

1
2 Town of North Hempstead

3 Board of Zoning Appeals

4 PUBLIC HEARINGS

5
6
7 Wednesday, April 2, 2025

8 10:00 a.m.

9
10
11 BOARD MEMBERS PRESENT:

12 David Mammina, AIA, Chairman

13 Leslie Francis, Esq., Vice-Chairman

14 Daniel D. Donatelli, Esq., Member

15 Jay Hernandez, Member

16
17 ALSO PRESENT:

18 Deborah Algios, Deputy Town Attorney

19 Virginia Wagner, Secretary to the Board

20

1 CHAIRMAN MAMMINA: Would everyone please rise and join me
2 in the Pledge.

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

4 CHAIRMAN MAMMINA: Okay, good morning, ladies and gentlemen,
5 welcome to the Town of North Hempstead Zoning Board of Appeals, and
6 what we like to do is just give a little bit of information about
7 the way we conduct business. In case you've never been to a Zoning
8 Board before, which we'll ask you just to stay nice and calm when
9 you come on up, it's okay, or if you have, we may indeed do things
10 differently here.

11 What we will do is, as each case is called by our Secretary,
12 Ms. Wagner, we will ask for the applicant to stand on up. I will
13 ask if there is anyone else interested in the case other than the
14 applicant. So that would mean for the case or against the case, and
15 just a show of hands because we want to give those people, of course,
16 an opportunity to speak as everyone will.

17 The applicant will come on up, they will give their name and
18 address to our stenographer, and at that point, the podium belongs
19 to the applicant, and the applicant will put their case onto the
20 record. The Board will ask whatever questions it has, and when that
21 is -- when that is done, I'll ask for anyone who might have put their
22 hands up, maybe there's nobody, to come on up. The applicant will
23 have a seat right there in front, wherever, and they will then speak,
24 and the Board will ask whatever questions that it feels, and then
25 they will have a seat.

1 We limit that portion of the testimony to three minutes. What
2 I like to say is, we're not chopping anybody's head off at the three
3 minutes, but the room is not that full today. But we have times when
4 the room is full, and it goes out, you know, out into the lobby area.

5 So the applicant can speak as long as -- as long as they would
6 like. It would just be anyone else who wishes to speak in favor,
7 you know, or opposed.

8 So once that part is, you know, is done, the Board will do one
9 of four things. We will either approve the application, we'll
10 disapprove the application, we may reserve the application. If we
11 reserve the application, it's because we are asking you, as the
12 applicant, for another document. It could be a closing document,
13 it could be a survey. One time we had somebody bring in a picture
14 from a communion family gathering to show that this fence existed
15 back in, wherever, and then the fourth thing that we may do is
16 to -- wait, I got that backwards -- no, is to reserve the application,
17 and if we reserve the application, we have all the information that
18 we need and to make a decision, and therefore, there's nothing further
19 that we'll need from the applicant. It could be safe for me to say
20 we never have a second hearing. I think in my 32 years here, maybe
21 three times we had a second hearing.

22 So no one has to come back. We do have livestream on the town
23 network, so you know, you're free to watch what's going on after your
24 case has been presented, a week later, or excuse me, at our next
25 meeting. You can come if you want to, too, I mean, that's, you know,
26 that's okay because there are what is called the Sunshine Laws which

1 means that we don't do any deliberating, we don't make any decisions
2 that are not done in public, so that way, you'd be able to hear
3 what -- how the Board has deliberated on that.

4 Just a couple of other -- a couple of other quick things, you
5 know, as you saw when we came in, everybody's got their electronic
6 devices that we all live by now, unfortunately, as far as I'm
7 concerned, but so if you could just silence them; okay? You don't
8 have to shut them off, you know, that's okay. If you get a call or
9 if you need to make a call, then you can just stand on up, and you
10 know, and go outside, it's okay, you know, that is not necessarily
11 disserving the Board as long as we do it like ladies and gentlemen,
12 which of course, we would do, and then also, if there is anyone else
13 who is coming to join you and they're not here yet, we just ask that
14 you ask them, you know, just that same courtesy to each other. So
15 it doesn't mean every once in a while we don't get a little slip here
16 or there, but you know, that's okay.

17 This is a quasi-judicial hearing, and we have our stenographer,
18 you know, and she's got to be listening to everything that's going
19 on. We ask that there's no crosstalk, please, I mean, the Board does
20 that enough when she has to give me a look saying, okay, everybody,
21 you can't all talk at once.

22 So I think -- did I cover everything?

23 VICE-CHAIRMAN FRANCIS: I think so.

24 CHAIRMAN MAMMINA: Okay, then with that said.

25 MEMBER HERNANDEZ: Did you say the phone?

26 VICE-CHAIRMAN FRANCIS: Yeah.

1 CHAIRMAN MAMMINA: Yeah, I said the phone.

2 MEMBER HERNANDEZ: I wasn't paying attention.

3 CHAIRMAN MAMMINA: So -- maybe check the mic.

4 MEMBER HERNANDEZ: Yeah, I just checked it.

5 CHAIRMAN MAMMINA: Oh, I'm sorry.

6 SECRETARY WAGNER: Let the record show that Member Goodsell is
7 absent today.

8 CHAIRMAN MAMMINA: Okay, so with that said, would you please
9 call the first case.

10 SECRETARY WAGNER: We have one adjournment. We have an
11 adjournment of appeal number 21672, Rajendra Latcha, 757 Anna Avenue,
12 Westbury; Section 10, Block 208, Lot 7 in a Residence-C zoning
13 district.

14 Variances from §§70-100.2(A)(4) and 70-202.2(A) to legalize
15 fencing that is too tall and a patio with not enough water retention
16 onsite.

17 That's adjourned to May 7th.

18 CHAIRMAN MAMMINA: Okay, so if anyone is here for that case,
19 you are, of course, welcome to stay, you know, if you wanted to hear
20 the way that we handle things. Otherwise, you are free to go.

1 CHAIRMAN MAMMINA: Please call the first case.

2 SECRETARY WAGNER: Appeal number 21685, Jeffery Teta, 9 North
3 Bayles Avenue, Port Washington; Section 5, Block 24, Lot 9 in a
4 Residence-C zoning district.

5 Variance from §70-101.B to legalize a roofed over front porch
6 that is too close to the street.

7 CHAIRMAN MAMMINA: You've heard appeal number 21685, Jeffrey
8 Teta.

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

11 (WHEREUPON, there was no response.)

12 CHAIRMAN MAMMINA: Okay, seeing no one, and if there's packets
13 to --

14 Okay.

15 SECRETARY WAGNER: You can start while I'm --

16 MR. BIVONE: Okay.

17 CHAIRMAN MAMMINA: Yes, please.

18 MR. BIVONA: Good morning, Chairman, members of the Board.
19 Richard M. Bivone, 308 East Meadow Avenue, East Meadow, appearing
20 as the agent for the owner, Mr. Jeffrey Teta of the subject location,
21 9 North Bayles Avenue, Port Washington; Section 5, Block 24, Lot 9.
22 It's a Residence-C zone.

23 My client's requesting variances for Section 70-101.B to
24 legalize an existing roof over front porch that is closer than
25 permitted in the zone.

26 The property is approximately 50-by-107 in size. The original

1 dwelling was constructed in the early 1900s. A Certificate of
2 Existing Use was issued by the Building Department in 1978 which would
3 verify the age of the structures on the property at that time.

4 In 1998, my client purchased the property. It was in disrepair,
5 and he renovated some of it by adding on an angled portion to the
6 front porch.

7 In 2005, there was a significant fire which started in the rear
8 first floor and then rapidly went to the second floor, and they had
9 to secure permits to repair fire damage. What you see today is the
10 renovation, from the photos that we submitted, for the house itself
11 as it exists.

12 So the application for the fire damage was left open, and in
13 2014, he requested inspections by the Building Department, and they
14 noted some areas that still needed to be legalized which was the deck
15 in the rear, and also the front open porch and a fencing.

16 So again, from 2014 to the recent, it all stayed untouched,
17 nothing happened, and what happened at that point, we were retained
18 to legalize the existing conditions and clear up any open permits.
19 We started that in 2024, and the applications that we filed shows
20 everything that needs to be done to clean up and also close out any
21 permits, when, and if, this front roof over with the angled decking
22 were to be approved.

23 The property itself, to the south is a vacant property, which
24 can be a one-family dwelling, and that's directly abutting. To the
25 west is a public parking lot, directly -- which is directly across
26 the street, and to the north and east are one-family dwellings.

1 This property is very well maintained, and the existing
2 conditions do not adversely impact his property or the surrounding
3 properties. The front yard existing setback of the main dwelling
4 of the property is 27.8 feet, and the open porch, which is in question,
5 is 9.8 feet front area only which is about 14.3 feet front of the
6 front property line. It angles, again, toward, if you look at the
7 plans, it angles towards the house. It's not your standard porch
8 that's just even with the house, but 9 feet out.

9 Due to 70-50C, a more restrictive standard, the average front
10 yard setback of 26.45, the minimum front yard setback permitted on
11 this property is 21.4 feet. Therefore, the difference is 7.1 feet,
12 which is only for the width of that 9-foot 8 area which has that angle,
13 and the furthest projection into the front yard.

14 My client would agree that if the Board were to approve this
15 that he would not further enclose or create any living space because
16 of the character of the neighborhood, and also, the other open porches
17 that are existing in this area.

18 I submitted and uploaded about 18 photos of residents in the
19 area that have not exactly the same but similar open porches that
20 extend into the front yard, and due to the fact that the majority
21 of the area is a nonconforming area, and there are older homes,
22 substandard lots, that you do have a number of these houses that have
23 open porches. Some of them have actually been enclosed and have
24 actually reduced the front yard setback even further. Whether they
25 have permits or not, we did not reach into -- that deep into research
26 at the Building Department records. The type of the home, again,

1 as other homes have open porches, it is typical of this area.

2 In conclusion, if the Board were to approve this, we would close
3 out the open permits for the fire damage, the rear area of the
4 property, fencing, plus the front open porch, so that he could place
5 the house on the market for sale because it's his time now. He said
6 it's time for me to move on after living there since 1998.

7 MEMBER DONATELLI: I'm going to jump in.

8 Can I ask you, please, to address the five factors that we're
9 required to consider, and then I do have some questions, but would
10 you consider --

11 MR. BIVONE: Yeah.

12 MEMBER DONATELLI: Would you review those; please?

13 MR. BIVONE: So although, again, in reference to the balancing
14 test, the existing conditions, the house is a nonconforming house.
15 It's different than most, again, conforming, which would comply with
16 the zoning code. This house is limited in nature to do that because
17 of the age of the structure and the setbacks he was left with when
18 he purchased this house, including the fact that they have secured
19 permits from the Building Department in the past.

20 Will it have an adverse impact to the other properties? No.
21 Does it have an adverse impact to this property? No. Is it
22 self-created? Yes, it was self-created, but similar to the other
23 properties that are in the area, it's not different than the other
24 homes other than the fact that it has an angle on the actual front
25 porch. I don't think that this wood structure, this open porch, the
26 way it is today, does any significant difference to the character

1 of this neighborhood, and therefore, I do believe that it can be
2 approved because of the character of this neighborhood. You're not
3 significantly changing this, at all, from that.

4 MEMBER DONATELLI: As you mentioned, it is a roofed over porch.

5 MR. BIVONE: Correct.

6 MEMBER DONATELLI: The variance is required, not just for the
7 porch but also for the roof over the porch because the roof over the
8 porch, essentially, is the same outline as the porch itself.

9 MR. BIVONE: That is correct.

10 MEMBER DONATELLI: So if you were make the house compliant, if
11 you were to bring back that open porch and the roof line, do you have
12 any estimate of what the cost might be to the homeowner?

13 MR. BIVONE: At least 20, 25,000 to restructure, and again, it
14 still would be a nonconforming house with a front open porch. The
15 amount is a very minor amount of area that extends into the front
16 yard setback.

17 MEMBER DONATELLI: And I think your testimony was, and I'm
18 looking at the diagram as we speak, it looks like it's about 9 feet
19 for the portion that comes out the farthest, and then it kind of angles
20 back for another 4.2 feet.

21 So essentially, out of a -- it looks like a 34-foot front porch
22 there's really about 9 feet and 4 feet, about 13 feet that really
23 encroach es into the front yard setback; correct?

24 MR. BIVONE: Yes, that is correct.

25 MEMBER DONATELLI: It's less than half it looks like.

26 MR. BIVONE: Right, but the 9.8 is the furthest projection out

1 into the front yard setback.

2 MEMBER DONATELLI: Okay.

3 No, my question is, width-wise. It looks like out of a 30-foot
4 porch, it looks like it's about 13 or 14 feet that --

5 MR. BIVONE: That is correct, with the angle.

6 MEMBER DONATELLI: I would also note for the record that as I
7 drove the area, which we all do in preparation for the hearing, that
8 it is well maintained, and it is also not particularly obvious as
9 an encroachment.

10 MR. BIVONE: Mm-hmm.

11 MEMBER DONATELLI: In light of the surroundings, in light of
12 the fact that there is that parking lot just directly to the south
13 of it, and also across the street, it does not appear to really offend
14 the eye.

15 Does anyone else have any questions?

16 VICE-CHAIRMAN FRANCIS: I have a question about the gravel
17 driveway.

18 MR. BIVONE: Okay.

19 VICE-CHAIRMAN FRANCIS: As far as I know, you cannot have a
20 gravel driveway in the Town of North Hempstead, and I'm surprised
21 that it didn't get picked up by the Building Inspector, and I don't
22 want you to have an issue on the back end with regard to, you know,
23 having this gravel driveway.

24 MR. BIVONE: I'd have to have a conversation with the plan
25 examiner because they didn't say anything. If anything, it would
26 have to be, if that's the code, it would have to be paved and

1 drainage --

2 VICE-CHAIRMAN FRANCIS: Right.

3 MR. BIVONE: -- placed in, but right now it drains pretty well
4 if it's gravel.

5 CHAIRMAN MAMMINA: That might have been the existing
6 condition --

7 MR. BIVONE: Yeah.

8 CHAIRMAN MAMMINA: -- you know, from whatever it was, 1978 or --

9 VICE-CHAIRMAN FRANCIS: Yeah, I would definitely have that
10 conversation.

11 MR. BIVONE: Okay.

12 VICE-CHAIRMAN FRANCIS: Yeah.

13 MEMBER DONATELLI: So I would also note for the record that the
14 property is unique. We show a permit that was granted in 2005 for
15 a porch, although that permit from 2005 doesn't exactly list the
16 dimensions of the porch, of the proposed porch, and so it's difficult
17 for us to determine if exactly that issue was addressed in 2005 when
18 the application was first made, after the fire damage.

19 MR. BIVONE: Mm-hmm.

20 MEMBER DONATELLI: I do believe that the property is unique,
21 not only in the way that it's situated, but also in way that there
22 is the front protrusion of the house, and the lot tends to be a larger
23 lot than most of the other houses in the area. So I do think that
24 this property does have some uniqueness to it.

