle.

9 CHAIRMAN MAMMINA: Really? That's interesting. That's
10 interesting. I have to look that up 'cause I know Steve Hyde.

11 MR. DACKOW: Yeah, there was some article about it that we came
12 across when we were cleaning out the house.

13 CHAIRMAN MAMMINA: He's a cousin of a friend. I would say take
14 a look at it and maybe you can document that that is the average.

15 MR. DACKOW: Yeah. I have zero opposition to it. It's just,
16 you know, this is what the architect drew.

17 MEMBER DONATELLI: Excuse me. My point is this. We don't want
18 to hold you up.

19 MR. DACKOW: Yeah.

20 MEMBER DONATELLI: If your architect can get us plans showing
21 us a shorter -- lower in height foyer, and if you can get it us by
22 the next time that we meet --

23 MEMBER HERNANDEZ: Two weeks.

24 MEMBER DONATELLI: -- then, we'll may be able to vote on this
25 in two weeks. So if we -- we don't want to hold you up, but we do
26 need plans to showing a lower foyer.

1 VICE CHAIRMAN FRANCIS: You wouldn't have to come back before
2 us.

3 MR. DACKOW: If we take it to one-story, you know, and keep it
4 so that snow comes off and such, you would almost have to end up moving
5 the walls down; you know? On the sides.

6 CHAIRMAN MAMMINA: Hopefully, you're architect will understand
7 what we're talking about.

8 MR. DACKOW: Yeah.

9 CHAIRMAN MAMMINA: Where the line of the gutters are in the
10 front of the house, that would be where it is, and really, all you're
11 doing is lowering it.

12 MR. DACKOW: Well, there's a line of you a -- you can see here.
13 There's a line of --

14 CHAIRMAN MAMMINA: I'm not saying to lower it below that.

15 MR. DACKOW: Yeah.

16 CHAIRMAN MAMMINA: Line up.

17 MR. DACKOW: Yeah, I don't think he'll have any problems.

18 CHAIRMAN MAMMINA: Just bring down that angle on the top in
19 there with your garage lines up. I'm not saying it needs to be that
20 flat --

21 MR. DACKOW: Yeah.

22 CHAIRMAN MAMMINA: -- in there, but the character of the
23 neighbor is something that we look at, and we get lots and lots of
24 porticos and foyers that are in front of those houses, and again,
25 I know this house. When you walk in, you walk right in on the stairs,
26 you know, in there, and then, you know, that's very tough. I

1 understand the washer move where you said and again --

2 MEMBER HERNANDEZ: You certainly had enough parking. You can
3 certainly go sideways and put cars side by side.

4 MR. DACKOW: Yeah, my property is 130 wide.

5 MEMBER DONATELLI: And as I said, we don't to want hold you up.
6 If you can get this to us by the next Board member, which is two weeks
7 from today, we're happy -- and you do not have present again. You
8 do not have to come back.

9 CHAIRMAN MAMMINA: Or if you get it to Ms. Wagner, ahead of time,
10 she'll give us that ahead of the meeting so that we've all had the
11 opportunity to look at it and say, yep, we think that's good.

12 SECRETARY WAGNER: So you just resubmit to -- well, you probably
13 want to resubmit to the Building Department as well. Did you do
14 upload the plans to the portal or your architect did?

15 MR. DACKOW: I did.

16 SECRETARY WAGNER: So you're familiar with uploading, and then
17 just if you resubmit to the Building Department, we usually like to
18 go through that chain as well, and then upload it to the BZA --

19 MR. DACKOW: Portal.

20 SECRETARY WAGNER: -- application and then let us know that you
21 did that, and then when you send everything to the Board, take a look
22 at it.

23 MR. DACKOW: Okay.

24 SECRETARY WAGNER: If you do it before April 2nd, then they can
25 look at it.

26 MR. DACKOW: You got it.

1 CHAIRMAN MAMMINA: Thank you.

2 MEMBER HERNANDEZ: Thank you.

3 MEMBER GOODSSELL: So we'll continue this for amended.

4 CHAIRMAN MAMMINA: Yes. Off the record.

5 (WHEREUPON, a discussion was held off the record.)

6

7

8

9 C O M M E R C I A L C A L E N D A R:

10 SECRETARY WAGNER: Next appeal, Appeal #21681, Jeffrey Wilks;
11 1026 Willis Avenue, Albertson; Section 7, Block 230, Lot.45; Zoned:
12 Business-A.

13 Variance from 70-103.A(1) to construct alterations to convert
14 a commercial space to a physical therapy office with not enough
15 parking on site.

16 CHAIRMAN MAMMINA: You heard Appeal # 21681, Jeffrey Wilks. Is
17 there anyone in the room interested in the application other than
18 the applicant? Seeing no one, please give your name and address.

19 MS. GONZALEZ: Good morning, everyone. Taylor Gonzalez of the
20 law firm Forchelli Deegan Terrana; 333 Earle Ovington Road,
21 Uniondale, New York. I have given Virginia some exhibits to pass
22 around to you all.

23 SECRETARY WAGNER: Did you submit these?

24 MS. GONZALEZ: They were on the portal, yes. These are just
25 hard copies for you all.

26 SECRETARY WAGNER: This will be Exhibit 1.

1 MS. GONZALEZ: Here with me today to answer any questions you
2 may have are Mike, Doug, and Jason from Metro Physical & Aquatic
3 Therapy. Along with Ethan Schukoske of TPD Engineering, the project
4 traffic engineer.

5 The application before you is for a parking variance of 23
6 parking stalls within the Albertson Shopping Center on the corner
7 of Willets Avenue and IU Willets Road. Metro Physical Therapy is
8 one of 17 storefronts located within the shopping center, which also
9 includes restaurants, retail stores, a bank, salons, and grocery
10 stores.

11 In January of 2022, the Board granted Appeal #21178, which can
12 be found in your exhibit packet as Exhibit 4 for a parking variance
13 of 16 spaces, as 256 spaces were proposed, and 272 spaces were
14 required. By bringing in Metro Physical Therapy, which is
15 calculated as a medical instead of retail use, the new parking
16 requirement for the shopping center will be 279 parking space.
17 Therefore, the actual request before you is for a parking variance
18 of seven additional spaces. Overall, a de minimis request. Metro
19 physical therapy has been operating for over 40 years and offers 60
20 minute physical therapy sessions to their patients. They're
21 currently operate over 50 locations in New York, Connecticut, Rhode
22 Island with 15 locations in Nassau County. Metro is an appointment
23 based business and will at max see ten patients at any given time.
24 Typically, it's seven or fewer patients at this proposed location.
25 In addition, they'll be four to five employees, including two
26 physical therapist, one to two aides, and then someone working the

1 front desk. Their hours of operation will be 8:00 A.M. to 8:00
2 P.M., Monday through Friday; 8:00 A.M. to 1:00 P.M. on Saturday; and
3 they will be closed on Sunday. At this time, I would like to turn
4 the presentation to Ethan from TPD Engineering to go over the parking
5 study.

6 MR. SCHUKOSKE: Hello, good morning. Ethan Schukoske,
7 professional engineer with TPD Engineering formerly Atlantic Traffic
8 and Design. Testified in front of this Board as an expert in the
9 past. My credentials haven't changed since that time.

