

Town of North Hempstead
Board of Zoning Appeals
PUBLIC HEARINGS

Wednesday, April 23, 2025
10:00 a.m.

BOARD MEMBERS PRESENT:

David Mammina, AIA, Chairman
Leslie Francis, Esq., Vice-Chairman
Patricia A. Goodsell, Esq., Member
Daniel D. Donatelli, Esq., Member

ALSO PRESENT:

Deborah Algios, Deputy Town Attorney
Virginia Wagner, Secretary to the Board
Steven Perrotta, Planner

1 CHAIRMAN MAMMINA: We will get started. Please rise
2 and join Vice-Chair Francis in our Pledge of Allegiance.

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

4 CHAIRMAN MAMMINA: Good morning, everyone, and welcome to the
5 Town of North Hempstead Zoning Board of Appeals, and what we're going
6 to do now is just -- we're going to spend a few minutes just going
7 through the way that we conduct business here, in case you've never
8 appeared before a Zoning Board before or -- I have a pretty loud voice
9 but -- or if you have, we may do things a little bit differently,
10 you know, than they do.

11 So what we will do is, as each case is called from the calendar,
12 that person or persons will stand on up and come forward to the podium,
13 and I will ask if there's anyone who has any interest in the
14 application, and that's negatively or positively, and we look for
15 a show of hands on that just so that we know that there are other
16 people that wish to -- that wish to speak. At that point, the
17 applicant will have the microphone, and they will give their name
18 and address to our wonderful court reporter who will take this all
19 down. This is a quasi-judicial proceeding, and so we have a -- there
20 is a record.

21 So with that said, everybody's given their name and address,
22 and the podium then belongs to the applicant, and the applicant will
23 put onto the record anything that they may wish to present regarding
24 their application. At that point, when that is finished, the Board
25 will ask whatever questions it feels that we might have of the -- of

1 the applicant. The applicant will have the ability, of course, to
2 respond to those, and then at that point, if there is anyone who wishes
3 to speak regarding the application, we'll just ask the applicant to
4 have a seat wherever, and someone may want to speak in favor of it,
5 some may want to speak against it, and you know, that way we must
6 follow that same proceeding of -- procedure, excuse me, of the Board
7 will ask whatever questions it feels that we -- that we need to ask.

8 Also, we have a three minute time limit on that, and as I like
9 to say, you know, we're not chopping anybody's head off at three
10 minutes, but a lot of times this room is filled, you know, with people,
11 and you know, there's got to be some kind of limitation, you know,
12 for the overall hearing.

13 So at that point then, the applicant is invited back up to the
14 podium, and they will then have the opportunity to either support
15 things that might have been said or to refute things that might have
16 been said. Again, the Board can ask questions, and at that point,
17 the hearing's done, and we virtually never have a second hearing.
18 I've been sitting here for a few decades now, and I think twice, you
19 know, that we've had a second -- a second hearing, and that's usually
20 one of the ones where the room is completely full, you know, and we
21 need some more time to deliberate on that.

22 So the Board then will do one of four things. We will either
23 approve the application, we will deny the application, we may
24 continue the application. If we continue the application, that
25 means that we've got -- we've got some additional information that
26 we might ask for, it could be a closing document, it could be, one

1 time we had pictures from a communion where they were demonstrating
2 that a fence was there for however many years. So it becomes a who
3 knows, and then the fourth thing that we might do is reserve the
4 application, and if we reserve the application, that means the Board
5 has all the information that it needs and would then deliberate, you
6 know, on that, not at that point, but you know, that would -- that
7 would happen then, and we are on, you know, on the TV system, whatever
8 it's referred to, so that you don't have to come back.

9 No one has to come back a second time. You may come back a second
10 time if you wish to, though, but there is no hearing at that point.
11 No one else can speak other than the Board, kind of, you know, we're
12 sitting at the diner having a conversation saying, what do you think?
13 But we have to do it, of course, in public. So -- but there would
14 be no opportunity to respond to anything further at that point.

15 So we will have done one of those four things at, you know, at
16 that point, and that then either continues the hearing or continues,
17 I mean, just for -- just for us, or you know, then the hearing -- the
18 hearing is done.

19 So other things that we will ask is that everybody takes their
20 phones and just take the ringer off, you know, you don't have to shut
21 it off, we just don't want to have an interruption, you know, it's
22 hard enough for our stenographer to take the record even when the
23 Board gets a little bit off track, and I give a look, and she'll say
24 yes or no, and we ask the same, you know, from all of our friends
25 here today that we keep the -- any kind of cross conversation to zero.
26 If you need to make a telephone call, you need to take a telephone

1 call, you could step outside, you know, at any point, I mean, you
2 know, that's okay, and we just ask that everybody just be courteous
3 which everybody is anyway.

4 So if there is anyone who's coming to join you, we just ask that
5 you kind of give them a, you know, a -- information, you know,
6 regarding what we just said, and specifically, in terms of telephones
7 and any cross conversation.