25 All right, does anyone else have any questions or comments?

26 VICE-CHAIRMAN FRANCIS: No.

1 MEMBER DONATELLI: All right.

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

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

4 Do we have a second?

5 VICE-CHAIRMAN FRANCIS: Second.

6 CHAIRMAN MAMMINA: Seconded by Vice-Chairman Francis.

7 Please poll the Board.

8 SECRETARY WAGNER: Member Hernandez?

9 MEMBER HERNANDEZ: Aye.

10 SECRETARY WAGNER: Member Donatelli?

11 MEMBER DONATELLI: Aye.

12 SECRETARY WAGNER: Vice-Chairman Francis?

13 VICE-CHAIRMAN FRANCIS: Aye.

14 SECRETARY WAGNER: Chairman Mammina?

15 CHAIRMAN MAMMINA: Aye.

16 Application is granted for the reasons as stated.

17 MR. BIVONE: Thank you, very much, and have a wonderful day.

18 Thank you.

19 (WHEREUPON, this application was approved.)

1 CHAIRMAN MAMMINA: Okay, the next case, please.

2 SECRETARY WAGNER: Appeal number 21686, SIP Builders, LLC, 14
3 Carlton Avenue, Port Washington; Section 5, Block 51, Lot 133 in the
4 Residence-C zoning district.

5 Variance from §70-47.1(D) to subdivide a property into two lots,
6 both being too narrow.

7 CHAIRMAN MAMMINA: You've heard appeal number 21686, SIP
8 Builders, LLC.

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

11 (WHEREUPON, there was no response.)

12 CHAIRMAN MAMMINA: Seeing no one.

13 Well, I will comment, that's quite a big seal on the lower
14 right-hand corner.

15 MS. DEEGAN DICKSON: To make sure you know it's legit.

16 MEMBER DONATELLI: Can you read the number?

17 CHAIRMAN MAMMINA: Almost. I always look at the numbers just
18 to see how much older I am.

19 MS. DEEGAN DICKSON: Good morning.

20 CHAIRMAN MAMMINA: Good morning.

21 MS. DEEGAN DICKSON: My name is Kathleen Deegan Dickson, I'm
22 a partner in the law firm of Forchelli Deegan Terrana, LLP, 333 Earle
23 Ovington Boulevard, Uniondale, New York. I'm here this morning
24 representing SIP Builders, LLC, which is the owner of the property
25 located at 14 Carlton Avenue in Port Washington.

26 We're here this morning for a variance from Section 70-47.1(D)

1 which was modified in August of 2024 to require construction and
2 subdivisions for single family homes in the Residence-C district to
3 comply with the average lot width of properties in -- the block front
4 that -- which it faces.

5 The lot in question is currently 105 feet wide by 150 feet deep
6 and has adequate lot area for the subdivision of this property into
7 two single family lots. It complies with all aspects of the code,
8 including the base minimum lot width of 40 feet that's required by
9 70-47.1(D). We actually thought that the the lot was compliant
10 because of the nature of the neighborhood. There are a lot of
11 non-residential and non-single family and two-family homes that are
12 in the area within the block front, and in our initial calculation,
13 we excluded some properties that should have been included. We were
14 a little surprised when we got the Notice of Disapproval from the
15 Building Department. We did go over it with them, and if anybody
16 from the Building Department is listening, they were correct in their
17 interpretation of -- and it resulted in us requiring a very minor
18 variance to allow a 52 feet 5 inch lot width, rather than the
19 requirement of 50 -- I'm sorry, 57 point -- I just lost my place.
20 Fifty -- no, that's the other one. Forgive me. How did I lose it?

21 VICE-CHAIRMAN FRANCIS: I think it's 57 even.

22 MS. DEEGAN DICKSON: 57, yes, I think it was 57.5.

23 MEMBER DONATELLI: Well, it's 57 on Carlton and 40 on Bank.

24 MS. DEEGAN DICKSON: Yes, on Bank we comply. Bank is a very
25 narrow dead-end street with lot widths that range from 25 feet to
26 70 feet. When you average those out, the lot width there was actually

1 50.7 feet. With our 52.5 feet, we comply with that lot width.

2 On Carlton, there's only four lots that are included in our
3 calculation. It's a mixed use block on this section, and it heads
4 from where the Atlantic Highlands Fire Station and the Verizon
5 building are on Prospect down to Main Street, and there's a mix of
6 commercial, multifamily, mixed commercial and residential,
7 religious and other type uses.

8 The four remaining properties that are considered residential,
9 none of them are single family residences. In Exhibit 3 in your
10 package, we have details on those four properties that are included.
11 Lot 52 is a residence which has been partially converted to
12 nonresidential use, and that's on a lot width of 57.57 feet. Lot
13 58 is defined as more than one residential dwelling on one parcel
14 of land, but less than four units, and that's 55 feet wide. Lot 12
15 is a three-family dwelling, and that's 57 feet wide, and Lot 10 is
16 identified as more than one residential dwelling at 57 feet.

17 So while these lots are used to calculate the block front, it's
18 hard to imagine that the code would contemplate compliance for a
19 single family home with all of the other larger, presumably larger,
20 lots. The ones that have -- that are multi-families or commercial,
21 mixed commercial, residential uses on them. Unfortunately, the code
22 does not permit us to exclude those from the calculation, even though
23 they're not the same character as what we're proposing here, and it's,
24 you know, pretty logical to conclude that the town would expect the
25 lot area for a three-family dwelling to exceed that for a single
26 family dwelling. Notably, the three-family dwellings, most of the

1 uses in this community that are not religious or single family or
2 two-family are nonconforming, preexisting nonconforming.

3 So the variance that we are seeking is for a 4.17 foot variance
4 to comply with the 56.64 foot block front average width on Carlton
5 Avenue. Even at 52 1/2 feet, we exceed the base minimum of 40 feet
6 by over 12 feet. So this is really a perfect example of when a
7 variance should be granted.

8 It's a very eclectic neighborhood. As I mentioned, on Bank
9 Street, some of the lots there are as narrow as 25 feet, much smaller
10 lot area. Many of them are single family homes, but they're
11 nonconforming to a large degree to the current code.

12 By allowing a subdivision of this lot into two 52 1/2 foot wide
13 lots will not alter the character the neighborhood, as we've
14 established through the exhibits that were submitted, and as you know
15 from your familiarity with the neighborhood, it's very -- it's not
16 inconsistent with what's in the character of the neighborhood. It's
17 actually more consistent with some of the homes a little bit to the
18 south of or -- yeah, to the south of the property and the neighborhood
19 as it goes up Carlton Avenue where there are more single family
20 neighborhoods, more single family homes. In fact, we've received
21 support from some of the surrounding neighbors. Exhibit 4 in your
22 package has letters from three of the immediately surrounding
23 neighbors consenting to and encouraging the relief that we're
24 requesting.

25 We will not be able to achieve a two lot subdivision without
26 the requested relief. The lot, as it is, is a fixed size. The

1 average setback -- the average block front calculated on the existing
2 width of 105 feet, there's no way to configure two lots on this without
3 requiring variance relief. The only option would be not to
4 subdivide, and then we have, really, an out of character, oversized
5 lot for the neighborhood, and the variance is not a self-created
6 hardship due to the existing conditions on the property. There is
7 no way to comply with the average block front in -- by subdividing
8 the property without the relief requested.

9 We -- I hope you have the exhibit package, it was submitted to
10 you electronically earlier this week or late last week. I do have
11 additional paper copies. I know you're trying to go paperless,
12 but -- and I'm happy to answer any questions you may have. I do have
13 principals from SIP here if you have any specific questions for them.

14 MEMBER DONATELLI: Well, first an observation which is, the
15 more we try and go paperless, the more paper we have.

16 In terms of lot size, square footage, do both the proposed lots
17 meet the required lot square footage?

18 MS. DEEGAN DICKSON: Yes, yes, they do.

19 MEMBER DONATELLI: I know that the current application does not
20 have homes on them as of yet. Where do you propose to locate the
21 homes; fronting Carlton? And for the record, this is a through
22 street. So do you propose to put the houses on Carlton or on Bank
23 Street?

24 MS. DEEGAN DICKSON: They will face Carlton.

25 MEMBER DONATELLI: Carlton.

26 MS. DEEGAN DICKSON: Yeah, while there are three lots, their

1 backyards will be back on Bank Street, but it's a very narrow street.
2 I'm sure that the traffic patterns would better be accommodated on --

3 MEMBER DONATELLI: Yeah.

4 MS. DEEGAN DICKSON: -- Carlton.

5 MEMBER DONATELLI: Bank Street, even though it's called a
6 street, it's probably more appropriate to refer to it as a one lane,
7 one width, one car width lane. It is a very problematic street in
8 terms of traffic, in terms of parking. It really is not a street --

9 MS. DEEGAN DICKSON: Right.

10 MEMBER DONATELLI: -- in the typical sense. On the other
11 hand, Carlton, of course, is one of those streets that is also
12 problematic. I know that they have one way traffic for, typically,
13 on Sundays so that is something that I think most of the houses, most
14 of the neighbors in the area live with, as well as when you add in
15 the firehouse.

16 MS. DEEGAN DICKSON: If I could also -- I'm sorry,
17 Mr. Donatelli, just mention that with the size of the lot and the
18 lot width as it exists, we could develop a single, two-family there
19 without any variances.

20 MEMBER DONATELLI: Right.

21 MS. DEEGAN DICKSON: You know, the thought was that the single
22 family homes may be more palatable to the people in the neighborhood,
23 and also just it would be a little bit -- a nicer upgrade for the
24 property.

25 MEMBER DONATELLI: Yeah, and I would also notice that the
26 subdivision would be compliant had this been on Bank Street, not

1 fronting on Carlton, because it does, in fact, meet the 40 feet of
2 the Residence-C zoning district, which this is.

3 Our issue, of course becomes, because it is a through lot, we
4 have two different standards, and so the question is, how do we thread
5 the needle on the two different standards?

6 I've driven both roads extensively, and I've really given this
7 quite a bit of thought. I think that I might come down with a
8 different conclusion if I felt that the lot size was insufficient.

9 CHAIRMAN MAMMINA: Mm-hmm.

10 MEMBER DONATELLI: But I think that, I personally, as one Board
11 member, would come down in favor of this.

12 MS. DEEGAN DICKSON: Mm-hmm.

13 MEMBER DONATELLI: Do any of the other Board members have any
14 questions or comments?

15 MEMBER HERNANDEZ: No.

16 CHAIRMAN MAMMINA: I'd say the only comment that -- because I
17 agree with what you're saying, this is an extremely unique
18 neighborhood. This is not your normal subdivision where somebody's
19 got a little bit oversized lot, you know, and they were looking to
20 cram in two houses.

21 Just as a comment, which we really have nothing to do with this,
22 per se, and I could be wrong, but I think when you front on two streets,
23 you have two front yards. So you're showing 15 feet on Bank, and
24 I think it's 25, but I don't see that -- I mean, here -- you're here
25 for the subdivision. So I might -- I could be wrong, because your
26 side yards are, you know, are correct.

1 MS. DEEGAN DICKSON: Yeah, it's also possible --

2 MEMBER HERNANDEZ: It appears, although it's not marked as a
3 building envelope, it appears that in the demolition plan they have
4 shown what a building envelope could be.

5 MS. DEEGAN DICKSON: Right.

6 MEMBER HERNANDEZ: And that's what the Chairman is referring
7 to.

8 MS. DEEGAN DICKSON: Yes.

9 MEMBER HERNANDEZ: You need 25 on both sides.

10 MS. DEEGAN DICKSON: Yes, and I think that's something that will
11 certainly be corrected when we submit for a building permit.

12 I do want to point out that the -- we were unable to ascertain
13 the true width of Bank Street, but in North Hempstead, a street is
14 defined as a thoroughfare of greater than 20 feet width. I'm not
15 sure that it is.

16 MEMBER DONATELLI: Right.

17 MS. DEEGAN DICKSON: So it's entirely possible that that may
18 not count as a front setback, but regardless, there's no intent to
19 build -- to build a house back there.

20 CHAIRMAN MAMMINA: My point is just to point --

21 MS. DEEGAN DICKSON: Yes.

22 CHAIRMAN MAMMINA: -- to point it out.

23 MS. DEEGAN DICKSON: Yes, but a good -- that's a good catch.

24 CHAIRMAN MAMMINA: For your client, you know, who, I guess, is
25 here, I don't think it would affect this development per se because
26 it's 150-foot deep.

1 MEMBER DONATELLI: Right.

2 MS. DEEGAN DICKSON: Yeah.

3 MEMBER DONATELLI: And it's unique in that sense.

4 MS. DEEGAN DICKSON: Probably exceed the F.A.R. at that point;
5 right?

6 CHAIRMAN MAMMINA: Because we look at these very, very
7 carefully. I remember when this came in to the Board and reasons
8 why we were to take more conventional, you know, 60-by-100,
9 60-by-100, 60-by-100, you know, and then there's -- somebody's got
10 a lot that could be split into the 57-by-100s, you know, that sort
11 of thing.

12 MEMBER DONATELLI: So I would just ask, and I know that we're
13 taking things a little bit out of order, but I would ask that we,
14 for now, move this to a second call.

15 CHAIRMAN MAMMINA: Okay.

16 MEMBER DONATELLI: And perhaps vote on it.

17 ATTORNEY ALGIOS: Just --

18 MEMBER DONATELLI: Just reserve this decision.

19 ATTORNEY ALGIOS: Just reserve now, and you'll vote --

20 MEMBER DONATELLI: Okay, all right.

21 So I think the preference of the members is, you're hearing where
22 we're going with this, but I think it would be appropriate if, given
23 the circumstances of this, that we have findings. We hope to have
24 findings on this a little bit later on, perhaps even, hopefully, this
25 afternoon, and perhaps then we can vote on it, but I think you're
26 hearing where going with this.

1 MS. DEEGAN DICKSON: Thank you.

2 MEMBER DONATELLI: But it might be best to have findings.

3 MS. DEEGAN DICKSON: Okay.

4 MEMBER DONATELLI: So I ask, Mr. Chairman, that we reserve, for
5 the time being, the decision on this.

6 CHAIRMAN MAMMINA: Okay.

7 Anybody have any issue?

8 MEMBER HERNANDEZ: Nope.

9 VICE-CHAIRMAN FRANCIS: No.

10 CHAIRMAN MAMMINA: We will reserve the application at this
11 point, hopefully to be resolved this afternoon.

12 MS. DEEGAN DICKSON: Very good.

13 CHAIRMAN MAMMINA: And that would be at the next hearing.

14 MS. DEEGAN DICKSON: Okay.

15 VICE-CHAIRMAN FRANCIS: You can tune into the livestream.

16 MS. DEEGAN DICKSON: Which I do a lot. I love to watch you guys
17 on TV.

18 Thank you, very much.

19 MEMBER DONATELLI: Thank you.

20 (WHEREUPON, this application was reserved.)

1 SECRETARY WAGNER: Appeal number 21661, Paul Friedman, 8 Old
2 Hills Lane and 37 Bogart Avenue in Port Washington; Section 6, Block
3 83, Lot 4 and Section 6, Block 83, Lot 15 in the Residence-A zoning
4 district.

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

7 CHAIRMAN MAMMINA: You've heard appeal number 21661, Paul
8 Friedman.

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

11 (WHEREUPON, there was no response.)

12 CHAIRMAN MAMMINA: Seeing no one.

13 Please give your name and address.

14 MR. MIGATZ: For the applicant, Bruce W. Migatz, law firm
15 Albanese & Albanese, 1050 Franklin Avenue in Garden City, New York.