10 We prepared a traffic parking study for the proposed development
11 to elevate the parking demand for the existing and further uses to
12 support the variance. The shopping center as Taylor mentioned it's
13 occupied by a variety of retail tenants, but they're anchored by a
14 Food Emporium Supermarket. We're coming in with the Metro Physical
15 Therapy. I would consider it complimentary use to what's in the
16 shopping center now. By that, I mean, the supermarket, which anchors
17 the center. They typically peak in the evening, you know, weekend,
18 evenings, Saturday late afternoon, early afternoon. Where it's the
19 medical office they're really gonna have peak traffic and parking
20 during their mid-morning, so again, this compliments each other in
21 terms of parking demand.

22 We did evaluate traffic generation using the Institute of the
23 Transportation Engineers Trip Generation Manual, our industry
24 standard for traffic and parking projections. In looking at the
25 existing 2600 square foot retail space, comparing a medical office
26 to traditional retail, it support that conclusion and is less traffic

1 projected for the weekday, evening, and Saturday midday periods, and
2 only about two additional vehicle trips during the morning peak
3 hours.

4 Giving that this is an existing center, it's been operating for
5 many years, we did go out and do parking counts to get real-time data.
6 We went out in January of 2025, on a weekday and a Saturday. We looked
7 at the overall parking demand, and based on our observations, peak
8 parking demand for the existing center came at the weekday midday
9 with 150 parked cars observed, which is about 58 percent of the total
10 parking supply, so, you know, left about 42 percent of reserve
11 capacity. When looking at the parking demand for the proposed
12 medical office use, we looked at two things. We looked at Institute
13 of Transportation Engineer ITE Data for medical office. We also have
14 some in-house parking demand data specifically for physical therapy.
15 We had studied two locations in 2022 on Long Island, and we found
16 that the parking rate for those physical therapy offices were
17 slightly higher during the weekday peak periods than the ITE Data
18 suggests, so we did use that for our parking demand calculations,
19 which will be a little more conservative. Even using those more
20 conservative parking generation rates, we found that the peak demand
21 with the existing and projected demand would be 163 parked vehicle,
22 about 63 percent; 63.7 to be exact of the total supply.

23 Given all of that analysis, we concluded that the proposed
24 supply of 256 parking stalls would accommodate the parking demand
25 with a reserve capacity about 36 percent of the total supply.

26 Happy to answer any questions about that.

1 MEMBER GOODSSELL: I think it's also fair to note that there are
2 now very few vacant stores there. I can understand where there are
3 several vacant stores, the parking is more than adequate, but when
4 you get to full capacity, and let's face it, nobody's got enough
5 parking Christmas time. I'm not even gonna discuss Christmas.

6 MR. SCHUKOSKE: Sure.

7 MEMBER GOODSSELL: My experience has been that this shopping
8 center is now not pretty well occupied, and there are still parking
9 spaces available.

10 MR. SCHUKOSKE: That's correct. I believe that our vacancy may
11 have been the only vacancy at the time.

12 MEMBER GOODSSELL: There may be one other store.

13 MR. SCHUKOSKE: There may be one other, yeah.

14 MEMBER GOODSSELL: Yeah, this one was vacant for a while. We
15 heard another application immediately next door, but again, I didn't
16 see that the parking was so inadequate that it would be a serious
17 factor of consideration.

18 MR. SCHUKOSKE: Yeah, that's consistent with our observations.
19 Happy to answer any other questions.

20 MEMBER DONATELLI: Do you anticipate having walk-in clients?

21 MR. SCHUKOSKE: In terms of not taking their car to the
22 facility?

23 MEMBER DONATELLI: In terms of people who use the facility.
24 Will there be walk-ins, or will people have appointments.

25 MR. SCHUKOSKE: I think it's more appointment-based.

26 MS. GONZALEZ: Yes, appointment-based only. No walk-ins.

1 MEMBER DONATELLI: Okay. I assume that you will not make more
2 appointments than you're able to deal with.

3 MS. GONZALEZ: No, they only have a couple -- a certain number
4 of beds and treatment rooms, so they won't hit more than -- and with
5 15 other locations in Nassau, you're not tied to one location, so
6 if one place is too busy you for one day, you can move about all of
7 what will be then 16.

8 MEMBER DONATELLI: And the alternative is that somebody wants
9 to make an appointment and you can't accommodate that person on that
10 day, then you'll make an appointment for another day.

11 MS. GONZALEZ: Yes, just like a doctor's office.

12 MEMBER DONATELLI: Thank you.

13 MEMBER GOODSELL: Ms. Gonzalez, have you had a chance to look
14 at the emails that were received by the Building Department this
15 morning?

16 MS. GONZALEZ: We have.

17 MEMBER GOODSELL: Would you just like to briefly address them?

18 MS. GONZALEZ: Yes, so there a couple comments about the
19 shopping center that it can be a little busy, which we did -- Ethan
20 has discussed their max capacity observed was a little over than 60
21 percent. With this appointment-based type of structure, we know how
22 many people we'll be bringing in on top what's currently observed
23 what will be at most 15 people. Still nowhere close to capacity.

24 There is also mention of parking within the fire lanes and other
25 issues like that. We personally can't address that. Those more of
26 a police issue to kind of shoo people away from parking illegal, but

1 because we will have 60 minute time slots, people are not going to
2 be a parking in the fire lane leaving their car for an hour. They
3 will park in a spot and walk up front.

4 MEMBER GOODSSELL: Would you just clarify for the record that
5 there's no access from the shopping center to the residential
6 neighborhood immediately behind it.

7 MS. GONZALEZ: No, the only two accesses are on Willets and IU
8 Willets, so there's no access to any of the residential homes located
9 to the rear in the north.

10 CHAIRMAN MAMMINA: The point being, if I go there -- or just
11 a further point. If I go there and I can't park, the likely hood
12 of me crossing Willets Avenue in order to get up to one of those
13 commercial areas or crossing IU Willets Road to get into the streets
14 that are there, I believe from having driven those many times that's
15 there no parking I don't think.

16 MS. GONZALEZ: There's not much street parking, if any, and it's
17 not meant for you to be walking across those roads.

18 MEMBER GOODSSELL: No objection.

19 MEMBER DONATELLI: Anyone else.

20 MEMBER HERNANDEZ: No.

21 MEMBER DONATELLI: Well, Chairman, I make a motion that we grant
22 the application. I have reviewed the comments that were sent in by
23 members of the public, and I have considered those, but I make a motion
24 that we grant the application.

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

1 MEMBER HERNANDEZ: And I'll second that motion, and before I
2 do I like to --

3 CHAIRMAN MAMMINA: We have a second from Member Hernandez.

4 MEMBER HERNANDEZ: And I also like to address that we received
5 letters, but some of them were duplicates. From the same individual.
6 Complaining about the layout of the parking lot as being chaotic.
7 This is a -- point out that this is a standard layout for a parking
8 lot of this shape. There is absolutely nothing chaotic that we have
9 seen as it relates to any striping.

10 CHAIRMAN MAMMINA: It's very efficient the way it's striped.

11 MEMBER HERNANDEZ: Yeah, as best as it can be done in this case.

12 CHAIRMAN MAMMINA: Yes. We have a motion and a second. Please
13 poll the Board.

14 SECRETARY WAGNER: Member Goodsell?

15 MEMBER GOODSSELL: Aye.

16 SECRETARY WAGNER: Member Hernandez?

17 MEMBER HERNANDEZ: Aye.

18 SECRETARY WAGNER: Member Donatelli?

19 MEMBER DONATELLI: Aye.

20 SECRETARY WAGNER: Vice Chairman Francis?

21 VICE CHAIRMAN FRANCIS: Aye.

22 SECRETARY WAGNER: Chairman Mammina?

23 CHAIRMAN MAMMINA: Aye. Application is granted.

24 MS. GONZALEZ: Thank you, everyone. Have a great day.

1 SECRETARY WAGNER: Appeal #21682, Rjs Property Holdings LLC;
2 175 Roslyn Rd., Roslyn Heights; Section 7, Block 282, Lot 127; Zoned:
3 Business-A.