8 Did I -- got it all?

9 MEMBER DONATELLI: Think so.

10 CHAIRMAN MAMMINA: So are we live yet?

11 SECRETARY WAGNER: Yes.

12 CHAIRMAN MAMMINA: Okay, we are live, so -- which means we will
13 start the hearing.

14 So for our Secretary, Ms. Wagner, do we have any modifications
15 to today's calendar?

16 SECRETARY WAGNER: No, Chairman, we do not.

1 CHAIRMAN MAMMINA: Okay, so then with that said, would you
2 please call the first case.

3 SECRETARY WAGNER: Appeal number 21691, David Schwartz, 100
4 Harrow Lane in Manhasset; Section 3, Block 188, Lot 4; in a
5 Residence-A Zoning District.

6 Variance from §70-100.2(K) to install a generator too far from
7 a home.

8 CHAIRMAN MAMMINA: So you've heard appeal 21691, David
9 Schwartz.

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

12 (WHEREUPON, there was no response.)

13 CHAIRMAN MAMMINA: Seeing no one.

14 Please give your name and address.

15 MR. RANT: Good morning, Mr. Chairman, members of the Board.
16 My name is Michael Rant from Northcoast Civil, 39 West Main Street,
17 Oyster Bay, New York, and we're here seeking approval to install a
18 generator that is greater -- greater than the 5-foot requirement from
19 the existing home.

20 This application is part of a larger project to install a pool,
21 patio, fencing in the rear yard of the property, all of which is fully
22 zoning compliant. The owner wishes to install the generator in the
23 same location as the proposed pool equipment. It does comply with
24 all side yard, rear yard setback requirements. It's tucked behind
25 an existing detached garage, so the equipment will not be visible
26 from anyone other than the owner of the property. It'll be fully

1 fenced and screened so he cannot -- he doesn't have to look at it,
2 as well, and I think, based on the layout of the property, that it's
3 really the most ideal location and has the least impact on any of
4 the surrounding properties. Again, it will not be visible from any
5 of the neighbors.

6 I'm happy to answer any questions the Board may have.

7 CHAIRMAN MAMMINA: If I could ask you, you're very
8 professional, appear before us regularly, so it's not any kind of
9 a criticism. Just go through that a little bit slower.

10 MR. RANT: Sure.

11 CHAIRMAN MAMMINA: We may have people, you know, who are
12 listening in and just want to understand, and for the Board as well.
13 Just, we'd like to understand --

14 MR. RANT: Sure.

15 CHAIRMAN MAMMINA: -- exactly, you know, what that is, and if
16 you can state with it what the -- what the ordinance permits so that
17 we can, you know, then have that all in our heads, but again, more
18 so for anyone who is, you know, who is listening in. You know what
19 I'm saying?

20 MR. RANT: Yes, of course.

21 CHAIRMAN MAMMINA: You know this stuff, we know this all, you
22 know, but we want to make sure.

23 MR. RANT: Sure.

24 So the -- my understanding, the code requirement for a proposed
25 generator or any generator cannot be more than 5 feet from a dwelling.
26 This property has a garage on the -- a driveway on the side of it

1 which limits the location of where you can physically put a generator.
2 The opposite side, there's a cellar entrance which would then, again,
3 push the generator closer than the minimum side yard setback
4 requirement. So we've carved out an area in the back of the property.
5 There is a detached garage, and we're looking to house the proposed
6 generator and the pool equipment directly adjacent to the garage.
7 So the generator would be approximately 10 feet from the house where
8 it needs to be no more than 5.

9 We feel that this is an appropriate location because it's tucked
10 on the inside interior side of the detached garage. So it would only
11 be visible from the property owner himself if he was utilizing the
12 pool and his backyard.

13 The property itself is fully screened currently. It would not
14 be visible. The owner intends to install a privacy screening around
15 the generator to, again, further -- further create screening from
16 his property. So we feel that the location, as shown on the plan,
17 is the least detrimental impact to the surrounding properties. It
18 will not create any adverse impact. The fact that it's only visible
19 from the homeowner, I believe that the benefit that the
20 owner -- homeowner has will exceed any detriment to the community.

21 So I think, again, it's the ideal location. It will have no
22 impact, and based on the layout of the existing home, this is the
23 most ideal location for the generator.

24 CHAIRMAN MAMMINA: Okay.

25 MEMBER GOODSSELL: Just for the record, there appear to be woods,
26 a wooded area behind this house. There's no immediate rear neighbor;

1 is that correct?

2 MR. RANT: That is correct, yes, and there's privacy screening
3 on all sides.

4 CHAIRMAN MAMMINA: Well, looking at the -- at the plan, why
5 can't it be where the existing patio is? I mean, the proximity of
6 that to your outdoor kitchen area, you know, the pool or the backyard
7 area, why can't it be in that -- in that existing location, excuse
8 me, in that location that would permit it?