16 Good morning.

17 CHAIRMAN MAMMINA: Good morning.

18 MR. MIGATZ: This is an application to maintain a retaining wall
19 that was repaired, and part of the retaining wall, existing, that
20 was repaired exceeds 5 feet in height.

21 There are two addresses on the application because the retaining
22 wall straddles two properties. The retaining wall retains the
23 property of Mr. Friedman, who is with me today with his wife, which
24 is 8 Old Hills Lane. The face of the retaining wall is on the property
25 of 37 Bogart Avenue, and the deadmen are on the property of 8 Old
26 Hills Lane, so that's why there are two property addresses on this

1 application.

2 CHAIRMAN MAMMINA: For those people who don't know what a
3 deadman is, it's not really a dead man. It's another piece of
4 railroad tie that goes back into where the soil is deeper, you know,
5 so that it's holding that down so it's not going like that. There's
6 the deadman.

7 MR. MIGATZ: Thank you, Mr. Chairman.

8 Exhibit 1 that I filed electronically is a picture of the
9 retaining wall just when repairs were just commenced, and you'll see
10 some red markings on that photo. I'll get back to you -- I'll get
11 back to that in a moment.

12 The applicant purchased the property, 8 Old Hills Lane, in 2019.
13 According to the Nassau County Department of Assessment Records, the
14 house was built in 1956. I think it's fairly safe to assume that
15 retaining wall was there in 1956, and it's amazing it lasted that
16 long.

17 The red paint is actually on the retaining wall, not on the
18 photograph, and that was placed there to denote the areas to repair.
19 The red paint with the "X" in the middle, that's where the wall was
20 bulging and needed to be repaired, and then to the far left, you'll
21 see two timbers that are painted in red that needed to be repaired.

22 CHAIRMAN MAMMINA: Mr. Migatz, we don't see the red paint.
23 Does anyone see it?

24 MEMBER HERNANDEZ: I haven't found them yet, I'm looking for
25 it.

26 MR. MIGATZ: I made a copy --

1 CHAIRMAN MAMMINA: Just, if you have another one, we could pass
2 it --

3 MR. MIGATZ: Yeah, that's why I have --

4 CHAIRMAN MAMMINA: We could pass it down.

5 MR. MIGATZ: Cut down on paper.

6 MEMBER DONATELLI: It's not working.

7 CHAIRMAN MAMMINA: I mean, as an architect, I'm good at using
8 my imagination, at least I think I am. That far I can't go.

9 ATTORNEY ALGIOS: The photo's in the packets. It shows the red
10 paint.

11 MEMBER DONATELLI: Well, this is easier.

12 MR. MIGATZ: I'd rather we go back to the old fashioned way
13 myself, but --

14 CHAIRMAN MAMMINA: Mm-hmm, right.

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

16 MR. MIGATZ: Now, the retaining wall at the east end, which is
17 the right side of the picture, is 1.4 feet high, and it goes up because
18 the grade of the land behind the wall slopes down. So when you get
19 to the far end of the wall, it's 6.8 feet, and under the current code,
20 no part of the retaining wall can exceed 5 feet unless you step it
21 back and have a tier system. I am told by Mr. Friedman, when the
22 contractor commenced repairs on the bulging section, that the rest
23 of the wall to the left was compromised and needed to be replaced
24 at that time. So the contractor did proceed with
25 correct -- repairing the wall from the bulge to the left. There is
26 a filed picture of that, but I did bring copies because it's very

1 light. So let me hand these up. I don't think you can see the color
2 on your computer perhaps.

3 But the lighter shade timbers are the new ones, and the darker
4 shade timbers are the existing. So you can see that the entire wall
5 was not replaced, just those sections that were compromised.

6 We are here because the town code says that we have a
7 nonconforming structure. You can repair or replace it provided the
8 repair or replacement does not exceed 50 percent of the exterior of
9 the surface. That's really meant for buildings, not so much for
10 retaining walls, I think. So when you apply that to this retaining
11 wall, even though a small portion of the wall is above 5 feet, the
12 Building Department calculates the entire exterior surface of the
13 wall and said you replaced more than 50 percent.

14 Exhibit 2 that had been filed, and I do have enlarged copies
15 of that for you so you can see a little bit better. What I've
16 highlighted on the disapproved plan, the portion of that retaining
17 wall that exceeds 5 feet, and you can see that it's very minimal.

18 MEMBER HERNANDEZ: Mm-hmm.

19 MR. MIGATZ: But according to the code, the entire wall has to
20 be calculated, and it's more than 50 percent.

21 Turning to the balancing test. There's no detriment to the
22 community if you grant this variance. The adjacent owner is a party
23 to this application. The retaining wall prevents Mr. Friedman's
24 property from collapsing on their property. So certainly, they
25 consent to this application.

26 The benefit cannot be achieved without a variance. The benefit

1 is to maintain this wall. That wall -- that benefit cannot be
2 achieved without a variance. The variance can be avoided if that
3 very small section of that retaining wall were to be stepped back
4 5 feet and then rebuilt. That certainly is not practical. I even
5 question if it's feasible, and I'll refer to the Chairman on that
6 as an architect, but to step back a retaining wall such a small height,
7 I'm not sure that's even feasible. It's certainly not practical.

8 Another problem that makes it not feasible, Exhibit 3 is a
9 picture of the Friedman's backyard, and there's a swimming pool in
10 that backyard, and that swimming pool is 10 -- the closest point is
11 10 feet from the retaining wall which is on the line. So if you were
12 to try to step back this little section of the wall, you go back 5
13 feet, then you go back 5 feet for deadman, and you excavate, you're
14 into the pool. So it's just not feasible to do that, much less
15 practical.

16 This is a Type II application under SEQOR, deemed not to have
17 an adverse impact on the environment. The variance, as Exhibit 2
18 demonstrates, is not substantial. It's a very minor section of the
19 wall that's higher than 5 feet.

20 As a matter of law, it is a self-created difficulty because the
21 Friedmans purchased the property subject to the code, but that's just
22 one factor for this Board to consider.

23 Weighing all those factors, I submit to you that the benefit
24 to the applicant to keep this very small section of the wall outweighs
25 any detriment to the community.

26 MEMBER DONATELLI: I walk my dog in front of this virtually

1 every day.

2 MR. MIGATZ: I almost stepped in it.

3 MEMBER DONATELLI: And while it is in the backyard of both
4 houses, it's actually visible in between the houses from Bogart
5 Avenue. I know that the house immediately to the west of it also
6 has a similar situation with, I think, a concrete wall, and I don't
7 know as to whether or not that applicant sought a variance for that
8 wall, I don't know. But often, on this Board, we address what it
9 takes for compliance, and whether or not we're seeking compliance
10 for the sake of compliance or whether or not there's some real reason
11 for the granting of the variance.

12 In my opinion, as one Board member, I think to require the
13 applicant to take down the area of the retaining wall that exceeds
14 5 feet would be compliance for the sake of compliance and would lead
15 to a drastic reengineering, as the applicant has indicated, as
16 Mr. Migatz has indicated, not just of that portion of the wall, but
17 also the deadman, and perhaps going into the pool area.

18 I have wrestled with this because I know that we first saw this
19 application, I guess, several months ago, and so, because I walk my
20 dog there every day, and I knew that this was eventually coming before
21 us, I've wrestled with, well, it's two applicants. There's clearly
22 an applicant who is benefitting from the retaining wall, and then
23 there's the other applicant who, of course, is looking at this
24 retaining wall. If this had been purely on the property of the
25 applicant, then I think I really would have pressed for some sort
26 of vegetation or something on the property to at least lessen the

1 visual impact of this. But I don't believe that is the case here,
2 and I would be loathe to ask for one property member, who is not really
3 before the Board even though he joins in the application, to soften
4 the impact with some sort of vegetation. I would imagine that if
5 the owner on 37 Bogart wanted to put vegetation, he could certainly
6 do it, but I do not want to require it as a condition because this
7 is exactly on the property line, so --

8 CHAIRMAN MAMMINA: Let me try, because usually if I move this --

9 MEMBER DONATELLI: Because I'm --

10 CHAIRMAN MAMMINA: It has a mark on it. Let's see if -- have
11 feedback now, I'm going to have to back -- there's a little mark here.

12 MEMBER DONATELLI: Okay, can everyone hear me now?

13 Okay, I'm going to try and speak up, and you can hear me?

14 COURT REPORTER: Yes, sir.

15 MEMBER DONATELLI: All right.

16 So, rather than repeat everything, I'm just going to summarize
17 by saying that I think that requiring the wall to be reengineered
18 or to be taken down to be compliant 5-foot would be compliance for
19 the sake of compliance.

20 So unless the Board has any other questions or comments, I make
21 a motion that we grant the application.

22 CHAIRMAN MAMMINA: Okay, we have a motion.

23 Do we have a second?

24 VICE-CHAIRMAN FRANCIS: Second.

25 MEMBER HERNANDEZ: Second.

26 CHAIRMAN MAMMINA: I'm going to give that one to

1 Member Hernandez.

2 Please poll the Board.

3 SECRETARY WAGNER: Member Hernandez?

4 MEMBER HERNANDEZ: Aye.

5 SECRETARY WAGNER: Member Donatelli?

6 MEMBER DONATELLI: Aye.

7 SECRETARY WAGNER: Vice-Chairman Francis?

8 VICE-CHAIRMAN FRANCIS: Before I vote, let me just say that I
9 know Mr. Donatelli is a responsible dog owner. So if there are any
10 presents left in front of your home, it is not his dog.

11 MEMBER DONATELLI: It's not me.

12 VICE-CHARMAN FRANCIS: I vote aye.

13 CHAIRMAN MAMMINA: And before I vote aye, I will say to what
14 Mr. Migatz said, I don't even know if it's feasible, and I was going
15 to say, for money, I can do anything you want. So yes, that would
16 be a real, a real hardship, and I do think the one missing railroad
17 tie is probably one of those dead men trying to escape. They're all
18 trapped in now.

19 So yes, I vote aye.

20 Thank you.

21 MR. MIGATZ: Thank you.

22 MEMBER DONATELLI: Good luck to you.

23 MR. FRIEDMAN: See you in the neighborhood.

24 (WHEREUPON, this application was approved.)

1 CHAIRMAN MAMMINA: Okay, please call the next case.

2 SECRETARY WAGNER: Appeal number 21687, Jennifer Macchio, 215
3 Silver Lake Boulevard, Carle Place; Section 10, Block 15, Lot 5 in
4 the Residence-C zoning district.

5 Variance from §70-102.C(5) (a) to legalize a semi in-ground pool
6 that is too close to the side and rear property lines.

7 CHAIRMAN MAMMINA: You've heard appeal number 21687, Jennifer
8 Macchio.

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

11 (WHEREUPON, there was no response.)

12 CHAIRMAN MAMMINA: Seeing no one.

13 MS. GONZALEZ: Good morning, everyone.

14 CHAIRMAN MAMMINA: Please give your name and address.

15 VICE-CHAIRMAN FRANCIS: Good morning.

16 MS. GONZALEZ: Taylor Gonzalez of Forchelli Deegan Terrana, 333
17 Earle Ovington Boulevard, Uniondale, New York.

18 CHAIRMAN MAMMINA: Good morning.

19 MS. GONZALEZ: And I submitted these exhibits online but I'm
20 going to give you hard copies as well, a habit I haven't been able
21 to break yet.

22 Okay, and here with me this morning to answer any questions you
23 may have is the property owner, Joseph, and as was said, this is for
24 rear and side yard setback variance relief from 70-102.C(5) (a) for
25 an in the ground swimming pool where the rear and side yard setback
26 is 10 feet, and the rear is proposed at 6.2 feet, and the north side

1 yard is proposed at 5.9.

2 This is for a partially completed, semi in the ground pool. As
3 you can see from Exhibit -- oh, I lost track, I believe it's 3, yup,
4 thank you. Exhibit 3, the pool was not finished and has sat that
5 way for quite some time. When the applicants purchased the pool,
6 they went to Backyard Masters, and Backyard Masters told them that
7 because it was a semi in the ground pool, it was considered above
8 ground, and thus, they wouldn't need permits. They relied on this
9 information, they purchased the pool, they moved forward with
10 construction that they thought was correct. It wasn't until the
11 middle of construction where they were informed that that was
12 actually incorrect information. They went back to Backyard Masters,
13 Backyard Masters then changed their story and said, whoever told you
14 that was wrong. It was your job to find that information out. It
15 was your job to handle the permitting. Unfortunately, at this time,
16 they had relied on experts, as many others would, and now they're
17 here to request these variances.

18 I do want to note that if the pool was above ground, their setback
19 requirement would only be 5 feet making them in compliance with the
20 code. Unfortunately, they are semi in the ground, and thus,
21 considered in the ground and require a 10-foot setback.

22 MEMBER DONATELLI: I'm sorry, I'm reluctant to interrupt,
23 but --

24 MS. GONZALEZ: Mm-hmm.

25 MEMBER DONATELLI: -- how were they notified that the pool was
26 not compliant?

1 MS. GONZALEZ: So it's our understanding that someone called
2 the town, and the town came and inspected, and they were issued a
3 stop work order, and they immediately stopped work and tried to figure
4 out how to correct the situation, and that was when they also found
5 out they would need variances because they didn't meet --

6 MEMBER DONATELLI: And when was that stop work order issued?

7 MS. GONZALEZ: Do you know?

8 MR. MONCADA: April.

9 MS. GONZALEZ: About a year ago, give or take.

10 MEMBER DONATELLI: One year approximately.

11 MS. GONZALEZ: Approximately, yes.

12 MEMBER DONATELLI: Please continue.

13 MS. GONZALEZ: Okay.

14 So the applicants are here today to obtain the necessary setback
15 variance for the pool. The granting of these variances would not
16 be a detriment to the surrounding properties or impact the character
17 of the neighborhood. As you can see in Exhibit 1, many people in
18 the surrounding area have in the ground and above the ground pools.

19 As previously mentioned, if the pool had been installed above
20 ground instead of semi in the ground, no variances would be required,
21 and functionally, the pool is no different than an above ground pool.

22 The neighbors, located to the north where the setback is only
23 5.9 feet, have a shed located on the property line in the corner of
24 the property as can be seen in Exhibit 2. It is right here. The
25 pool is going to be right here. So they're essentially screened from
26 the view of the the pool.

1 In addition, the applicant would like to, in the future, plant
2 arborvitaes around the pool and around most of their yard to screen
3 any view into their yard or out of their yard.

4 In addition, upon -- okay, and as for a feasible alternative,
5 the only other alternative possible would be to rip up the nearly
6 completed pool and to move it into a compliant location. Had the
7 applicant been properly informed by the professionals prior to
8 installation, they would have put it in a compliant spot.
9 Unfortunately, now that they're partially completed, almost all the
10 way completed, obviously, it's a costly endeavor to close up the
11 existing pool, move it. It would cause more of disturbance to the
12 neighbors, probably, than completing the existing pool as is.