4 Variances 70-103(B) & 70-103(O) to legalize alterations to a
5 parking lot with parking spaces that are too small and with drive
6 access aisles that are not wide enough.

7 CHAIRMAN MAMMINA: You heard Appeal #21682, Rjs Property
8 Holdings LLC. Is there anyone in the room who's interested in the
9 application? Seeing no one, please give your name and address.

10 MS. TSOUKALAS CURTO: Good morning, Chairman Mammina, Members
11 of the Board. Andrea Tsoukalas Curto with the firm of Forchelli
12 Deegan Terrana. Offices at 333 Earle Ovington Boulevard, Uniondale,
13 New York. On the behalf of the applicant, Rjs Property Holdings LLC.
14 With me today is Wayne Muller from R&M Engineering. I did just submit
15 an exhibit packet that is Applicant's Exhibit A.

16 As mentioned, this is an application for area variances to
17 maintain the existing parking lot at the premises with insufficient
18 stall sizes and eye width. Specifically, the code provides that
19 stalls must be 10 feet by 20 feet. The existing stalls are deficient
20 in length. They are 13 feet 10 inches, and two are deficient in
21 width. They are feet instead of the required ten feet. Also, the
22 drive aisle must be 24 feet, and the existing aisle is 17 feet.

23 The premises is located on the west side of Roslyn Road, 244
24 feet north of Donald Street. It's situated in the town's Business-A
25 Zoning District, and has a lot area of 13,293 square feet. It's
26 improved with a one-and-a-half-story office building and a parking

1 lot. The building is occupied by one tenant, Mr. Sports, who's my
2 client. He's a member of the entity that owns the property. He's
3 an attorney, and has a real estate practice with nine employees, so
4 that's the sole tenant that's in this building.

5 He purchased the premises 13 years ago. At that time, he
6 obtained permits to renovate the building and the parking lot. By
7 decision dated December 11, 2013; that's Appeal #19645. This Board
8 granted a parking variance for the building with substantially the
9 same configuration that's existing now. At the time, the building
10 was being converted from a retail space to an office space with 12
11 parking stalls. The applicant is maintaining those 12 stalls, and
12 the use has not changed. The only difference between that approved
13 plan and the existing lot is that the current owner did install wheel
14 stops and signage and a planted strip. And that was to prevent people
15 from backing up into that retaining wall that separates this parking
16 lot from the DiMeo restaurant's parking lot. This buffer area
17 reduced the parking lot with by approximately one-and-a-half feet
18 because the cars can't go beyond that wheel stop and signage.

19 The handicap stalls are also going to be located to have better
20 accessibility to the building's entrance. They're now towards the
21 street, and they're going to be centrally located as shown on the
22 proposed plan.

23 R&M assessed the current parking lot and the proposed changes,
24 and they found that there is sufficient space to use the parking lot
25 in a safe manner. They point out in their report that there is an
26 additional 4 feet of concrete that's adjacent to the building as you

1 can see on the plan. And that is adjacent to the paved asphalt. So
2 it's a natural extension of the parking lot, so you can use that ready
3 when you're trying to maneuver your car in the lot. They also
4 explained that there's an overhang in most vehicles about 1 foot 4
5 inches, so the aisle width is closer to the 24 feet. It's about 23.5
6 feet.

7 My client also confirmed that this is not a busy office. There
8 usually six to seven vehicles at the lot. It's typically never full
9 unless there's a closing at the property. He also confirmed that
10 there's no accidents.

11 MEMBER GOODSSELL: That's interesting to me because that's -- I
12 mean, it's a beautiful building. It's a beautiful piece of property.
13 That has to be the tightest parking lot.

14 MS. TSOUKALAS CURTO: It is tight.

15 MEMBER GOODSSELL: I ever tried to pull around, and if there
16 wasn't an empty space, I would of had to back out onto Roslyn Road,
17 and it didn't help that there was a rather large pick up truck, which
18 did not belong to any of us --

19 MEMBER HERNANDEZ: Was it a Ram?

20 VICE CHAIRMAN FRANCIS: Was it dark gray?

21 MEMBER GOODSSELL: -- parked in spot number two.

22 MS. TSOUKALAS CURTO: The black Ram.

23 MEMBER GOODSSELL: Yeah.

24 MS. TSOUKALAS CURTO: I was there.

25 MEMBER GOODSSELL: You saw that.

26 MS. TSOUKALAS CURTO: I saw it.

1 VICE CHAIRMAN FRANCIS: I actually have a Ram, and I drove it
2 to that spot, and it was tough getting around that.

3 MEMBER GOODSSELL: No accidents? No fender benders? Nothing?

4 MS. TSOUKALAS CURTO: I mean, I asked him if there's any
5 accidents, and he said, and he's been there for 12 years. So I think
6 people -- when you're passing the site, you kind of just drive by
7 it, right? You're not really going there unless you work or unless
8 you're going for a closing, so it's not a site where you have people
9 coming in and out all the time. People come to work. They park their
10 car, go inside, and then they leave.

11 VICE CHAIRMAN FRANCIS: Is it a real estate practice primarily?

12 MS. TSOUKALAS CURTO: Yes.

13 MEMBER DONATELLI: Roslyn Road is heavily travelled.

14 MEMBER HERNANDEZ: Yes.

15 MEMBER DONATELLI: It is a through street.

16 MS. TSOUKALAS CURTO: Yes.

17 MEMBER DONATELLI: And it's not an ideal situation, but you're
18 here for the variance for the lot sizes.

19 MS. TSOUKALAS CURTO: I do want to note -- yeah, go ahead.

20 MEMBER DONATELLI: While we're not an esthetic Board.

21 MS. TSOUKALAS CURTO: Right.

22 MEMBER DONATELLI: I would say that the paving in the parking
23 lot, not only is it attractive, but I would also say that it is
24 functional in a sense that it creates the appearance of traffic
25 islands, even though there are no traffic islands. God forbid you
26 put a traffic island in there.

1 MS. TSOUKALAS CURTO: That would not work.

2 MEMBER GOODSSELL: No one except for Smart cars would be able
3 to get in there.

4 MEMBER DONATELLI: I did notice the visual effect of the pavers.

5 MS. TSOUKALAS CURTO: Right. And I did want to point out that
6 these stall sizes have not changed.

7 MEMBER DONATELLI: I'm sorry?

8 MS. TSOUKALAS CURTO: The stall sizes have not really changed.
9 They've always been about 14 feet in length.

10 MEMBER GOODSSELL: At least they're 10 feet wide. At least
11 they're 10 feet wide.

12 MS. TSOUKALAS CURTO: Right.

13 MEMBER DONATELLI: And what's happened is that because of the
14 stoppers -- the concrete -- what are they called?

15 CHAIRMAN MAMMINA: Wheel stops.

16 MS. TSOUKALAS CURTO: Wheel stoppers.

17 MEMBER DONATELLI: Wheel stoppers.

18 MS. TSOUKALAS CURTO: Yeah.

19 MEMBER DONATELLI: To protect the retaining wall, and I guess,
20 you don't want people backing into that retaining wall. Why are
21 there steps that extend from the subject project to the property
22 directly to the south. Do you know?

23 MEMBER HERNANDEZ: The restaurant.

24 MS. TSOUKALAS CURTO: The restaurant.

25 MEMBER DONATELLI: I note that it's Trattoria DiMeo.

26 MS. TSOUKALAS CURTO: It is Trattoria DiMeo.

1 MEMBER DONATELLI: Is there any cross-parking arrangement with
2 Trattoria DiMeo or with anyone else?

3 MS. TSOUKALAS CURTO: They probably do, but he didn't talk to
4 me about that.

5 MEMBER DONATELLI: Do we know if this is used as an overflow
6 lot?

7 MS. TSOUKALAS CURTO: For the restaurant?

8 MEMBER DONATELLI: For the restaurant.

9 MS. TSOUKALAS CURTO: I don't know.

10 MEMBER DONATELLI: It just seemed odd that there were steps.

11 MS. TSOUKALAS CURTO: Yes. The steps were there when he bought
12 the property.

13 CHAIRMAN MAMMINA: I remember when they built the building
14 because it's an attractive building. I said, oh, my gosh. Where
15 do you park? But that does not in any way --

16 MS. TSOUKALAS CURTO: No.

17 CHAIRMAN MAMMINA: -- slant an opinion on here because it's
18 a -- it's a lovely building.

19 MS. TSOUKALAS CURTO: And he put a lot of money into it 12 years
20 ago to fix it up, put the landscaping in, make it, you know, look
21 more esthetically pleasing, the facade, everything. He did put a
22 lot of money into it.

23 VICE CHAIRMAN FRANCIS: The only thing that would give him more
24 room in terms of the parking is if he eliminated the planted area
25 and move the wheel stops, you know, further in that area, but.

26 MEMBER HERNANDEZ: The plantings is really the overhang.

1 VICE CHAIRMAN FRANCIS: Yeah.

2 MEMBER GOODSSELL: I would hate to be in one of those offices
3 right up against the glass window.

4 VICE CHAIRMAN FRANCIS: Right.

5 MEMBER GOODSSELL: Watching a large vehicle back closer and
6 closer to me.

7 VICE CHAIRMAN FRANCIS: Yeah.

8 MEMBER GOODSSELL: So I think as much they take up room, I think
9 the planters actually have a function.

10 VICE CHAIRMAN FRANCIS: Oh, they definitely do.

11 MS. TSOUKALAS CURTO: Yeah.

12 VICE CHAIRMAN FRANCIS: It's just very tight.

13 MEMBER DONATELLI: If his Dodge pickup can get in and out.

14 VICE CHAIRMAN FRANCIS: Mine had trouble.

15 CHAIRMAN MAMMINA: You're not skilled enough.

16 MEMBER GOODSSELL: After six or seven years, 12 years, you learn
17 to take it with one hand.

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

19 MEMBER GOODSSELL: I don't have any further questions.

20 CHAIRMAN MAMMINA: As long as I have a car that has a backup
21 camera and beeps.

22 MS. TSOUKALAS CURTO: Yeah, we're all spoiled now we do have
23 technology helping us with the backup.

24 CHAIRMAN MAMMINA: I'm a master at backing into things.

25 VICE CHAIRMAN FRANCIS: I used to rely on my children to be my
26 backup camera but now, I actually have a backup camera.

1 MEMBER GOODSSELL: I don't see how the applicant could make this
2 a better situation. The parking --

3 VICE CHAIRMAN FRANCIS: It is what it is.

4 MEMBER GOODSSELL: This is what they're stuck with. It is,
5 however tight it is, it is a functionally well-designed building.

6 MEMBER HERNANDEZ: The saving grace on this is that because it
7 is a law firm, there should be nobody in a rush to get in and. You
8 have an appointment, and they can --

9 MS. TSOUKALAS CURTO: Right.

10 MEMBER HERNANDEZ: It's scheduled. It's not that you have all
11 of a sudden multiple people showing up fighting for the same parking
12 space.

13 VICE CHAIRMAN FRANCIS: Except on closing days.

14 MS. TSOUKALAS CURTO: Well, for closing days, it's the only time
15 the parking lot is full because you have people coming in few. That's
16 few and far between these days.

17 CHAIRMAN MAMMINA: I think also going back to what are their
18 alternatives? Are there any neighborhoods that are around it
19 immediately? No, not really.

20 MS. TSOUKALAS CURTO: No.

21 CHAIRMAN MAMMINA: It's a bit of a hike.

22 MS. TSOUKALAS CURTO: Yeah.

23 CHAIRMAN MAMMINA: Either you can park there or you can't.

24 MS. TSOUKALAS CURTO: Yeah, I mean, it works for him. It works
25 for his use. It works for this type of real estate office use. He
26 has seven employees. That's the number of stalls he needs. He has

1 excess parking in the event that he has a closing or a client coming
2 in. Everybody's used to the lot. They know how to get in and out.
3 It's safe. They haven't had any accidents. He doesn't have any
4 alternatives, and he bought it this way. He just tried to make it
5 better.

6 CHAIRMAN MAMMINA: You know, when we had a restaurant Dinero
7 around the corner, several years ago, I mean, the neighborhood people
8 came out fairly actively only because that's an easy place to park,
9 so they would not have that situation here.

10 MS. TSOUKALAS CURTO: Right.

11 VICE CHAIRMAN FRANCIS: Anything else?

12 MEMBER GOODSSELL: No.

13 VICE CHAIRMAN FRANCIS: Make a motion grant the application.

14 CHAIRMAN MAMMINA: Motion by Vice Chairman.

15 MEMBER GOODSSELL: And I'll second.

16 CHAIRMAN MAMMINA: Second by Member Goodsell. Please poll the
17 Board.

18 SECRETARY WAGNER: Member Hernandez?

19 MEMBER HERNANDEZ: Aye.

20 SECRETARY WAGNER: Member Goodsell?

21 MEMBER GOODSSELL: Aye.

22 SECRETARY WAGNER: Member Donatelli?

23 MEMBER DONATELLI: Aye.

24 SECRETARY WAGNER: Vice Chairman Francis?

25 VICE CHAIRMAN FRANCIS: Aye.

26 SECRETARY WAGNER: Chairman Mammina?

1 CHAIRMAN MAMMINA: Aye.

2 MS. TSOUKALAS CURTO: Thank you very much. Have a great day.

3

4

5

6 SECRETARY WAGNER: Appeal #21683, NHP Crossing LLC (Tesla
7 Charging Stations); 2048 Hillside Avenue, New Hyde Park; Section 8,
8 Block 211-14, Lot 625B; Zoned: Business-B.

9 Variance from 70-146.A to construct new EV charging stations
10 and associated equipment that are too close to the rear property line.

11 CHAIRMAN MAMMINA: You heard Appeal #21683, NHP Crossing LLC
12 (Tesla Charging Stations). Is there anyone in the room interested
13 in the application other than the applicant? Seeing no one, please
14 give your name and address.

15 MR. MINERVA: Thank you. Dominic Minerva from Minerva &
16 D'Agostino. 107 South Central Avenue, Valley Stream, New York; good
17 morning.

18 CHAIRMAN MAMMINA: Good morning.

19 MR. MINERVA: The application before you today is for variance
20 from Section 70-146.A to permit the installation of a Tesla electric
21 vehicle charging station at the shopping center located at 2048
22 Hillside Avenue in New Hyde Park.