13 VICE-CHAIRMAN FRANCIS: Ms. Gonzalez, does --

14 MS. GONZALEZ: Mm-hmm.

15 VICE-CHAIRMAN FRANCIS: -- the applicant still have a copy of
16 the contract?

17 MS. GONZALEZ: Joe, do you know if you have --

18 MR. MONCADA: At home.

19 MS. GONZALEZ: Do you want to come up?

20 CHAIRMAN MAMMINA: You have to come up and --

21 VICE-CHAIRMAN FRANCIS: Just give your name and address.

22 CHAIRMAN MAMMINA: You have to put yourself on the record.

23 MR. MONCADA: Joseph Moncada, 215 Silver Lake Boulevard, Carle
24 Place, New York.

25 I have it at home, I didn't bring it.

26 VICE-CHAIRMAN FRANCIS: Okay, I'd like to see a copy of that.

1 MS. GONZALEZ: Okay.

2 MR. MONCADA: Yeah.

3 MS. GONZALEZ: Yeah, so --

4 CHAIRMAN MAMMINA: Is this -- is this pool a, you say, a semi
5 in-ground.

6 MS. GONZALEZ: Mm-hmm.

7 CHAIRMAN MAMMINA: Is it still made with a concretish (sic) base
8 and then a vinyl liner that gets put into the pool?

9 MS. GONZALEZ: Not concrete. It's just dug out, and then it
10 has these sort of structured, similar to what you see in above ground
11 pools, that the walls are structured with their -- with the joists.
12 So, no --

13 CHAIRMAN MAMMINA: But generally, they're not just earthed down
14 there, but it's not impossible.

15 VICE-CHAIRMAN FRANCIS: Yeah.

16 CHAIRMAN MAMMINA: And so this is then just -- these are forms
17 that are around the outside of the pool?

18 MS. GONZALEZ: Yeah, it -- Joe, do you know if any concrete was
19 poured?

20 MR. MONCADA: So I did -- when I spoke to the pool -- the manager
21 of the pool company, he said if we had to move the pool, they said
22 you can't because it's all concrete on the bottom. Once you break
23 up that concrete, the pool's going to be destroyed.

24 VICE-CHAIRMAN FRANCIS: Right.

25 MR. MONCADA: And you cannot.

26 MEMBER DONATELLI: Sir, when did you buy the pool?

1 MR. MONCADA: I believe it was in -- we installed it in May,
2 so I'm guessing it could have been December. I'd have to check, I
3 totally forgot. It was installed in May.

4 MEMBER HERNANDEZ: May of last year.

5 MR. MONCADA: Of last year, yes.

6 MEMBER HERNANDEZ: Okay, so --

7 MR. MONCADA: It was installed in May, and --

8 MEMBER HERNANDEZ: So May of '24, so you bought it sometime
9 between December of '23 --

10 MR. MONCADA: Yeah.

11 MEMBER HERNANDEZ: -- and May of '24.

12 MR. MONCADA: It could have been February, yeah, it could have
13 been February, March, yeah, that's correct.

14 MEMBER DONATELLI: And was there a pool there previously?

15 MR. MONCADA: There was not.

16 ATTORNEY ALGIOS: When did you purchase the house?

17 MR. MONCADA: In 2012. October, 2012.

18 CHAIRMAN MAMMINA: I think seeing the contract would be
19 important because, I mean, yeah, it's semi in-ground, but generally,
20 semi in-ground, to me, anyway, you know, I'd have to see if there
21 is a better definition, which I don't think I'm going to find a
22 definition, it's generally an above ground swimming pool that gets
23 halfway buried.

24 MEMBER HERNANDEZ: It's recessed.

25 CHAIRMAN MAMMINA: Right, in this case, this, for all intents
26 and purposes, is a built-in pool.

1 MEMBER HERNANDEZ: It's an in-ground pool with an extension
2 above ground.

3 CHAIRMAN MAMMINA: Yeah, an extension above ground. So I'd --

4 MEMBER HERNANDEZ: That's the way it's being described.

5 MEMBER DONATELLI: You know, my understanding is that the
6 10-foot setback requirement that the Town of North Hempstead has for
7 these types of pools is really based on safety.

8 VICE-CHAIRMAN FRANCIS: It is.

9 MEMBER DONATELLI: And so that we are very careful, and hence,
10 we try to be careful with all of our reviews, but particularly when
11 it comes to a concern about safety.

12 MS. GONZALEZ: Yeah.

13 MEMBER DONATELLI: And so that's really first and foremost in
14 my mind.

15 Now, do you anticipate also having equipment servicing the pool?
16 A filter, a pump? And where is that going to be?

17 MS. GONZALEZ: Yeah, so the filter is attached to the pool.
18 It's offset, it's on the side.

19 MEMBER DONATELLI: Well, which side?

20 MS. GONZALEZ: Attached. I believe it's towards the house.

21 MEMBER DONATELLI: So will it be even closer to the neighbor?

22 MS. GONZALEZ: No.

23 MEMBER DONATELLI: Okay, closer to the back of the house?

24 MS. GONZALEZ: The back, yes, the back of the Moncada's house.

25 MEMBER DONATELLI: Is that shown in the application?

26 MS. GONZALEZ: I don't believe so.

1 CHAIRMAN MAMMINA: I don't think so.

2 VICE-CHAIRMAN FRANCIS: I don't see it.

3 MEMBER DONATELLI: So I would like to see -- I'm sorry.

4 CHAIRMAN MAMMINA: No, no, no.

5 MEMBER DONATELLI: I would like to see a rendering of where --

6 MS. GONZALEZ: Okay.

7 MEMBER DONATELLI: -- the applicant proposes to put that
8 equipment and to make sure that that is compliant, anyway, or if
9 you're going to need a variance for that, then we should know about
10 it.

11 GONZALEZ: Okay.

12 MEMBER HERNANDEZ: The plan shows an electric heater, which I
13 am assuming is for the water in the pool, but it does not show -- it
14 does not -- it's up against the house?

15 VICE-CHAIRMAN FRANCIS: Yeah.

16 MEMBER HERNANDEZ: But it doesn't show a pump anywhere, a
17 filtering pump.

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

19 MEMBER HERNANDEZ: Maybe it will be up against the house.

20 MS. GONZALEZ: The filters.

21 VICE-CHAIRMAN FRANCIS: Yeah, I mean, that would be --

22 CHAIRMAN MAMMINA: Another question that I have in looking at
23 the tarp cover --

24 MS. GONZALEZ: Mm-hmm.

25 CHAIRMAN MAMMINA: -- over it and what looks like it would be
26 the edging of the pool and then an empty space underneath that. How

1 is that space --

2 MS. GONZALEZ: Which empty space?

3 CHAIRMAN MAMMINA: I can walk over.

4 MS. GONZALEZ: Yeah, usually I keep a --

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

6 MS. GONZALEZ: So they're referring to the steps right here.
7 There's the steps, and right now, because it's a semi in the ground
8 pool, obviously, they don't hit the ground. So there is a gap between
9 where the steps are and the ground that will be masonry or some sort
10 of patio, eventually, once the pool is completed.

11 CHAIRMAN MAMMINA: Okay, but the earth will not be built up --

12 MS. GONZALEZ: No.

13 CHAIRMAN MAMMINA: -- to that portion, essentially making it
14 a built-in pool.

15 VICE-CHAIRMAN FRANCIS: Right.

16 MS. GONZALEZ: No, it'll -- that gap will remain.

17 VICE-CHAIRMAN FRANCIS: And no plan to build a platform or patio
18 around the pool itself.

19 MS. GONZALEZ: Not currently.

20 CHAIRMAN MAMMINA: I think not currently isn't the okay answer
21 only because the safety --

22 VICE-CHAIRMAN FRANCIS: Right.

23 CHAIRMAN MAMMINA: -- the safety component of it --

24 MS. GONZALEZ: Oh, you mean in the rear.

25 CHAIRMAN MAMMINA: -- of somebody falling over the fence.

26 VICE-CHAIRMAN FRANCIS: Around the pool itself.

1 MS. GONZALEZ: Okay, no, I thought you meant where the steps
2 are. There's going to have to be --

3 VICE-CHAIRMAN FRANCIS: No, no.

4 MS. GONZALEZ: Sorry, my misunderstanding.

5 Yes, no, nothing around the rear --

6 VICE-CHAIRMAN FRANCIS: Okay.

7 MS. GONZALEZ: -- where the setback is, no.

8 CHAIRMAN MAMMINA: And then how tall is the -- how tall is the
9 fence in the back?

10 MS. GONZALEZ: I believe --

11 CHAIRMAN MAMMINA: It looks like it's lower than the fence to
12 the right.

13 MR. MONCADA: It's 6 feet in the back, and then --

14 MS. GONZALEZ: I believe it's 6 --

15 MR. MONCADA: -- and then it's 5 feet on the sides. So it's
16 6 feet in the back and then 5 feet on the sides.

17 MEMBER HERNANDEZ: Do you have to have 6 feet around the whole
18 thing?

19 MEMBER DONATELLI: Right, so have you since applied for a permit
20 for the pool?

21 MS. GONZALEZ: That's how we ended up here.

22 MEMBER DONATELLI: Okay, and have you been advised that they
23 require a 6-foot fence around the pool?

24 MR. MONCADA: Yes.

25 MEMBER DONATELLI: Okay, do your plans indicate that for the
26 pool?

1 MS. GONZALEZ: The plans -- the plans say that we're maintaining
2 a 6-foot fence. If that's incorrect --

3 MEMBER DONATELLI: Okay.

4 MS. GONZALEZ: -- we'd have to go back and confirm that.

5 MEMBER DONATELLI: So that would be --

6 MS. GONZALEZ: But the plans do say 6 feet fence.

7 CHAIRMAN MAMMINA: But there's two different fence heights --

8 MEMBER DONATELLI: Right.

9 CHAIRMAN MAMMINA: -- in the photo, and then also you need that
10 fence at the rear of the house.

11 MEMBER HERNANDEZ: The plans -- assuming the
12 plans -- correcting the plans now, let's make sure that we have the
13 correct plans. The plans are showing a 6-foot fence surrounding the
14 rectangular shaped backyard behind the house where the pool is
15 located. It is also showing 5-foot fences running alongside past
16 that rectangle, on the side of the house, to the front of the house.

17 MS. GONZALEZ: Yeah.

18 MEMBER HERNANDEZ: And the 4-foot fences returning back to the
19 house; is that correct?

20 MS. GONZALEZ: Yes, so they have 4-foot here, 5-foot here, there
21 is a section of 6-foot fence for the pool enclosure, and then --

22 MEMBER HERNANDEZ: The rectangle in the back has to be 6 feet.

23 MS. GONZALEZ: Yes.

24 CHAIRMAN MAMMINA: So that fence has to return -- the 6-foot
25 fence has to return --

26 MEMBER HERNANDEZ: To the back of the house.

1 CHAIRMAN MAMMINA: -- to the rear line --

2 MS. GONZALEZ: Okay.

3 CHAIRMAN MAMMINA: -- of the house so it would basically be
4 leaving a long rectangular space --

5 MS. GONZALEZ: Mm-hmm.

6 CHAIRMAN MAMMINA: -- inside there, but that fence is also there
7 for safety reasons.

8 MS. GONZALEZ: Mm-hmm.

9 CHAIRMAN MAMMINA: And based upon Town Board from a long time
10 ago.

11 MS. GONZALEZ: Yeah.

12 CHAIRMAN MAMMINA: So that should show on your drawing.

13 MEMBER DONATELLI: Another question.

14 As we weigh the five factors --

15 MS. GONZALEZ: Mm-hmm.

16 MEMBER DONATELLI: -- we try to determine whether the benefit
17 of the applicant outweighs the detriment to the community --

18 MS. GONZALEZ: Mm-hmm.

19 MEMBER DONATELLI: -- according to the five factors.

20 Do we know -- I know that you indicated that the applicant had
21 received some misinformation from the pool company. Have they been
22 approached? Are they willing to relocate the pool in a compliant
23 place, and if not, do we know what the cost is of relocating the pool
24 in a compliant spot?

25 MS. GONZALEZ: So the pool company was approached. The person
26 who has since given them this information was let go from the company.

1 The company is kind of saying that it's not their fault, so they're
2 not willing to comp. The price, the initial install of the pool was
3 30,000, so the install of a secondary pool would probably run along
4 those lines, plus whatever it took to fill in the existing.

5 MEMBER DONATELLI: To fill in the existing, and then to --

6 MS. GONZALEZ: Mm-hmm.

7 MEMBER DONATELLI: -- dig a hole.

8 MS. GONZALEZ: And then to dig a whole new one in a compliant
9 location.

10 MEMBER DONATELLI: For a compliant location.

11 MS. GONZALEZ: Yes.

12 MEMBER DONATELLI: All right, well, I think we would want to
13 see the contract. We would want --

14 MS. GONZALEZ: Yes.

15 MEMBER DONATELLI: -- to see the plans for the filter.

16 MS. GONZALEZ: Mm-hmm.

17 MEMBER DONATELLI: And I would personally like to see, because
18 I don't see it here, plans for the enclosed 6-foot fence.

19 MS. GONZALEZ: Okay.

20 SECRETARY WAGNER: Yes, they're on -- it is on the plans.

21 MEMBER HERNANDEZ: It's on the plan.

22 MEMBER DONATELLI: It is?

23 SECRETARY WAGNER: Yes, it's on the plan that it will be
24 enclosed with a 6-foot fence.

25 MEMBER HERNANDEZ: That's what I just read from.

26 SECRETARY WAGNER: And here --

1 MEMBER DONATELLI: No, but you see, I just saw maintain --

2 SECRETARY WAGNER: Yeah, that means --

3 MEMBER DONATELLI: Okay, but what is this maintain fence, cut
4 down to 5 feet? I see, I see, okay. So it's beyond the pool
5 enclosure.

6 MEMBER HERNANDEZ: Yes, exactly.

7 MEMBER DONATELLI: Okay, and that is compliant because I guess
8 that was not in the Notice of Disapproval.

9 SECRETARY WAGNER: The filter is on the plan.

10 MS. GONZALEZ: Okay, I wasn't sure if it was or --

11 SECRETARY WAGNER: It's like a little circle right behind the
12 house.

13 MEMBER DONATELLI: Yeah.

14 MS. GONZALEZ: All right.

15 VICE-CHAIRMAN FRANCIS: Okay, so we'll still continue it for
16 purposes of you --

17 MS. GONZALEZ: Okay.

18 VICE-CHAIRMAN FRANCIS: -- submitting the contract.

19 MS. GONZALEZ: And we'll get you the contract.

20 VICE-CHAIRMAN FRANCIS: Okay.

21 All right, thank you, all.

22 MEMBER DONATELLI: Thank you.

23 CHAIRMAN MAMMINA: Good job.

24 (WHEREUPON, this application was continued.)

1 SECRETARY WAGNER: The next appeal is appeal number 21688, Two
2 White Buffalo, Incorporated, 243 East Shore Road, Manhasset; Section
3 2, Block 210, Lot 67 in the Business-B zoning district.

4 Appeal for determinations, or in the alternative, variances
5 from §70-103.F(1) and 70-103.O, and variances from 70-103.A(1) to
6 convert a laundromat to a personal training facility with not enough
7 parking and loading areas onsite, parking spaces that are too small
8 and an access aisle that is too narrow.

9 CHAIRMAN MAMMINA: You've heard appeal number 21688, Two White
10 Buffalo, Inc.

11 Is there anyone in the room interested in the application other
12 than the applicant?

13 (WHEREUPON, there was no response.)