23 The variance requested is for a rear yard setback with 4 feet
24 and 3 inches proposed to the equipment cabinets and 1 foot proposed
25 to the charging stations to be located at the front of the parking
26 stalls along the rear property line, whereas 15 feet is required.

1 I will note that the rear yard setback variance is not requested for
2 principal or accessory buildings, but an equipment cabinet, an
3 electric vehicle charging stations that will barely rise above the
4 existing 6-foot-high chain link fence that does have privacy slats.
5 Additionally, it should be noted that the shopping center does not
6 abut residential properties, but rather a very large miniature golf
7 and driving range facility.

8 The subject premises is a small shopping center. The shopping
9 center is located in the Business-B District. It's improved with
10 a mix of restaurant and personal service tenants, such as a drive
11 cleaner, barber shop, hair salon, and cleaning services company, and
12 surface-level parking.

13 The applicant proposes to install 20 electric vehicle charging
14 stations along with the associated electrical equipment in 20
15 existing parking stalls located along the rear or southerly property
16 line.

17 I will note with regard to the criteria for the granting of the
18 area variance that the applicant is in compliance with the criteria
19 of New York State Town Law.

20 To it, the proposal is in keeping with the character of the area.
21 Will not be detrimental. The variance is minor in nature and the
22 hardship is not self-created.

23 With regard to the undesirable change to the character of the
24 area, electric vehicle charging stations are becoming common in
25 shopping centers throughout the township, Long Island, and the
26 country. The installations usually utilize existing parking stalls

1 with little alteration to the parking lots and have little to no
2 change in the character of the areas, in which they are stalled, and
3 for the most part, are barely visible for the adjoining properties.

4 The surrounding area is developed with other small shopping
5 centers with a mix of commercial uses and a large miniature golf and
6 driving range to the south as I indicated. Directly across the
7 street on the north side of Hillside Avenue is also another small
8 shopping center, and then a Credit Union Bank.

9 The electrical vehicle charging stations do not have electrical
10 current running through them when not in use. They produce no to
11 little noise, and in this location, will not be visible -- or barely
12 visible from adjoining properties. All the streets as they are
13 located in the rear of the property adjacent to the driving range,
14 and the buildings that are located on the subject parcel are on the
15 front of the parcel along Hillside Avenue. There is also mature
16 landscaping right behind the subject parcel on the miniature golf
17 course and driving range facility just behind our fence.

18 Variances are minor nature as the proposed structure's within
19 the rear yard setback are small structures. They're not buildings
20 or accessory buildings as the code indicates have to meet the rear
21 yard setback. In light of the minimal size of the structures that
22 will be located rear yard setback, and modestly taller than the
23 existing fence. We believe the variance is minor in nature.

24 The hardship is not self-created as the parking lot report is
25 fully developed and based upon its current configuration, the
26 existing parking stalls are the only viable location to install all

1 the charging stations without impacting the parking and drive aisle.
2 Especially, since the tenant buildings are in the front of the
3 property, and the parking lot is the rear. Although, there are some
4 parking stalls on the side of the building.

5 There's no other method -- I apologize, I have a little bit of
6 a cold. There's no other method to achieve the desired benefit. As
7 I said, the parking lot is fully developed. There is not room in
8 parking spaces against the building. There is room between the
9 stalls and the building to install the charges and equipment. We
10 can't meet the setback and maintain the required drive aisles without
11 the parking spaces, and it would be much less desirable to have them
12 against the buildings.

13 MEMBER DONATELLI: I'm sorry, what was that last little bit?

14 MR. MINERVA: So there are some parking stalls that are against
15 the back of the buildings, but it'd be a much less desirable to have
16 them there because those are the ones that would be more, you know,
17 more usable for the tenants without having cars charging there, so
18 we put -- located them on the rear property line. One, not to
19 interfere, and two, to be able to keep our -- meaning, the setback,
20 we would move to move the parking space and move the drive aisle
21 between the two rows of parking stalls on the rear end of the building.
22 I believe there's also a walkway there, so if we put the charging
23 stations around the multi-tenant building, we'd be interfering with
24 the walkway as well.

25 Based on that, we request your favorable consideration to permit
26 the installation of this Tesla Charging Station.

1 MEMBER GOODSELL: If I can ask? Who's the target audience for
2 this? I realize it's Tesla drivers, but these shops -- and I'm
3 familiar with the area. These shops that are there -- I mean, how
4 many Teslas are actually gonna be going to patronizing? Is this a
5 general Tesla Charging Station? Is there gonna be signs out by the
6 street to say, charge your Tesla here?

7 MR. MINERVA: Most people -- and I do have a representative from
8 Tesla here to answer any operational questions I can't answer, but
9 my understanding is it's all on the computer. So it comes up on your
10 screen in the car where the charging stations are, so I don't think
11 they actually -- people don't actually look for signage. They look
12 at their screen in their vehicle to tell them where the charging
13 station is -- the nearest driving station, so that they can pull in.

14 MEMBER GOODSELL: And these people who not necessarily coming
15 to these shops that are looking for -- like I would go look for a
16 gas station. They're looking for a charging station.

17 MR. MINERVA: Correct. It's not necessarily -- it's not
18 limited to people who are saying no, I'm going into this store, so
19 I'll charge my car.

20 MEMBER GOODSELL: Let me charge my Tesla while I'm --

21 MR. MINERVA: Although, a lot of people do that 'cause I know
22 I have shopping center by me where there's a supermarket, and a lot
23 of people charge their cars when they're going in to do their
24 shopping, so it's a mix.

25 MEMBER DONATELLI: Will Tesla be one of the tenants in one of
26 the stores?

1 MR. MINERVA: No.

2 MEMBER DONATELLI: So this is just a stand-alone charging
3 stations.

4 MR. MINERVA: Yeah, very similar to the one -- a few months ago,
5 I presented one here on Glen Cove Road in Carle Place. That one was
6 actually up against the side property line, but similar. It's just
7 a few parking stalls are gonna have the charging stations. They'll
8 be no actual Tesla showroom or dealership or service center or
9 anything like that.

10 MEMBER GOODSSELL: Well, this isn't a few. How many charging
11 stations?

12 MR. MINERVA: Twenty.

13 MEMBER HERNANDEZ: And that's my question. Did you run into
14 a parking issue for the tenants when you're basically eliminating
15 20 parking spaces because presumably, I can't park my -- his Ram there
16 in the Tesla parking space anymore, even if he works in that building.

17 MR. MINERVA: Well, you can. If they're not in use, you can.
18 They're not restricted to Tesla parking only, so.

19 MEMBER HERNANDEZ: So they can be used as parking spaces.

20 TESLA REPRESENTATIVE: Yes.

21 MEMBER HERNANDEZ: They're not restricted to only charge --

22 MR. MINERVA: They're not restricted.

23 MEMBER GOODSSELL: That would never occur to me.

24 MEMBER HERNANDEZ: I have seen, for example, in Eisenhower
25 Park, there are Tesla Charging Stations that are restricted only
26 while charging.

1 MR. MINERVA: No.

2 MEMBER HERNANDEZ: That you cannot have your car there.

3 MR. MINERVA: Yeah, these are not restricted.

4 MEMBER HERNANDEZ: People go play golf and leave their car there
5 for hours.

6 MR. MINERVA: These are not restrictive, and if there's
7 overflow parking where the other stalls do not -- are full, they
8 always can be used. There's gonna be no signage restricting them
9 to charging only. They're not restricted.

10 VICE CHAIRMAN FRANCIS: Talk about the bollard that are in front
11 of the charging stations. How close are they to the station itself?

12 MR. MINERVA: I think it's one foot, but let just me take a look.
13 Do you know?

14 TESLA REPRESENTATIVE: I don't know. It's the same exact
15 design you have.

16 MR. MINERVA: I'm going to see if I have that detail.

17 VICE CHAIRMAN FRANCIS: The code requires it to be 3 feet away
18 from the charging station.

19 MR. MINERVA: Actually, we had that issue on the one I presented
20 a few months ago, and my recollection is this Board determined that
21 that was not required, the 3 feet. We're just required to have a
22 vehicle impact protection bollard, but the setback was determined
23 not to be in applicable, and then when we went through the zoning
24 review here, we actually got our first denial letter that said that
25 we needed the setback for the 3 feet, and then upon re-review with
26 the Building Department, they removed that denial, so we no longer

1 need that setback.

2 VICE CHAIRMAN FRANCIS: Okay.

3 MR. MINERVA: I'm just going to see if I can find that detail
4 for you.

5 TESLA REPRESENTATIVE: It's about a foot.

6 MR. MINERVA: I don't see the actual dimension, but my client
7 has indicated that it's approximately one foot.

8 TESLA REPRESENTATIVE: It's the same detail that we brought
9 before you last time.

10 VICE CHAIRMAN FRANCIS: Right.

11 TESLA REPRESENTATIVE: It's the same design we used.

12 VICE CHAIRMAN FRANCIS: In terms of safety issue because
13 there's no electricity running through it, there really is no issue
14 with regard to the property.

15 TESLA REPRESENTATIVE: Correct.

16 MR. MINERVA: Yes, as my client indicates, the same design as
17 one that was just done -- that it was just approved in Carle Place,
18 and I believe now, it's mostly constructed, so.

19 VICE CHAIRMAN FRANCIS: Right.

20 MR. MINERVA: It'll be the same bollard design and the same
21 system. No electricity if it's not charging.

22 MEMBER DONATELLI: Just for the sake of clarity. The
23 applicant, of course, is Tesla, but these are electric vehicle
24 charging ports that will fit any Tesla type vehicle, whether it's
25 Tesla or some other type of vehicle?

26 MR. MINERVA: Yes, my client confirmed that it can charge any,

1 you know, modern electric vehicle, not only a Tesla.

2 MEMBER DONATELLI: I know from reading the newspapers only
3 that, I guess, there was this debate as to what charging
4 point -- charging port would be adopted as the standard. My
5 understanding is that now they're mostly coming around to Tesla, but
6 I guess they're still are some differences, but again, as we talk
7 about Tesla, we're really talking about greater electric vehicles.

8 MR. MINERVA: Electric vehicles, yes. It's their charging
9 station. You're paying Tesla to charge your car, but other
10 manufacture's vehicles can be charged there.

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

12 MEMBER DONATELLI: And this is backing up to Denton Avenue.

13 MEMBER HERNANDEZ: Yeah, the Spring Rock Driving Range.

14 MR. MINERVA: Yeah, the back of the driving range, so where
15 you're hitting the balls out, we're all the way on the back and I
16 think there's a 30 foot tall mesh netting behind us.

17 MEMBER HERNANDEZ: They need to make it 50 because I get the
18 ball over.

19 MR. MINERVA: I would love to see.

20 MEMBER HERNANDEZ: So would I.

21 CHAIRMAN MAMMINA: Do we have a motion?

22 MEMBER HERNANDEZ: Mr. Chairman, given the discussion, I move
23 that we grant the application.

24 CHAIRMAN MAMMINA: We have a motion by Member Hernandez. Do
25 we have a second?

26 VICE CHAIRMAN FRANCIS: Second.

1 CHAIRMAN MAMMINA: Second by Member Francis. Please poll the
2 Board.

3 SECRETARY WAGNER: Member Goodsell?

4 MEMBER GOODSSELL: Aye.

5 SECRETARY WAGNER: Member Hernandez?

6 MEMBER HERNANDEZ: Aye.

7 SECRETARY WAGNER: Member Donatelli?

8 MEMBER DONATELLI: Aye.

9 SECRETARY WAGNER: Vice Chairman Francis?

10 VICE CHAIRMAN FRANCIS: Aye.

11 SECRETARY WAGNER: Chairman Mammina?

12 CHAIRMAN MAMMINA: I will say Aye, but I will respectfully
13 disagree that the hardship is always self-created.

14 MR. MINERVA: Understood.

15 CHAIRMAN MAMMINA: Unless you're an American Indian putting up
16 Tesla Charging Station then it will not be self-created.

17 MR. MINERVA: Thank you. Have a good day.

18 CHAIRMAN MAMMINA: Thank you. Good to see you.

19 SECRETARY WAGNER: We're going to take five minutes.

20 (Whereupon, there was a recess taken in the Proceeding.)
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1 SECRETARY WAGNER: Appeal #21684, Caroldee Realty Corp.; 1350
2 Union Turnpike, New Hyde Park; Section 8, Block 235, Lot 17; Zoned:
3 Business-A & Residence-C.

4 Appeal for determination, or in the alternative a Special Use
5 Permit § 70-127 for a use similar to a permitted use, or in the
6 alternative Variance § 70-125 to construct interior alterations for
7 a pickle ball facility (pickle ball courts and golf simulators) which
8 is not a permitted use.

9 CHAIRMAN MAMMINA: You heard Appeal #21684, Caroldee Realty
10 Corp, 1350 Union Turnpike. Is there anyone in the room interested
11 in the application other than the applicant? Seeing no one, please
12 give your name and address.

13 MR. MIGATZ: For the applicant, Bruce Migatz. Law firm
14 Albanese & Albanese, 1050 Franklin Avenue, Garden City, New York.
15 Good afternoon.

16 At the outset, I'd like to hand premarked Exhibit 1-20 in the
17 binder. I have one for each member of the Board and one for the
18 record.

19 SECRETARY WAGNER: This is the one that you submitted?

20 MR. MIGATZ: Yes, I did submit these exhibits uploading them
21 to the website. I don't know if you had a chance to review them yet.
22 I also upload a memorandum of law to the website.

23 The applicant is Pickle N Par, LLC. The owner of the premises
24 is Caroldee Realty Corp. With me this afternoon is Anthony
25 Biancaniello and Elizabeth Biacaniello, who are the principals of
26 Pickle N Par. Also with me is Steven Pekofsky is the attorney

1 representing the managing agent that represents the landlord
2 Caroldee.

3 The application before you is to install pickleball courts, 14
4 courts. and three golf simulators in an underground building last
5 strike occupied by Strike. Exhibit 1, I have two photos of the
6 subject building. This photograph was taken just last week. It
7 still has Strike on the building. The only thing that is above ground
8 is the entrance to the building. The building otherwise is entirely
9 underground, and they're not visible. I lived in New Hyde Park when
10 this was being built as a bowling alley. I kept driving by, and I
11 kept seeing a sign, Opening Soon. How can this be opening soon?
12 They didn't build anything yet. It's underground.