14 CHAIRMAN MAMMINA: Seeing no one.

15 Please give your name and address.

16 CHAIRMAN MAMMINA: Wait, wait, wait, we have two hands up in
17 back. So you will have the opportunity to speak after.

18 MR. MIGATZ: No, they're -- they're --

19 CHAIRMAN MAMMINA: Are you here to oppose the application?

20 MR. MIGATZ: They brought their own cheering section.

21 CHAIRMAN MAMMINA: There we go, okay.

22 I don't see that many other people, and I say uh-oh.

23 MR. MIGATZ: Bruce W. Migatz, law firm Albanese & Albanese, 1050
24 Franklin Avenue, Garden City, New York.

25 It's still morning, good morning --

26 CHAIRMAN MAMMINA: Good morning, sir.

1 MR. MIGATZ: -- members of the Board.

2 The applicant is Two White Buffalo. With me this morning is
3 Christina Arty, A-R-T-Y, the principal of Two White Buffalo and her
4 cheering section. The property owner, 255 East Shore Road -- East
5 Shore Realty, LLC, Scott Baltiman (phonetic) is the principal and,
6 he's also here in support of the application. Also with me is Wayne
7 Muller, R&M Engineering, who has prepared a traffic study, and he
8 will testify shortly about his traffic and parking analysis.

9 The application is to convert a former vacant laundromat into
10 a personal strength training facility.

11 As Mr. Muller will explain in more detail, it is a one-on-one
12 training facility by appointment only, open seven days a week,
13 hopefully, from six a.m. to six p.m. are the projected hours of
14 operation.

15 The subject property is located in a small strip shopping center
16 which was constructed pursuant to building plans dated October, 8th,
17 1964. At that time, the zoning code did not require striped parking
18 spaces. The owner at that time went before the Zoning Board for a
19 variance of the landscape zone because there's a residential property
20 in the rear. That was granted and a condition of that decision was
21 all open areas of the premises shall be surfaced in accordance with
22 Town of North Hempstead specifications. There was no requirement
23 in 1964 to have any striped parking spaces.

24 I neglected to file that electronically, that decision. May
25 I submit that as Exhibit 2 because I did submit Exhibit 1.

26 Exhibit 1, that I did file electronically, and I did bring

1 enlarged copies because you're never going to see the site plan, I
2 don't think, on your computer screen. So let me hand in the enlarged
3 copies. That's enlarged Exhibit 1.

4 Exhibit 1 is the approved site plan from 1994 when the laundromat
5 went in, and on the right side of that plan is a site plan that shows
6 striped parking spaces were added at that time. It might have been
7 added prior to that. I could not find a record of that, but from
8 at least 1994 to present, the paved area has been striped as shown
9 on the plans before you now for the conversion of the laundromat to
10 the personal strength training facility.

11 Now, we seek various relief from this Board. The disapproval
12 notice recognizes that the shopping center is prior nonconforming
13 as to the number of parking spaces, and we are increasing that
14 deficiency by just four spaces. So we do seek a variance for an
15 additional four space deficiency.

16 The disapproval notice alleges that a variance is needed for
17 lack of a loading zone, and a variance is needed due to the undersized
18 parking spaces and the undersized access aisle. The applicant does
19 seek a determination that those two variances are not required. The
20 conversion of the laundromat to a personal training facility does
21 not increase that nonconformity. The parking spaces and the aisles
22 remain the same size whether you're parking for the laundromat or
23 you're parking for the new training facility or if you're parking
24 for the dreaded nail salon that can go in there, as of right, and
25 we wouldn't be here, and you would have the same sized parking spaces
26 and the same sized aisle. So the nonconformity is not being

1 increased because the use of the property is changing. You still
2 have the same cars parking in the same spaces just for a different
3 tenant. So we seek a determination of that variance -- those
4 variances are not required. Alternatively, we seek a variance to
5 maintain those undersized parking spaces and the undersized access
6 aisle.

7 Turning to the five factors. Will there be an adverse impact
8 to the character of the neighborhood or the surrounding properties,
9 and let me, at this time, call Mr. Muller to summarize his report
10 for you regarding the variance for the parking.

11 Mr. Muller?

12 MR. MULLER: Sorry, sorry about that.

13 Good morning, Wayne Muller, R&M Engineering, offices at 50 Elm
14 Street, Huntington, New York.

15 As Mr. Migatz has indicated, we prepared a document dated
16 February 26th, 2025, which was previously submitted to the Board in
17 reference to this application, and just to briefly summarize the
18 results therein, and a lot of the information contained in my report
19 is regurgitated by -- well, it's already indicated by Mr. Migatz,
20 but essentially, as Mr. Migatz indicated and as shown in my report,
21 this is a very low intensity use that the applicant is proposing.
22 It's one-on-one personal training.

23 As indicated in my report, there'll be two employees, plus we
24 figured two people at the facility at any one given time. One person
25 training and one person waiting to be trained, and that would kind
26 of be the way that they'd want to operate it throughout the day. I

1 guess it's their intention to have that facility have two -- have
2 four people there all the time, which would be great, but usually
3 these types of facilities have specific peaks in the morning,
4 sometimes in the afternoon and then later in the evening.

5 Also indicated in my report is some data regarding a laundromat
6 facility, and while the Institute of Transportation Engineers or ITE
7 Parking Generation Manual does not have any statistics for
8 laundromats, throughout my career we observed the activity at
9 laundromats and came up with parking rate per machine and applied
10 that to the 30 washing machines that were at the facility, and as
11 indicated in my report, a laundromat would have generated more
12 parking during the peak times than the proposed strength training
13 fitness center that's before the Board this afternoon.

14 In addition, as indicated in my report and as shown on the figure
15 EX-1 which is in the appendix, there is available on-street parking
16 on Shore Road. Both areas are located to the south of the subject
17 property. One area on the, I would call it the east side of the road
18 and one on the west. I do not see a problem with the patrons of either
19 this use on the property or the other tenants using those space
20 because there's an existing signalized intersection at the
21 intersection of East Shore Road and Bayview Avenue which contains
22 crosswalks, pedestrian push buttons and then the DON'T WALK and WALK
23 signs. So if a patron to this facility happens to pull up and park
24 on East Shore Road, they could safely cross the street to the subject
25 property without any problem.

26 So therefore, based of the analysis we performed, it is my

1 professional opinion that by granting the relief sought by the
2 applicant there will be no significant impact on parking conditions
3 in and around the subject area.

4 In addition, as it relates to stall sizes, as Mr. Migatz has,
5 indicated this is, essentially, an existing condition, and in order
6 to properly rectify the situation, we would be eliminating most of
7 the parking stalls onsite, which, I do not believe would be prudent
8 because this site has functioned in its capacity with the stall sizes
9 the way they are for some time, essentially, 61 years, and we do not
10 anticipate any problems with the stall sizes as it relates to this
11 use because of the low intensity of the use and the fact that the
12 two employees would get there relatively early, and then you'd have
13 one person working out and one person waiting, and that concludes
14 my testimony.

15 I'd be happy to answer any questions that the Board may have.

16 CHAIRMAN MAMMINA: A question that I have, Mr. Muller, I'm not
17 trying to play traffic engineer, but wouldn't it be feasible, even
18 if not totally -- well, I don't even know that it's that bad to, across
19 the back where you have a 26-foot wide aisle, to parallel park against
20 the building in there and just pick up some parking spaces for
21 employees or something? I'm not saying to do anything.

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

23 CHAIRMAN MAMMINA: It's really just a thought.

24 MR. MIGATZ: Yeah, well, I don't like the thought.

25 CHAIRMAN MAMMINA: There might be -- there might be egress doors
26 back there.

1 MR. MIGATZ: Yeah.

2 CHAIRMAN MAMMINA: There could be deliveries back there.

3 MR. MIGATZ: Yeah.

4 CHAIRMAN MAMMINA: Okay, I'm fine.

5 MR. MIGATZ: Yeah.

6 CHAIRMAN MAMMINA: I'm fine with that.

7 MR. MIGATZ: All right, thank you.

8 MEMBER DONATELLI: So on page A-1, actually, building on what
9 the Chairman just suggested, on page A-1, I see a notation that it
10 says dilapidated retaining wall. Has the retaining wall been
11 repaired since then or is it still dilapidated?

12 MR. MIGATZ: This is a current survey, so it probably is in that
13 condition. Nobody had raised that, no violation has been issued,
14 but you know, if it needs to be repaired in due time, it has to be
15 repaired. I hope it's not more than 5 feet high.

16 MEMBER DONATELLI: And building on -- well, I don't walk my dog
17 here, and building, again, on what the Chairman indicated, I see the
18 handicapped parking spot, which is on the north end of the property,
19 and then I see it looks like that notation, 15 5, I guess, is the
20 width of the drive aisle.

21 MEMBER HERNANDEZ: Yes.

22 MEMBER DONATELLI: Is that correct?

23 MR. MIGATZ: You're talking about the --

24 MEMBER DONATELLI: The north end of the property.

25 MR. MIGATZ: Right, where the words parking access appears,
26 that is not a separate --

1 CHAIRMAN MAMMINA: I assume --

2 MR. MULLER: It is not.

3 CHAIRMAN MAMMINA: I assume that is the place where the car
4 would pull up, back in --

5 MR. MULLER: Correct.

6 CHAIRMAN MAMMINA: -- so that they'd be able to get through to
7 their --

8 MR. MULLER: Correct, correct. That's absolutely correct.

9 CHAIRMAN MAMMINA: I looked at the drawings, and there are
10 egress --

11 MR. MULLER: Yeah, the parking spaces that are -- are noted as
12 one through ten.

13 MEMBER DONATELLI: Got it.

14 MR. MULLER: They're denoted as the spots. Yeah, that's not
15 a spot.

16 MEMBER DONATELLI: And again, building on what the Chairman was
17 just suggesting, is there any possibility of picking up any kind of
18 parking behind the premises against that dilapidated retaining wall
19 or would the cars be in danger of having the wall fall.

20 VICE-CHAIRMAN FRANCIS: Fall on them.

21 MEMBER DONATELLI: Just exploring options.

22 MR. MIGATZ: I guess, you know, I don't know if there are access
23 egress doors back there. This site has functioned since 1994 without
24 difficulty. I personally, I see no, no need to change it.

25 CHAIRMAN MAMMINA: We're just exploring the options as you
26 know, and yeah, there are egress doors, you know, that are behind

1 there that show up on the -- that show up on the plan.

2 MR. MIGATZ: Again, bear in mind, another laundromat could go
3 in there, as of right. A nail salon could go in there, as of right,
4 and we wouldn't be having this discussion as all.

5 VICE-CHAIRMAN FRANCIS: Right.

6 CHAIRMAN MAMMINA: My own personal feeling is that if it were
7 a laundromat, it could very well be that someone is there as long
8 they are with a personal trainer, you know, maybe longer depending
9 on how many loads of wash they're doing, you know, so it -- I think
10 one kind of neutralizes the other or supports your argument of the
11 dreaded hair salon or, you know, or having the laundromat.

12 MEMBER DONATELLI: And I think we also addressed the issue that
13 this is going to be by appointment?

14 MR. MIGATZ: Yes.

15 MEMBER DONATELLI: So that, presumably, if the applicant finds
16 out there is a problem with parking, they'll stagger the appointments
17 such that they can address the issue.

18 MR. MIGATZ: Absolutely.

19 VICE-CHAIRMAN FRANCIS: And I would just add, I think it would
20 be fair to say that the adjacent businesses to this proposed business
21 also do not generate a lot of parking.

22 MR. MIGATZ: That's correct. The -- you have the car wash to
23 your left that's not part of this shopping center, the other users
24 of this shopping center, Bell Auto School, at night, their cars are
25 parked there. I drive by this site quite frequently. They're
26 parked there overnight. In the daytime, they're on the road.

1 MEMBER DONATELLI: Right.

2 MEMBER HERNANDEZ: And Neal's Tree Service parks their trucks
3 on the -- where you have now your proposed handicapped parking.

4 MR. MIGATZ: I've seen that occasionally.

5 MEMBER HERNANDEZ: Yeah, yeah.

6 MR. MIGATZ: But Neal --

7 MEMBER HERNANDEZ: I go to, like, the car wash very regularly
8 because, you know, I'm the regular guy here. I'm in the area.

9 MR. MIGATZ: They were the original owners of this property back
10 in 1964.

11 MEMBER HERNANDEZ: And I did remember that laundromat. It was
12 almost like a commercial laundromat because they had a lot of offsite,
13 they shipped a lot of laundry out because it wasn't easy to park there.
14 But obviously, a laundromat draws more cars.

15 MR. MIGATZ: So they had 30 washing machines --

16 MEMBER HERNANDEZ: Yeah.

17 MR. MIGATZ: -- 12 dryers and one --

18 MEMBER HERNANDEZ: You also had four women in there that did
19 laundry for other people, so a lot of it was dropped off --

20 MR. MIGATZ: Right.

21 MEMBER HERNANDEZ: -- and you know, pickup. People didn't sit
22 there and watch their laundry being washed. It was a drop-off and
23 pickup. I know the business --

24 MR. MIGATZ: Understood.

25 MEMBER HERNANDEZ: -- I know the business very well; okay?

26 But I -- from what I see, it's a big space, but if they are

1 limiting it to a couple of people at a time using the facilities,
2 then I don't see it as being a problem for parking. You said there
3 is parking outside, although limited and quite far, at times, but
4 I guess if you're coming to exercise and you got to walk a block;
5 so what? You're exercising a little more.

6 MR. MIGATZ: I agree.

7 MEMBER HERNANDEZ: Right? I mean, you can't complain if you
8 have to walk a block.

9 MR. MIGATZ: That's true.

10 MEMBER HERNANDEZ: At least you shouldn't be complaining.

11 MR. MIGATZ: True.

12 CHAIRMAN MAMMINA: But that is so funny because if you go to
13 a Planet Fitness or something --

14 MEMBER HERNANDEZ: I know.

15 CHAIRMAN MAMMINA: -- everybody wants to park at the front door.

16 MEMBER DONATELLI: So let's also address the lack of the loading
17 zone.

18 VICE-CHAIRMAN FRANCIS: Right.

19 MEMBER DONATELLI: I know that that's also mentioned in the
20 Notice of Disapproval.

21 Mr. Migatz, did you want to address the loading zone -- the lack
22 of a loading zone?

23 MR. MIGATZ: Well, I -- it's a preexisting condition. I don't
24 think we need a variance of that. Certainly, a personal training
25 facility has no need for a loading zone.

26 MEMBER HERNANDEZ: There's no Lay's chips dropping anything

1 off? No?

2 MR. MIGATZ: Not to my knowledge, but you know, that's -- it's
3 a preexisting condition. It's not being -- it's not being increased
4 by this application. Certainly, there's no need for a loading zone
5 for a personal training facility.

6 MEMBER DONATELLI: Hot fudge sundaes.

7 MEMBER HERNANDEZ: I'm assuming that whatever gets dropped off
8 will get dropped off in the initial set up of the business, and then --

9 MR. MIGATZ: Yes, the equipment.

10 MEMBER HERNANDEZ: -- there may be laundry service for towels
11 or something like that, it's just going to be in and out.

12 MR. MIGATZ: Right.

13 MEMBER HERNANDEZ: Because you got to have towels for the --

14 MR. MIGATZ: Yes.

15 MEMBER HERNANDEZ: -- for the shower.

16 MR. MIGATZ: Yup.

17 VICE-CHAIRMAN FRANCIS: Pizza and ice cream to keep the
18 customers coming back.

19 MR. MIGATZ: No, that would need a conditional use permit, so --

20 VICE-CHAIRMAN FRANCIS: That's right.

21 MR. MIGATZ: Don't -- you try and catch me, Mr. Francis.

22 MEMBER DONATELLI: Well played.

23 CHAIRMAN MAMMINA: That's good.

24 MEMBER HERNANDEZ: Okay, any other question?

25 MR. MIGATZ: Just to finish those five factors.

26 We don't think it's a substantial variance in totality to the

1 circumstances. It's a less than intense use than what could be
2 there, as of right.

3 It's an unlisted action under SEQR. I submit to you that it
4 does not have an adverse impact on the environment.

5 There's no other feasible way to achieve the benefit shy of this
6 variance, and the difficulty is self-created because the current
7 owner purchased the property subject to the existing code, but that's
8 just one factor to be considered.

9 So I submit to you, weighing all those factors, we request the
10 application to be granted.

11 MEMBER HERNANDEZ: Well, this East Shore Road has become
12 trainer's alley. There's a couple of training facilities, now
13 there's a big Equinox gym across the street, so it's become -- I guess
14 it's better than fast foods.

15 So unless anybody has any other objections, I move to grant the
16 application.

17 CHAIRMAN MAMMINA: Okay, we have a motion by Member Hernandez.
18 Do we have a second?

19 VICE-CHAIRMAN FRANCIS: Second.

20 MEMBER DONATELLI: Second.

21 CHAIRMAN MAMMINA: We're going to give this one to Member
22 Donatelli. I gave you the last one.

23 VICE-CHAIRMAN FRANCIS: I know.

24 CHAIRMAN MAMMINA: So please poll the Board.

25 SECRETARY WAGNER: Member Donatelli?

26 MEMBER DONATELLI: Before I vote, I'm just going to note for

1 the record that we're seeking a variance of four parking spaces over
2 and above what had been previously granted.

3 Having said that, I vote aye.

4 MR. MIGATZ: Just to correct the record, it was not granted
5 previously. It was prior nonconforming --

6 MEMBER DONATELLI: Yes.

7 MR. MIGATZ: -- previously.

8 MEMBER DONATELLI: Yeah.

9 VICE-CHAIRMAN FRANCIS: Right.

10 MEMBER DONATELLI: Right, thank you.

11 So I vote aye.

12 SECRETARY WAGNER: Okay, Vice-Chairman Francis?

13 VICE-CHAIRMAN FRANCIS: Aye.

14 SECRETARY WAGNER: Chairman Mammina?

15 CHAIRMAN MAMMINA: Aye.

16 The application is granted.

17 MR. MIGATZ: Thank you, very much.

18 CHAIRMAN MAMMINA: Thank you.

19 (WHEREUPON, this application was approved.)

1 SECRETARY WAGNER: Appeal number 21689, Lee Brodsky, Prime
2 Foods, 4 Tri Harbor Park Drive, Port Washington; Section 6, Block
3 89, Lot 56 in the Planned Industrial Park district.

4 MR. BLOOM: Good afternoon. Oh, morning, morning.

5 SECRETARY WAGNER: Variances from §§70-103.A(1), 70-160(B) to
6 legalize a mezzanine and to construct retail space with not enough
7 parking onsite and to legalize a fence enclosure and refrigeration
8 units that are located too close to the side property line.

9 CHAIRMAN MAMMINA: You've heard appeal number 21689, Lee
10 Brodsky, Prime Foods.

11 Is there anyone in the room interested in the application other
12 than the applicant?

13 (WHEREUPON, there was no response.)

14 CHAIRMAN MAMMINA: Seeing no one.

15 Please give your name and address.

16 MR. BLOOM: Paul Bloom, Harras, Bloom & Archer, 445 Broadhollow
17 Road, Melville, New York, appearing on behalf of, excuse me, the
18 tenant of the building, Prime Food Distributors, I-N-C. The
19 application is primarily in the name of the owner of the property.
20 It is, as you've indicated, 4 Tri Harbor Road -- Drive; Section 6,
21 Block 89, Lot number 56. The property is located in the Port
22 Washington Planned Industrial Park District, and we are here to
23 maintain interior renovations which result in the necessity for a
24 minor parking variance, and with respect to the installation and
25 maintenance of chilling units and refrigeration units with an
26 enclosure on the east side of the property.

1 With us today, or with me, I guess us because the client is here,
2 is Osman Barrie who is from the firm of Nelson + Pope that has prepared
3 the parking study that I believe is part of the exhibits that have
4 been submitted.

5 I do have some exhibits, they were downloaded, so if you'd like
6 to have more paper, I do have hard copies of them as well. We can
7 have a little marshmallow fire with everything that we're submitting.

8 MEMBER DONATELLI: I'll take them.

9 MR. BLOOM: You'll take them.

10 VICE-CHAIRMAN FRANCIS: I will, too.

11 MR. BLOOM: Listen, gray hair, paper.

12 MEMBER DONATELLI: No hair, paper.

13 SECRETARY WAGNER: These are exhibits that --

14 MR. BLOOM: These are the same exhibits that have been
15 submitted.

16 SECRETARY WAGNER: Okay.

17 MR. BLOOM: And I bet you ask for a receipt when you go to the
18 store, too.

19 MEMBER DONATELLI: Yeah.

20 MR. BLOOM: Don't you?

21 MEMBER DONATELLI: When they offer it.

22 MR. BLOOM: Oh, no, I ask. Maybe I have more gray than you do.

23 The variances that we are requesting this Board to grant this
24 morning, I have this afternoon here because I anticipated we'd be
25 on twelve o'clock by the time we came on, Section 70-103.A(1) for
26 parking, 171 parking stalls are required under the code based upon

1 the configuration of the uses within the building itself. We are
2 providing 148 parking stalls, 20 of them land banked parking, and
3 therefore, we are requesting a total number of 23 parking stalls as
4 our variance, and I'll get into the fact that we are actually only
5 asking for four.

6 We're also requesting a variance for Section 70-160(B), which
7 is fence enclosure refrigeration units that are in the easterly side
8 yard setback. The entity that is occupying Prime Foods
9 Distributors, Inc., is a growing business that started in the
10 Industrial Park in 2007 with one building. Fortunately, and by good
11 management, the building has -- the business has been growing. They
12 then took a second building within the park at 50 Soundview Boulevard,
13 and this is now the third building that will be part of this operation
14 at Tri Harbor. They employ approximately 150 personnel between the
15 three buildings that we are currently operating under. The Notice
16 of Disapproval that was issued on January 14th, 2025, calls out these
17 two variances.

18 The business itself is a meat and poultry packing and
19 distributing which requires refrigeration. Needless to say, health
20 purposes, standards, et cetera. The refrigeration units and
21 compressors that are on the east side of the building, within 10 feet
22 of the building itself, are for purposes of being able to provide
23 that refrigeration and compressor units for the refrigeration of the
24 products that are handled on a daily basis.

25 Again, the parking has been calculated based upon a breakdown
26 of all the various uses within the building which includes the second

1 story which is not being part of this application, but it's counted
2 for parking. The second floor is also counted as part of the parking.
3 We have areas where there is storage, we have areas where there are
4 a warehouse, there are storage areas where we have offices.

5 70-103.A(1), the parking requirement, as I said, is 171 parking
6 stalls. We are provided 148, as I said, 20 land banked, and that
7 would leave us a deficiency of 23 parking stalls.

8 Now if take a look at Exhibit 1, you'll see that in 1985, when
9 this building was first constructed, there was a variance granted
10 because they had insufficient parking. Nineteen stalls were granted
11 a variance for the building 40 years ago. We are asking for the 23,
12 and so, all we are actually asking for is the delta of the four
13 additional parking stalls, which again, dates back to 1985.

14 The current uses, the breakdown of the various uses, is the
15 reason, or the basis, for the need for the additional four parking
16 stall variance.

17 Osman Barrie of Nelson + Pope is here today with respect to the
18 parking study he prepared, and I'm going to ask him to come up and
19 to present that parking study, and I would just point out, and I don't
20 want to take his thunder away, but of the 148, actually, 128 because
21 20 of them are land banked, of the 148 parking stalls, the average
22 vacant stalls between the hours of ten a.m. and seven p.m. is 82 vacant
23 stalls, average. At no time is there more than 90, excuse me, less
24 than 78 stalls available, and the most -- the largest number of
25 parking stalls that are available is 90. The average is 82 parking
26 stalls of the 148 or 128, whichever number you want to use. I would

1 say that based upon that, one would look at this as being a very
2 over-parked project for the use that is there today. On the
3 Saturday, again, between the hours of ten a.m. --

4 MEMBER HERNANDEZ: Can I just ask a question?

5 You said, I just want to make sure that I'm listening correctly,
6 you said they were required 147 and proposed 128.

7 MR. BLOOM: We are required a 171 --

8 MEMBER HERNANDEZ: You're talking about --

9 MR. BLOOM: -- and provided 148.

10 MEMBER HERNANDEZ: Right, but 20 -- is 128 including the 20 land
11 banked? Because 108 is actually there; right?

12 MR. BLOOM: Okay, you actually have, of the 148 parking stalls,
13 20 of those are land banked, and that's where the 128 come in. You
14 have 128 actual paved striped stalls.

15 MEMBER HERNANDEZ: Okay, then you only have a variance of one
16 then. You say -- I'm going back to 1985.

17 MR. BLOOM: Which is 19.

18 MEMBER HERNANDEZ: No, it says --

19 MR. BLOOM: They had a variance of 19 parking stalls.

20 MEMBER HERNANDEZ: I'm reading what it says here. It required
21 147, and you proposed 128. If you're saying that there's an
22 additional 20 land banked --

23 MR. BLOOM: No, no, no, this didn't -- the 1985 did not include
24 land banked parking. That came --

25 MEMBER HERNANDEZ: So when did the land bank come in then; okay?
26 That's what I'm asking.

1 MR. BLOOM: Okay, yes. The land bank came in at a later date.

2 MEMBER HERNANDEZ: Why? Did you need more parking?

3 MR. BLOOM: A prior tenant, yes. A prior owner and tenant of
4 the building required that.

5 So again, with respect to being over-parked, under-parked,
6 there are significantly more parking stalls available during the
7 period of ten a.m. to seven p.m., both on the weekday that it was
8 counted and on the weekend that it was counted.

9 So I'll ask Osman if he can come up and please address the study
10 that he did perform.

11 Identify yourself for the record.

12 MR. BARRIE: Good afternoon, Mr. Chairman and members of the
13 Board. My name is Osman Barrie, traffic engineer with the firm
14 Nelson + Pope with offices at 70 Maxess Road in Melville, New York.

15 Nelson + Pope was retained to conduct a parking assessment of
16 the existing Prime Foods to predict the parking demand.

17 MEMBER DONATELLI: Sir, I'm sorry, can you just put the
18 microphone a little bit closer?

19 MR. BARRIE: Sure.

20 MEMBER DONATELLI: Thank you.

21 SECRETARY WAGNER: Slow, so she can hear.

22 MR. BARRIE: The existing facility at 4 Tri Harbor Court (sic)
23 in Port Washington, New York, consists of a mezzanine, industrial
24 warehouse and office spaces with a total of -- total gross floor area
25 of 50,828 square feet. This includes a mezzanine of 3,970 square
26 feet and a retail space of 996 square feet, both of which are currently

1 unoccupied.

2 According to the town code, the fully occupied facility requires
3 a minimum of 171 parking spaces. However, 148 spaces will be
4 provided including 20 land banked spaces resulting in a shortfall
5 of 23 spaces.

6 MEMBER HERNANDEZ: I'm sorry, just one clarification. When
7 you're saying 148 provided, that means physical spaces.

8 MR. BARRIE: It's 128.

9 MEMBER HERNANDEZ: So it's 128, physical --

10 MR. BARRIE: And 20 land banked, yes. So the shortfall --

11 MEMBER HERNANDEZ: How many are required?

12 MR. BARRIE: 171.

13 MEMBER HERNANDEZ: Thank you.

14 MR. BARRIE: It results in a shortfall of 23 spaces for which
15 a variance is required.

16 In order to quantify the existing parking demand, we conducted
17 parking counts on the subject property during a typical weekday and
18 a weekend. The existing parking demand shows the maximum observed
19 occupancy during the weekday count is 50 stalls, and during the
20 weekend, it's only 28 stalls. This equates to 78 vacant parking
21 spaces during the weekend -- during the weekday and 100 vacant parking
22 spaces during the weekend. So at any point in time on the weekday,
23 you have at least 78 parking spaces available, and during the weekend,
24 you have at least 100 parking spaces available. So the facility's
25 fully operational except for the two unoccupied areas, the mezzanine
26 and the small empty space.

1 So according to the town code, just the mezzanine area requires
2 70 spaces, and the retail is less than 1,000 square feet, meaning
3 it doesn't require any parking. So in view of the current parking
4 demand and available vacant space shows that there's more than enough
5 vacant spaces to accommodate the additional seven spaces required
6 for the future use would be 128 striped parking spaces. The parking
7 supply is sufficient to meet the peak parking demand of the proposed
8 fully occupied development. Therefore, even striping the 20 land
9 banked spaces should not be necessary. The available 128 parking
10 spaces can support the fully occupied use with the spaces included.

11 So it is, therefore, our professional opinion that the parking
12 variance should be granted and the application approved.

13 I will gladly answer any questions that the Board might have.

14 MEMBER DONATELLI: So if I understand you correctly, the
15 applicant has expanded into this third building that -- and now the
16 application is before us. The question that I have is, was this
17 parking study done when the applicant was already in the building
18 or was this done with a prior tenant?

19 MR. BARRIE: It was done when the applicant was in the building,
20 recently.

21 MEMBER HERNANDEZ: With all existing conditions with the
22 exception of the retail space.

23 MR. BARRIE: With the exception of the retail space and the
24 mezzanine.

25 MR. BLOOM: And yes, with -- there is a mezzanine and also a
26 retail space. Those spaces are not being used because of the fact

1 that we needed variances for them. The retail space does not count
2 for parking since it's under 1,000 square feet or will be under 1,000
3 square feet, and by the way, that was another reason why this
4 application was delayed because we would have had to appear here
5 asking for a use variance as it relates to the retail space until
6 a recent piece of legislation was adopted by the Town Board which
7 now permits that space to be there.

8 The other space is a mezzanine area, it's not being used at any
9 time. When it will be used, there may be one or two people up there.
10 It's not office mezzanine. It is an area where there is a
11 conveyor -- two conveyor belts that bring the boxes for packing down
12 from the mezzanine level to the floor level to continue with the
13 various conveyor belts for purposes of packing product as it's going
14 to be shipped out. So at any one time, even though we are counting
15 the area as if it were full parking, at no time will there be any
16 more than possibly one or two people up at that level.

17 MEMBER DONATELLI: So, as I reviewed the building plans, I had
18 difficulty envisioning the mezzanine.

19 MEMBER HERNANDEZ: Yep.

20 MEMBER DONATELLI: By virtue of the nature that it's two
21 dimensional, and you know, it just doesn't translate well on the
22 building plans. Are you able to point me to your plans where it is
23 more clearly shown exactly what this mezzanine is?