13 The applicant is an experienced operator of pickleball clubs.
14 This is operated as a club. The applicant has two other facilities
15 that operate in the same manner. It's a membership club. You
16 reserve court time on an app called Court Reserve. They do give
17 lessons if you are interested in learning the game. The intent is
18 to have this facility open seven days a week from 8:00 A.M. to
19 10:00 P.M., Monday through Saturday, and 9:00 A.M. to 6:00 P.M. on
20 Sunday. Of course, these hours are change depending upon on demand.

21 It's just one issue before this Board. The premises are zoned
22 Business-A, which permits quote, "Clubhouse, fraternity house, large
23 golf house, or other recreation building;" as a permitted use. The
24 Building Department's disapproval notice says that the proposed
25 pickleball facility and golf simulators are a place of amusement,
26 which is not allowed in Business-A. Watching some people play

1 pickleball can be amusing, and watching me play golf is definitely
2 amusing, but a place of amusement is defined in the code, and it's
3 defined under Business-B, and it's listed as a conditional use. The
4 code defines a place of amusement as quote, "Bowling alleys, billiard
5 hall, skating rink, miniature golf, batting or golf driving lanes,
6 kiddy amusement center, except go-kart, trampoline, or amusement
7 arcade." That is the exclusive list of what the zoning code deems
8 a place of amusement. I really should stop right now and ask for
9 a direct verdict. I mean, this pickleball court and golf simulators
10 are not defined in the code as a place of amusement. What are they?
11 They are recreation.

12 The Building Department in an email to me when I questioned them
13 about this, and the email is Exhibit 2, says that in Business-A, when
14 they say other recreational use buildings, there's a distinction,
15 the Building Department says between social recreation and physical
16 recreation. That a clubhouse, fraternity house, large golf houses
17 is a place of social recreation, and any other recreation of the
18 building, must be social recreation. The Building Department is
19 trying to rewrite the code, and as we know, zoning codes are strictly
20 construed against the municipality, and if a particular term is not
21 defined in a zoning code, it is to be given its ordinary meaning.
22 I know counsel knows that case, several cases that say that.

23 Merriam-Webster Dictionary defines recreational as, "Of
24 relating to or characteristic of recreation." Define recreation as,
25 "Refreshment of strength and sprits after work." I don't think they
26 mean alcohol spirit. I think they mean your social spirit. All

1 recreation is both social and physical. You go to play pickleball,
2 it's recreation. It's extremely social as well. You go to play
3 tennis, it's recreation. It's also social. You go bowling, there's
4 recreation also. There's no distinction between social recreation
5 and physical recreation other than in the mind of the Building
6 Department.

7 MEMBER HERNANDEZ: Before you move on, you mentioned in the list
8 of things that were permissible. Did you say golf house?

9 MR. MIGATZ: Golf house.

10 MEMBER HERNANDEZ: Meaning, the clubhouse?

11 MR. MIGATZ: Well, I don't know what you mean by clubhouse. Are
12 you talking about the Spanking Al Gang's clubhouse, or they're
13 talking about a clubhouse on a golf course or a yacht club. They
14 have tennis courts.

15 MEMBER HERNANDEZ: And they have golf courses.

16 MR. MIGATZ: Yeah.

17 MEMBER HERNANDEZ: You can have a golf clubhouse, you need to
18 have a golf course.

19 MR. MIGATZ: Or golf simulators. It's just common sense.

20 To make the record, if need be, the history of this building,
21 this Building Department and Zoning Board have repeatedly recognized
22 this structure as a recreational building.

23 Exhibit 3 is a C-of-O for the original bowling alley, Sterling
24 Bowl. Issued in 1958 -- I'm sorry. Exhibit 4 is the C-of-O.
25 Exhibit 3 is this Board's determination Appeal #5699, which granted
26 a rear yard landscape area. There's no other variance required.

1 In 1958, I have a copy of the zoning code that was in effect
2 in 1958 as Exhibit 5. Permit as-of-right is the same, the same
3 language that's in code now. Clubhouse, fraternity house, large
4 golf house, or other recreational building at that time it said or
5 area. Now, it just says building, but that's the same provision that
6 was in the code back when this C-of-0 was for Sterling Bowl.

7 In '58, a place with amusement is not defined in the code. That
8 we later defined and put into Business-B as a conditional use.

9 In 1959, Business-A, did permit as-of-right a place of
10 amusement, but it didn't define the place of -- I'm sorry. Business
11 B in '58 allowed a place of amusement, but didn't define it. Now,
12 they do.

13 Since the bowling alley was given a C-of-0 pursuant to the same
14 code section now, it was deemed a recreational building. In Appeal
15 #6220, back in 1959, Exhibit 6, variance was grant to permit
16 installation of parking lights and a restaurant serving a bowling
17 alley.

18 Exhibit 7, an appeal from this Board. Appeal #6587, 1960.
19 This Board approved an extension of a bowling alley into Business-AA
20 District.

21 Let me point out to you, '58 a bowling alley was not listed as
22 a place of amusement. I want to emphasis that. That was done in
23 1966.

24 Sterling Bowling ceased operations in 2001. The building was
25 leased to Strike Holdings, LLC. They were granted a building permit
26 as-of-right to upgrade the bowling lanes. To replace 20 bowling

1 lanes with an electric race car track, and it had a restaurant.

2 I went through a Building Department file, which is very
3 involved because there are other buildings on this property.
4 There's an office building. There's a bank. There's a restaurant.
5 I could not find a C-of-O for Strike, when they went in. But
6 Exhibit 8, is a copy of the building property application status
7 report, and I highlighted that for you. It shows a building permit
8 was issued 2002 for interior alterations for Strike. No application
9 for a variance. And also as Exhibit 8 is the Certificate of Public
10 Assembly License.

11 Now, let me direct your attention to Exhibit 9. Appeal #16847
12 in 2002. The Board granted a conditional use permit to Strike,
13 quote, "To permit alterations to an existing restaurant within a
14 recreational building."

15 Exhibit 10, this Board's decision, Appeal #17456, 2004, granted
16 a variance, quote, "To permit the installation of an arcade room in
17 an existing recreational facility.

18 Appeal #18647, Exhibit 11. This Board granted Strike another
19 conditional use permit, quote, "To permit the proposed carnival
20 midway games within an existing recreational building."

21 I brought all these decisions to the attention of the planning
22 examiner. I said, how can you not say this is as recreational
23 building, and I got no response. No explanation as to why they're
24 just ignoring the prior decision of this Board.

25 In Appeal #19680, Exhibit 12. When Strike went out of business
26 in 2011, North Shore LIJ Health system, what it was then called,

1 signed conditional lease to convert the bowling alley Strike, race
2 car, underground facility to an office. I appeared before this
3 Board. We got a parking variance for that. That never came to
4 fruition. North Shore LIJ found out it was way too expensive to
5 convert underground bowling alley, arcade, wide open spaces to
6 general offices, and that lease was terminated.

7 Now, if there's any room for doubt, that a recreational building
8 is permitted in Business-A, I turn your attention to Exhibit 13,
9 which is a copy of the Town Board resolution and hearing transcript.
10 That was in 2022. That involved the Port Washington Tennis Academy.
11 Zausner Family ran that has a non for profit tennis facility, which
12 was partly in Business-A, partly in Residence-C. Residence-C
13 permitted a not for profit tennis facility, but did not permit a for
14 profit tennis facility in Residence-C.