24 MR. BLOOM: Okay, I think A-092.

25 MEMBER DONATELLI: Page?

26 MR. BLOOM: In the plan, lower right-hand corner.

1 MEMBER DONATELLI: Right.

2 MR. BLOOM: Sheet A-092.

3 MEMBER DONATELLI: So I'm up to G, hold on.

4 MR. BLOOM: And it also appears in sheet A-102. The gray area
5 in the center is that mezzanine.

6 MEMBER DONATELLI: I'm sorry, I'm still lost on pages G-1
7 through --

8 MR. BLOOM: No, no, no, no, A, A.

9 MEMBER DONATELLI: Oh, A-102, okay.

10 MR. BLOOM: A-102 and A-092.

11 MEMBER DONATELLI: So the mezzanine will cover the --

12 MEMBER HERNANDEZ: The gray -- the gray area.

13 MR. BLOOM: The gray area, shaded area in the center, as you
14 could see, there's a notation there with respect to open to below.

15 MEMBER HERNANDEZ: Right.

16 MR. BLOOM: What you are looking at is the top of a conveyor
17 on two sides where boxes are then sent down that conveyor which then
18 match up to sheet number A-101 on the first floor where you see the
19 continuation of the conveyor belt once it comes down from the
20 mezzanine. There's no work, no office, none of that is done at that
21 level except for the boxes coming down.

22 But as I said, even if it were occupied, we've already counted
23 that for purposes of parking.

24 MEMBER DONATELLI: And the purpose of the mezzanine, once
25 again, is mostly for access to and maintenance of the conveyor?

26 MR. BLOOM: Yeah, there are -- there's structures below that

1 this is on top of which is part of the area. We needed to have the
2 elevation, the upper portion, so that the conveyor can bring down
3 the boxes. It's only a packing system.

4 MEMBER HERNANDEZ: So upstairs, what you have is, the product
5 that is being sold is being shipped downstairs via conveyor belt.

6 MR. BLOOM: No, I believe they're the empty boxes, and what
7 happens is --

8 MEMBER HERNANDEZ: That's a lot of empty boxes.

9 MR. BLOOM: There are -- listen, if you've got three buildings
10 with 150 employees, thank goodness, the gentlemen behind me, who is
11 the principal of the company, is doing very well.

12 MEMBER HERNANDEZ: Yeah.

13 MR. BLOOM: And so to that extent, yes, they have a lot of boxes.
14 This area is meant to be a, in effect, storage area for the boxes
15 which are then taken and then put down the two --

16 MEMBER HERNANDEZ: Conveyors belts.

17 MR. BLOOM: -- two areas where they are then put on the conveyor
18 belt.

19 MEMBER DONATELLI: Now, getting back to the mezzanine for a
20 moment, I understand it's an inverted "T" shape. On either side of
21 the mezzanine, you're showing a cooler and a freezer. Are those
22 one-story or are those extending up to the mezzanine?

23 MR. BLOOM: If you just point me to the sheet you're looking
24 at?

25 MEMBER DONATELLI: I'm looking at --

26 MEMBER HERNANDEZ: A-102.

1 MEMBER DONATELLI: A-101, A-102, A-103.

2 MEMBER HERNANDEZ: 102 has the cooler to the left, the freezer
3 to the right.

4 MEMBER DONATELLI: Right.

5 MR. BLOOM: Yes.

6 MEMBER HERNANDEZ: So those are full height.

7 MR. BLOOM: This mezzanine covers over those cooler and freezer
8 which are on the lower level.

9 MEMBER HERNANDEZ: Okay, so it's not just a "T" shape, the
10 mezzanine covers the whole building.

11 MR. BLOOM: No, no, no, no. It just covers over the
12 refrigeration and freezer units. That's why it is as big as it is.
13 You wouldn't necessarily need something this size except for the fact
14 that there is storage of the boxes up on that level.

15 CHAIRMAN MAMMINA: I think the question is --

16 MR. BLOOM: Yeah.

17 CHAIRMAN MAMMINA: -- is the cooler two-stories high inside
18 when you walk in, and the freezer --

19 MEMBER HERNANDEZ: Yeah, please come up.

20 MEMBER DONATELLI: Yeah.

21 MR. BLOOM: I never like to have a client speak, I'm sorry.

22 MEMBER HERNANDEZ: That's okay.

23 MR. BLOOM: But I'll permit it for this Board.

24 MEMBER HERNANDEZ: We just want to understand.

25 SECRETARY WAGNER: Your name and --

26 MR. KOSMIDIS: Of course.

1 John Kosmidis, Executive Vice-President, Prime Food
2 Distributor.

3 COURT REPORTER: Can you spell that?

4 MR. KOSMIDIS: Kosmidis, K-O-S-M-I-D-I-S.

5 COURT REPORTER: Thank you.

6 MR. KOSMIDIS: My pleasure.

7 MEMBER HERNANDEZ: Nice, big name.

8 MR. KOSMIDIS: Likewise, good afternoon.

9 MEMBER DONATELLI: So the question is, the cooler and the
10 freezer that are shown on the plans, are those one-story or two-story?
11 Do those extend beyond the mezzanine or under the mezzanine? What
12 is the relationship between the mezzanine, the cooler and the
13 freezer?

14 MR. KOSMIDIS: Understood.

15 So under the shaded area, the central part of it, the main branch
16 of the "T," is where the conveyor systems -- where we assemble the
17 kits. Under, to the -- if you're facing the front of the building
18 on one side, under the shaded area is a one-story frozen picking area.
19 That's where we have the inventory, and we pick the actual product --

20 MEMBER HERNANDEZ: Okay.

21 MR. KOSMIDIS: -- that are conveyed into the central packing
22 area where they get placed into boxes. Beyond the shaded area, the
23 two other light areas, is a full height refrigerated unit on one side
24 and on the side is a full height freezer unit. So those walls that
25 are shared between the shaded area and then the non-shaded area are
26 full height.

1 MEMBER HERNANDEZ: Okay.

2 MR. KOSMIDIS: Roughly, I think, 14 or 15 feet high.

3 Underneath the shaded area is a one-story, independent, and there
4 are doors, access doors --

5 MEMBER HERNANDEZ: Mm-hmm, mm-hmm.

6 MR. KOSMIDIS: -- from the main holding freezer into the frozen
7 pick area, and on the other side, the main holding refrigeration area
8 into the refrigerated pick area. So we essentially go from the full
9 height is where we store full cases of our products, and then we go
10 into the one-story area where they're slotted for order picking.

11 So under the shaded area is one-story, roughly, 9 feet high,
12 and then the other areas are full height, and they share those
13 structural walls.

14 MEMBER DONATELLI: Excellent.

15 MR. KOSMIDIS: I hope I answered your --

16 MEMBER DONATELLI: Yes.

17 MR. KOSMIDIS: -- question.

18 MEMBER DONATELLI: Thank you for that.

19 MEMBER HERNANDEZ: So the mezzanine fills in the space between
20 the two -- the freezer and the refrigerator.

21 MR. KOSMIDIS: It is completely enclosed within the
22 refrigerator and the freezer, that is correct.

23 MEMBER HERNANDEZ: Okay, and that's why you created the
24 mezzanine. To store the boxes and that kind of stuff.

25 MR. KOSMIDIS: To store the empty boxes that go into the system,
26 yes. There's no product up there other than empty boxes.

1 MEMBER HERNANDEZ: Empty boxes.

2 MR. KOSMIDIS: Yes.

3 MEMBER HERNANDEZ: Thank you.

4 MEMBER DONATELLI: Can I steer the conversation to the proposed
5 retail space, the 990 square feet, I believe, of proposed retail
6 space? Can you address that and whether or not there will be any
7 cooking or any other conditions to the sale of those goods?

8 MR. BLOOM: This is an area that's going to have banks of
9 refrigerator frozen units, you can take something out. There's no
10 preparation of food here. There's no finished product. What we
11 have is only the frozen or chilled meat products that are being sold
12 at that point.

13 MEMBER HERNANDEZ: The same exact product they are selling now
14 except on a retail basis.

15 MR. BLOOM: Instead of delivering it by truck someplace --

16 MEMBER HERNANDEZ: Yes.

17 MR. BLOOM: -- and let us say, if they're going to a restaurant
18 or a facility that would be purchasing a large quantity, if there
19 is somebody who just says, gee whiz, I want to have one of the prime
20 steaks here, and I will pick it up myself, and I can do that. It
21 is -- that's all that it is. Nothing cooked.

22 MEMBER DONATELLI: Is it wholesale or retail or a combination
23 of both? I mean, excuse me, let me rephrase that. If somebody wants
24 to buy two steaks or --

25 MEMBER HERNANDEZ: A case.

26 MEMBER DONATELLI: -- you know, or a whole cow, is there a

1 distinction between what can be sold in that retail space.

2 MR. KOSMIDIS: Our main business began as a food service,
3 wholesale business, servicing restaurants, hotels, casinos,
4 sporting venues. This retail store was a means to make small
5 packages, individual packages, to your point, where a consumer could
6 walk in and just buy eaches (sic) of everything, and there will not
7 be -- there won't be anything prepared. It's going to essentially
8 be an Apple store for meat.

9 MEMBER DONATELLI: So no -- more or less like like a butcher
10 then.

11 MR. KOSMIDIS: Not like a butcher.

12 MEMBER DONATELLI: Not like a butcher.

13 MR. KOSMIDIS: There will not be any butchery or processing
14 whatsoever. Everything is individually packaged, boutique style.
15 You walk in, pick it up and walk out.

16 MEMBER HERNANDEZ: So whatever you sell on the wholesale level,
17 it will be packaged for the retail market.

18 MR. KOSMIDIS: Correct, correct, and everything is made next
19 door at our production facility which is USDA inspected by the federal
20 government. We have onsite inspectors 24/7.

21 MEMBER HERNANDEZ: So they throw you back and everything else
22 is done --

23 MR. KOSMIDIS: Exactly, exactly.

24 MEMBER DONATELLI: Now, is there going to be the movement of
25 product between one of your three buildings or one of the other two
26 buildings to this building?

1 MR. KOSMIDIS: From my main production facility --

2 MEMBER DONATELLI: Yeah.

3 MR. KOSMIDIS: -- which is on 80 Seaview Boulevard, they're
4 directly adjacent, front to back. So yes, we have to drive around
5 Seaview Boulevard and back up the block, pull into our loading dock,
6 unload finished product to replenish the store.

7 MEMBER DONATELLI: It'll be done by truck, it won't be done by --

8 MR. KOSMIDIS: No.

9 MEMBER DONATELLI: -- hand carts.

10 MR. KOSMIDIS: No, no hand carts, no, it's by truck. There's
11 a pretty steep hill between our -- I wish we had a direct path.

12 MEMBER DONATELLI: You wouldn't have to pay for gym membership.

13 MR. KOSMIDIS: But yes, we -- there won't be anybody out on the
14 street with hand trucks.

15 MEMBER DONATELLI: And no food preparation of any sort.

16 MR. KOSMIDIS: No food preparation, whatsoever.

17 MEMBER DONATELLI: Any other questions or comments?

18 (WHEREUPON, there was no response.)

19 MR. BLOOM: Well, if you'd like to hear about the side yard,
20 I could talk to you about the side yard.

21 MEMBER DONATELLI: I'd like to hear about the utilities being
22 buried.

23 MR. BLOOM: If you would take a look at the exhibits, we've
24 provided information with respect to these refrigeration units. Now
25 there is another tenant on the second floor. There are a lot of
26 air-conditioning units on that second floor that is servicing the

1 second floor. So the question you may have is, why are you putting
2 all these units in the side yard, in the 10-foot of the 50-foot side
3 yard, and the answer is, one, the weight of the products, of these
4 compressors, and also, of the chilling units. It would be very, very
5 difficult, especially to be able to get that through a tenant, the
6 upstairs tenant's space. We cannot put it in the rear yard because
7 the rear yard is currently parking and loading zones. We can't put
8 it on the west side because that's the parking lot. We certainly
9 can't put it in the front yard. So the only location that we can,
10 and if you take a look at Exhibit 2, oh, I think it's 3, if you take
11 a look at Exhibit 3-A, this is an aerial, and you can see by this
12 aerial, the units are in that dark area up against the building on
13 a sidewalk. You have that aerial?

14 VICE-CHAIRMAN FRANCIS: Yes.

15 MR. BLOOM: 3A?

16 MEMBER DONATELLI: I'm working on it, just give me a moment.

17 MEMBER HERNANDEZ: He just handed it up.

18 VICE-CHAIRMAN FRANCIS: Yeah, it's on the --

19 MEMBER DONATELLI: Oh, it's on the papers, yes.

20 MR. BLOOM: No, this is an aerial photograph.

21 MEMBER HERNANDEZ: It's this one.

22 MEMBER DONATELLI: Okay, we'll find it.

23 MR. BLOOM: You could see where the 50-foot setback is noted
24 on this exhibit. You could see the 10-foot area that we are
25 utilizing. This is the sidewalk area which is up against the
26 building which means that we are 10 feet into the required side yard.

1 You'll also note, though, that from the point where these
2 refrigeration units and compressors are located to the building which
3 is to the east of us is almost 90 feet away.

4 If you go to sheet number 3-B, this is from the street looking
5 at the subject property, and you can see the extensive planting buffer
6 which is also shown in the aerial view, and 3-C is the side of the
7 building to our east. You see there the row of planting, and then
8 you can also see this structure to our east has a blank wall. There's
9 not window there. It's like I said, approximately 90 feet away from
10 where these units are located.

11 The next couple of photographs which is 3-D and 3-E shows the
12 units themselves. Why do we have 10-foot fences there? Because of
13 safety and requirements with respect to the nature of these types
14 of units. There needs to be security. It's covered on top. It
15 needs access for purposes of maintenance, et cetera, but this is all
16 a requirement of the purpose of safety with respect to the electrical
17 nature. They are above grade, but as you're aware that these are
18 to be below grade. Making them or putting these units as below grade
19 in this particular area would create maintenance problems and also
20 safety problems, and then issues related with water which will be
21 coming down and the drainage et cetera, and pursuant to Section
22 70-160(4), the placement of these below grade would be the subject
23 of a waiver from the Town Board. Now, we are going to the Town Board
24 in any event because the size of the property mandates site plan
25 review, and we will have an application before the Town Board seeking,
26 one, site plan approval, and two, a waiver of Section 70-160(4).

1 MEMBER DONATELLI: A few questions. When were those units
2 installed?

3 MR. BLOOM: Probably within the past year was it?

4 MR. KOSMIDIS: During 2024, during the construction phase.

5 MEMBER DONATELLI: And so those units are there. To your
6 knowledge, have you received any complaints from the neighbors?

7 MR. KOSMIDIS: No, they're all brand new, high efficient unit.

8 MR. BLOOM: Very low decibel units. They're all brand new
9 meeting all the current standards with respect to both noise
10 abatement and also with respect to efficiency.

11 MEMBER DONATELLI: And those units are really necessitated, as
12 we saw in our previous discussion, by the size of the freezer and
13 the coolers.

14 MR. BLOOM: Exactly.

15 MEMBER DONATELLI: It's really the nature of the business.

16 MR. BLOOM: It would be probably the last place I'd want to buy
17 a piece of meat that was going to have the sawdust on the floor and
18 fans in the ceiling.

19 MEMBER DONATELLI: And no freezer.

20 MR. BLOOM: And no freezer. By the way, I remember that very
21 well.

22 CHAIRMAN MAMMINA: I worked at one.

23 MR. BLOOM: You worked at one.

24 MEMBER DONATELLI: So I was told that the reason for the sawdust
25 on the floor was because the old butchers --

26 MEMBER HERNANDEZ: Yup.

1 MEMBER DONATELLI: -- wanted to cover up the blood from the
2 chicken.

3 MR. BLOOM: Without question. You didn't want people
4 slipping. Now, the only other place that I would like to go on a
5 regular basis is where -- is in Peter Luger's in Brooklyn where they
6 used to have sawdust on the floor --

7 VICE-CHAIRMAN FRANCIS: Right.

8 MR. BLOOM: -- as well.

9 VICE-CHAIRMAN FRANCIS: Right.

10 MR. BLOOM: I'm not quite sure about that.

11 VICE-CHAIRMAN FRANCIS: Right.

12 MEMBER DONATELLI: Anything else?

13 MR. BLOOM: Nothing else other than, I think going through the
14 five elements, 267-B, there's no undesirable change in any way with
15 respect to the character of the neighborhood. There's no other
16 location which is practical to be able to put this equipment. It's
17 associated with this operation.

18 We do not believe that a poor vehicle parking, when you have
19 20 land banked parking and have a hundred -- anywhere between 80 and
20 100 vacant spaces at any time as a substantial variance. Again, only
21 four cars greater than what was requested when the building was
22 originally built.

23 We don't believe, and based upon the SEQR classification, that
24 there is any environmental impact or negative impact.

25 Is it self-created? I think we are just left with, how are you
26 retrofitting a building that was built 40 years ago to be able to

1 be utilized for this operation, which is totally legal and permitted
2 within the zone, and so I'd ask the Board to please grant the
3 variances, permit us to go on to the Town Board seeking our waiver
4 and site plan approval.

5 CHAIRMAN MAMMINA: Any questions?

6 MEMBER HERNANDEZ: No.

7 MEMBER DONATELLI: So having heard the application and having
8 reviewed it, and again, being familiar with the area, Mr. Chairman,
9 I make a motion that we grant the application with the condition,
10 as part of this decision, that the space would not be -- that the
11 retail, the proposed retail space not be used to sell prepared foods
12 which the applicant has already acknowledged.

13 So with that condition, I make a motion the we grant the
14 application.

15 CHAIRMAN MAMMINA: Okay, motion by Member Donatelli to grant
16 the application.

17 Do we have a second?

18 MEMBER HERNANDEZ: Second.

19 CHAIRMAN MAMMINA: Seconded by Member Hernandez.

20 Please poll the Board.

21 SECRETARY WAGNER: Member Donatelli?

22 MEMBER DONATELLI: Aye.

23 SECRETARY WAGNER: Member Hernandez?

24 MEMBER HERNANDEZ: Aye.

25 SECRETARY WAGNER: Vice-Chairman Francis?

26 VICE-CHAIRMAN FRANCIS: Aye.

1 SECRETARY WAGNER: Chairman Mammina?

2 CHAIRMAN MAMMINA: Aye.

3 Application is granted.

4 MR. BLOOM: Thank you. Good to see you, again.

5 (WHEREUPON, this application was granted.)

1 SECRETARY WAGNER: So we have a reopen request and an extension
2 of time request.

3 VICE-CHAIRMAN FRANCIS: Okay.

4 SECRETARY WAGNER: The extension of time request is for 21183,
5 20 Hillside Avenue in New Hyde Park. Actually, I think it might be
6 200 Hillside. I think that might be a typo.

7 MEMBER HERNANDEZ: What is that?

8 SECRETARY WAGNER: I believe it's for a gas station.
9 It's under appeal scans, extension of time request.

10 Yeah, 200 Hillside Avenue was for Tabs Motors of Valley Stream,
11 Leon Petroleum, LLC.

12 VICE-CHAIRMAN FRANCIS: I will move to grant the extension.

13 MEMBER HERNANDEZ: It also is the BP station.

14 I'll second.

15 SECRETARY WAGNER: Moved by the Vice-Chairman, seconded by
16 Member Hernandez.

17 CHAIRMAN MAMMINA: Please poll the Board.

18 SECRETARY WAGNER: Member Donatelli.

19 MEMBER DONATELLI: Aye.

20 SECRETARY WAGNER: Member Hernandez?

21 MEMBER HERNANDEZ: Aye

22 SECRETARY WAGNER: Vice-Chairman Francis?

23 VICE-CHAIRMAN FRANCIS: Aye.

24 SECRETARY WAGNER: Chairman Mammina?

25 CHAIRMAN MAMMINA: Aye.

26 SECRETARY WAGNER: Extension is granted.

1 (WHEREUPON, this extension request was granted.)

1 SECRETARY WAGNER: We have a reopening request for appeal
2 number 21490, 52 Netz Place in Albertson. I sent that over again
3 this morning, I believe I e-mailed it to you. I forwarded an e-mail
4 from the applicant requesting to reopen.

5 They had come to the Board --

6 MEMBER HERNANDEZ: What's the address; again?

7 SECRETARY WAGNER: 52 Netz Place in Albertson.

8 MEMBER DONATELLI: That was a separate e-mail from this
9 morning.

10 SECRETARY WAGNER: Yes.

11 MEMBER DONATELLI: Okay.

12 MEMBER HERNANDEZ: 52 Netz Place?

13 SECRETARY WAGNER: Yes.

14 MEMBER DONATELLI: Yeah?

15 SECRETARY WAGNER: You got it there?

16 MEMBER DONATELLI: Yeah.

17 SECRETARY WAGNER: So they had come to the Board, it was a gross
18 floor area variance and side yard setback variances for additions
19 to the house, and the Board had asked them to look at revising the
20 plans, and they didn't want to revise the plans at that time, and
21 they --

22 CHAIRMAN MAMMINA: Okay, that's the one that we were talking
23 about. Wasn't that Snapdragon?

24 MEMBER HERNANDEZ: No, it's not --

25 SECRETARY WAGNER: That's a different, that's a different --

26 CHAIRMAN MAMMINA: Oh, wait, wait, wait, no, I'm confusing it,

1 I'm confusing it.

2 SECRETARY WAGNER: Yeah, that's a different one.

3 CHAIRMAN MAMMINA: It was the other one, too, with --

4 MEMBER HERNANDEZ: I can't find it, that's the problem. I can
5 remember these things.

6 Give me the address again.

7 SECRETARY WAGNER: 52 Netz Place in Albertson. 52 --

8 MEMBER HERNANDEZ: Yup.

9 SECRETARY WAGNER: -- Netz Place.

10 VICE-CHAIRMAN FRANCIS: N-E-T-Z.

11 SECRETARY WAGNER: N-E-T-Z.

12 MEMBER HERNANDEZ: N-E-T-Z, okay.

13 SECRETARY WAGNER: So I sent an e-mail this morning.

14 MEMBER HERNANDEZ: Got it, got it. It's my typing.

15 SECRETARY WAGNER: So basically, the applicant finally
16 acquiesced and says that -- so the Board denied the original appeal.
17 The applicant is requesting that we reopen the appeal because they
18 reduced the gross floor area down to something that's definitely much
19 more --

20 MEMBER DONATELLI: And they are filing a request to reopen.

21 SECRETARY WAGNER: Well, they have to do that, and then we're
22 going to make them come back for a hearing, right; Deborah?

23 ATTORNEY ALGIOS: They're going to have to re-notice.

24 MEMBER HERNANDEZ: Oh, because they got to re-present brand
25 new, okay.

26 ATTORNEY ALGIOS: Right, but it's a new -- it's a new plan

1 because they --

2 MEMBER HERNANDEZ: So then do we need to reopen? So isn't it
3 just a new --

4 VICE-CHAIRMAN FRANCIS: New applicants?

5 ATTORNEY ALGIOS: No, they want to -- because it's still -- it's
6 still the plan. They're still doing what they want to do with this
7 reduced plan.

8 MEMBER HERNANDEZ: Okay.

9 ATTORNEY ALGIOS: They just want to reopen reducing the floor
10 plan, the floor area, but it's a substantial change.

11 MEMBER HERNANDEZ: Okay.

12 ATTORNEY ALGIOS: It's still going to be -- it's still going
13 to be --

14 MR. HERNANDEZ: They got to re-present everything, yeah, yeah.

15 SECRETARY WAGNER: But in order to reopen the appeal, it has
16 to be a unanimous decision by the Board. We have to take a vote on
17 reopening, and then they will have to come back.

18 MEMBER HERNANDEZ: Okay.

19 MEMBER DONATELLI: So here's my question, procedurally. If we
20 were to vote to reopen, would the plans still go to the Building
21 Department first?

22 SECRETARY WAGNER: They already have gone to the Building
23 Department.

24 MEMBER DONATELLI: They already have. So that the Building
25 Department would review it, and so presumably --

26 SECRETARY WAGNER: Well, I -- it's --

1 MEMBER HERNANDEZ: I mean, I'm sorry for being thick but I don't
2 understand what the distinction is.

3 SECRETARY WAGNER: You mean the distinction between, like, a
4 new application --

5 VICE-CHAIRMAN FRANCIS: Reopening a new application.

6 ATTORNEY ALGIOS: Because it's -- because the Building
7 Department is saying this was already decided, and so the
8 Building -- so it has to be reopened.

9 CHAIRMAN MAMMINA: So it's closed.

10 SECRETARY WAGNER: Yeah, like the --

11 ATTORNEY ALGIOS: So the Building Department has to agree to
12 reopen it because it changes -- in other words, they're not
13 just -- they're not just reducing it by 5 feet, they're doing a
14 substantial enough change that the Board can say, okay, we're going
15 to let them come back.

16 VICE-CHAIRMAN FRANCIS: Okay.

17 SECRETARY WAGNER: So the Building Department is --

18 ATTORNEY ALGIOS: It's res adjudicata, it's the same owner, and
19 it's the same plan.

20 MEMBER DONATELLI: Got it.

21 ATTORNEY ALGIOS: There was a decision already.

22 MEMBER DONATELLI: Right.

23 VICE-CHAIRMAN FRANCIS: Right.

24 ATTORNEY ALGIOS: So the building officials can say, well, you
25 already -- you already made a decision on this.

26 VICE-CHAIRMAN FRANCIS: Right.

1 MEMBER DONATELLI: But my question is --

2 MEMBER HERNANDEZ: But we don't know -- we don't know what
3 the -- how do I know that it's substantial enough to vote --

4 SECRETARY WAGNER: He sent -- he sent that, the revised plans.
5 Well, I sent the revised plans but I also, in one of my prior e-mails,
6 indicated what the reduction was.

7 MEMBER HERNANDEZ: I have the problem with them re-presenting
8 if it's not enough, then you're going to vote the same way, but you
9 know, that's why it doesn't --

10 ATTORNEY ALGIOS: So why don't you take a minute and look --

11 MEMBER HERNANDEZ: -- it doesn't make any sense.

12 VICE-CHAIRMAN FRANCIS: Yeah, that's what I'm looking at now.

13 MEMBER HERNANDEZ: When did you send it?

14 SECRETARY WAGNER: I sent the revised plans this morning.
15 The --

16 MEMBER HERNANDEZ: Is it online? Is it on --

17 CHAIRMAN MAMMINA: The revised plan?

18 MEMBER HERNANDEZ: Is it on --

19 SECRETARY WAGNER: Yeah, but look at the e-mail. Can you open
20 your e-mail or no?

21 CHAIRMAN MAMMINA: That's not the revised.

22 VICE-CHAIRMAN FRANCIS: So the e-mail that --

23 SECRETARY WAGNER: That has -- he sent his request again, and --

24 MEMBER DONATELLI: Do we know what the new request is for the
25 square footage?

26 SECRETARY WAGNER: That's what I'm going to --

1 MEMBER DONATELLI: I don't see any revisions on this.

2 SECRETARY WAGNER: Maybe I didn't send it this morning.

3 CHAIRMAN MAMMINA: No, I only see -- I only see the --

4 SECRETARY WAGNER: Oh, wait, here it is, yeah, okay. I did send
5 it. So --

6 MEMBER HERNANDEZ: You sent it this morning?

7 SECRETARY WAGNER: Yes.

8 MEMBER DONATELLI: All right, so I'm looking at the residential
9 zoning analysis sheet, and if I'm reading this correctly, the maximum
10 permitted is 2,813 square feet and proposed gross floor is 2,889 --

11 CHAIRMAN MAMMINA: Oh, I didn't -- I didn't scroll down.

12 MEMBER DONATELLI: -- so it's about 70 feet.

13 SECRETARY WAGNER: Yes, and before it was like 200 --

14 MEMBER DONATELLI: Yeah.

15 SECRETARY WAGNER: -- or 300.

16 MEMBER DONATELLI: So I'll -- - this is Albertson, so I'll make
17 a motion that we reopen.

18 MEMBER HERNANDEZ: That's fine.

19 I'll second.

20 VICE-CHAIRMAN FRANCIS: Okay.

21 CHAIRMAN MAMMINA: Okay, please poll the Board.

22 SECRETARY WAGNER: Member Hernandez?

23 MEMBER HERNANDEZ: Aye.

24 SECRETARY WAGNER: Member Donatelli?

25 MEMBER DONATELLI: AYE.

26 SECRETARY WAGNER: Vice-Chairman Francis?

1 VICE-CHAIRMAN FRANCIS: Aye.

2 SECRETARY WAGNER: Chairman Mammina?

3 CHAIRMAN MAMMINA: Aye.

4 We'll reopen.

5 (WHEREUPON, this application was reopened.)

6 CHAIRMAN MAMMINA: I didn't scroll down far enough.

7 SECRETARY WAGNER: I know, it's --

8 MEMBER DONATELLI: Well, it's difficult when we get these
9 e-mails on the morning of the hearing.

10 SECRETARY WAGNER: No, I had sent it before in a link when he
11 originally sent in the request. He had just happened to e-mail me
12 this morning, so I sent it again as a reminder, but since everything
13 was in that e-mail, it was easier to just --

1 ATTORNEY ALGIOS: SEQR.

2 SECRETARY WAGNER: We need to vote on SEQR.

3 CHAIRMAN MAMMINA: Yes.

4 Motion on SEQR?

5 VICE-CHAIRMAN FRANCIS: I'll move it.

6 MEMBER DONATELLI: I'll second.

7 SECRETARY WAGNER: Motion by the Vice-Chairman, seconded by
8 Member Donatelli.

9 All in favor?

10 (WHEREUPON, there was a unanimous, affirmative vote of the Board
11 members present.)

C E R T I F I C A T E

STATE OF NEW YORK)

SS:

COUNTY OF NASSAU)

I, DEBBIE BABINO, a certified Shorthand
Reporter in the State of New York, do hereby certify:

That the foregoing is a true and accurate
transcript of my stenographic notes.

IN WITNESS WHEREOF, I have set my hand on this
29th day of April, 2025.

A handwritten signature in dark ink, appearing to read 'Debbie Babino', with a long, sweeping horizontal stroke extending to the right.

Debbie Babino, Certified Reporter