15 Zausner Family sold the Port Washington Tennis Academy to a
16 private company that operates it for profit. They came before the
17 Town Board to seek a change of zoning from Residence-C to Business-A
18 to permit a tennis facility to operated in Business-A. And counsel
19 for, it wasn't me, counsel for the applicant at that time, and it's
20 in the transcript said, quote, "A for profit use of a recreational
21 building is prohibited in Residence-C Zone, but is permitted
22 as-of-right in the Business-A Zone. Obviously, the planning
23 department agreed with that. The Town Board agreed with that. They
24 change the zone to Business-A, so it could have a tennis facility.
25 That's a recreational use. It's physical. It's social. This
26 facility also has pickleball.

1 One last nail in the Building Department's coffin. Exhibit 14.
2 March 30, 2022, C-of-O for Gold Coast Table Tennis Club of 52 Main
3 Street, Port Washington, in a Business-A Zone, as-of-right.

4 Do I need to discuss the alterative relief or this Board's
5 satisfied that this is a recreational building permitted
6 as-of-right?

7 MEMBER GOODSELL: I'm interested in hearing a little bit more
8 about it. Because sometimes, Mr. Migatz, you use words without
9 regard to what their meaning is. Yes, recreational facility is
10 defined in the Town Code, but to me, colloquially, a recreational
11 facility is anything that has any kind of leisure activity.

12 MR. MIGATZ: Isn't pickleball leisure activity?

13 MEMBER GOODSELL: Could be? Could also be very competitive.

14 MR. MIGATZ: What's your point?

15 MEMBER GOODSELL: My point is I'm interested in hearing the rest
16 of your presentation.

17 MR. MIGATZ: The rest of the presentation is in the alternative
18 to seek a special use permit or an alternative use variance.

19 VICE CHAIRMAN FRANCIS: I don't see how you can argue that this
20 not what you just laid out. I mean, it's clear from the evidence
21 that this a recreational use. I mean, it's, you know, I don't see
22 how -- and you didn't get any argument from the Building Department.

23 MR. MIGATZ: They're not here.

24 VICE CHAIRMAN FRANCIS: I think it's pretty clear that is.

25 MR. MIGATZ: Thank you.

26 VICE CHAIRMAN FRANCIS: And again, I'm only one board member,

1 but I didn't finish first in my law school class, but I finished high
2 enough to know that you take the plain meaning of words and the plain
3 meaning certainly would fit this particular use.

4 MR. MIGATZ: Yes. Coincidentally, Exhibit 20, is a letter from
5 Lakeville Civic Association in support of the application.

6 MEMBER GOODSSELL: I saw that. That's part of the record. I
7 did see that.

8 MEMBER DONATELLI: Yeah, I guess, my comments would be that when
9 in the past we had pickleballs, there have been some members of the
10 public in close proximity who talked about the noise of the pickleball
11 when it hits the ground, but what better venue for it than an
12 underground facility.

13 MEMBER HERNANDEZ: Right.

14 MEMBER DONATELLI: I, as one board member, and have heard your
15 argument very carefully and considered it, and I'm persuaded by your
16 legal argument. A place of amusement versus a recreational building
17 is -- there is some overlap, but when I reviewed the words in the
18 context of the code, I think that this building can fairly be called
19 a recreational building, and I think it -- I, as one board member,
20 I'm persuaded by that, and while we are reluctant in general to grant
21 determinations because of their potential for being construed more
22 broadly than we might intend it, I think it might be appropriate in
23 this instance.

24 VICE CHAIRMAN FRANCIS: I agree. I agree 100 percent.

25 CHAIRMAN MAMMINA: Is that a motion and a second?

26 MEMBER DONATELLI: Well, I guess, my question is, do we findings

1 on this issue to specify it, and to better define it? I would not
2 turn to the applicant and say there is no need for you to continue
3 with your presentation. On the other hand, as one board member, I
4 am persuaded by your argument, and if the other board members feel
5 the same?

6 CHAIRMAN MAMMINA: Debra, would you suggest we have findings
7 on this as a clarification of the code?

8 MEMBER GOODSSELL: This is a truly unique property in my
9 experience.

10 MEMBER DONATELLI: Oh, but it's a definition problem.

11 VICE CHAIRMAN FRANCIS: Right.

12 MEMBER HERNANDEZ: Yeah, but it's a definition.

13 VICE CHAIRMAN FRANCIS: Right.

14 MEMBER HERNANDEZ: It's not variance on the property --

15 VICE CHAIRMAN FRANCIS: Right.

16 MEMBER GOODSSELL: And as far as it goes for this property, it
17 is unique, but you're right, if findings would help define what a
18 place of recreation is and what a --

19 DEPUTY TOWN ATTORNEY ALGIOS: Well, I don't want to hold up the
20 application. If the Board feels confident, you can always go and
21 vote and then we can document the next hearing.

22 VICE CHAIRMAN FRANCIS: Mr. Migatz, if you're comfortable based
23 on our comments that you don't need to presentation any other
24 arguments then that would be your call. We're not going to make that
25 call for you.

26 MR. MIGATZ: Well, from -- I can go on for ten more pages.

1 VICE CHAIRMAN FRANCIS: We prefer you not to.

2 MR. MIGATZ: That's what I thought, but just to be clear, a place
3 of amusement is defined in the code, it's limited to those particular
4 places.

5 VICE CHAIRMAN FRANCIS: Correct.

6 MR. MIGATZ: So there's no interpretation there. Either you
7 are a place of amusement or you're not, so if you're not, then what
8 are you?

9 VICE CHAIRMAN FRANCIS: What are you?

10 MEMBER DONATELLI: Right. Well, all due respect, Mr. Migatz;
11 Mr. Chairman, I make a motion that we grant appeal for determination
12 pursuant to the applicant's request.

13 VICE CHAIRMAN FRANCIS: I second the motion.

14 CHAIRMAN MAMMINA: Motion, Member Donatelli. Second, Vice
15 Chairman Francis. Please poll the Board.

16 SECRETARY WAGNER: Member Goodsell?

17 MEMBER GOODSSELL: Aye.

18 SECRETARY WAGNER: Member Hernandez?

19 MEMBER HERNANDEZ: Aye.

20 SECRETARY WAGNER: Member Donatelli?

21 MEMBER DONATELLI: Aye.

22 SECRETARY WAGNER: Vice Chairman Francis?

23 VICE CHAIRMAN FRANCIS: Aye.

24 SECRETARY WAGNER: Chairman Mammina?

25 CHAIRMAN MAMMINA: Aye.

26 MR. MIGATZ: Thank you very much.

1 SECRETARY WAGNER: We have an extension of time for a final
2 request for Appeal #21166, 10 3rd Avenue, Garden City Park. Still
3 trying to close out their permits in the Building Department. It's
4 taking a little bit longer than they thought.

5 VICE CHAIRMAN FRANCIS: Move to extend it.

6 MEMBER DONATELLI: Second.

7 SECRETARY WAGNER: All in favor?

8 BOARD MEMBERS: Aye.

9

10 SECRETARY WAGNER: Did we do SEQRA yet.

11 MEMBER DONATELLI: I'll move it.

12 CHAIRMAN MAMMINA: Motion Member Donatelli.

13 VICE CHAIRMAN FRANCIS: Second.

14 CHAIRMAN MAMMINA: Second Vice Chairman Francis.

15 SECRETARY WAGNER: All in favor?

16 BOARD MEMBERS: Aye.

17 (WHEREUPON, the Proceedings concluded at 12:48 P.M.)

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C E R T I F I C A T E

STATE OF NEW YORK)

SS.:

COUNTY OF NASSAU)

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of April, 2025.

MARIESEL BERRIOS