9 MR. RANT: There's currently -- there's currently four A/C
10 units in a small fenced in area. There is not enough room to fit
11 the generator within that area, and sliding it further to the side
12 yard would impact the dimension between the driveway and the side
13 of the house. There's only a small strip, about 3 feet wide. There
14 would need to be, possibly, bollards installed or something. There
15 would be an impact to the driveway itself in order to install it in
16 that location.

17 CHAIRMAN MAMMINA: I'm talking about the other side.

18 MR. RANT: The other side. The other side --

19 CHAIRMAN MAMMINA: Excuse me for interrupting.

20 MR. RANT: Sure.

21 CHAIRMAN MAMMINA: I don't see that equipment shown on the
22 drawing.

23 MR. RANT: The A/C --

24 CHAIRMAN MAMMINA: Unless I'm missing it.

25 MR. RANT: I'm sorry, the A/C units are directly to the east
26 of the outdoor kitchen. So there's an outdoor kitchen with four

1 squares in it, and that's a fenced in utility area. I apologize,
2 it might not be labeled on the -- on the site plan. So just -- just --

3 CHAIRMAN MAMMINA: It's not, it's not labeled.

4 MR. RANT: I apologize.

5 So there are four A/C units there. That's where the utility
6 space is currently. There's not enough room in that space to put
7 the generator. On the opposite side, so it would be the west side
8 of the home, there is a cellar entrance, and there's only a small
9 section of area between the top step of the cellar entrance and
10 the -- and the proposed pool enclosure fence, and the generator would
11 be, essentially, right next to the patio space which is used for
12 entertaining. There's a second story balcony in that area, and it
13 would be closest to the neighbor to the west.

14 CHAIRMAN MAMMINA: Well, I guess, and my question is that, where
15 those are shown in the area, they're not labeled. I mean, they're
16 kind of sitting right on top of your outdoor area. If they were on
17 the west side of the building adjacent to or within 5 feet of the
18 side property line, that would seem to be another location that would
19 not affect any of the neighbors, and you know, please, understanding
20 that we don't write the zoning.

21 MR. RANT: Understood.

22 CHAIRMAN MAMMINA: So the Town Board writes the zoning. We
23 look at it, and we say, okay, can any variance that we give be
24 mitigated, because once we put a variance -- once we grant a variance,
25 to some extent it then has to be granted to the next person, you know,
26 that's looking for it, as well, and then a little at a time, we make

1 the zoning ordinance mean nothing.

2 So is there a reason why it couldn't be on that side, you know,
3 where it says existing cellar entrance?

4 MR. RANT: The cellar entrance is 5 feet wide. So it would have
5 to go on the west side of the cellar entrance. It would be -- in
6 order to give some clearance from the cellar entrance walls to the
7 generator, I think it would still be a little more than 5 feet
8 required, and at that point, it would be much closer to the -- to
9 the neighbor to the west.

10 CHAIRMAN MAMMINA: Well, I guess that's my -- my point is is
11 that the Town Board, you know, has made a decision that, you know,
12 it shouldn't be, you know, any, you know, any further than that same
13 5 feet that we're talking about, you know, and if we were talking
14 about the stair, you know, even being part of the house, you know,
15 even though I may look at it as, you know, as part of the house, you
16 know, it would still seem, you know, that it could go in there. A
17 generator requires almost no maintenance, you know. So I guess it's,
18 you know, it's you know, for me, it's just a question of the -- what
19 happens when it comes up again, because we have had people now moving
20 their generator --

21 MR. RANT: Mm-hmm.

22 CHAIRMAN MAMMINA: -- you know, farther from the house with
23 rationales as to, you know, as to why, and again, I don't necessarily
24 agree, I don't disagree, you know, with the Town Board. They make
25 these rules --

26 MR. RANT: Mm-hmm.

1 CHAIRMAN MAMMINA: -- we don't, or laws, that's what they are,
2 and I also don't know what any of the other Board -- and I'm not saying
3 that I'm against it. I understand, I'm just, I'll use the word
4 concern, is that we're diminishing and diminishing and diminishing
5 that -- this part of the -- this part of the ordinance.

6 MR. RANT: Yeah, and I understand the Board's concern, and we
7 always make our best effort to try and not come before this Board
8 for a variance in every application which is why we designed the pool
9 and the patio in a tight space that's fully zoning compliant. You
10 know, we look at variances, and I, you know, other municipalities
11 that limit the distance from a building to a generator so that it's
12 not impacting a neighboring property. If you have a remote generator
13 in a different location to try and keep it away from your house so
14 you don't hear it, how does it then impact your neighbor. So --

15 CHAIRMAN MAMMINA: The ordinance doesn't say that, though.

16 MR. RANT: Well, the intent, there has to be some intent behind
17 it, and I understand the ordinance may say that. We found a location
18 we feel is as close to the home as possible. It's approximately 10
19 feet away. It's in the general area where there are other utilities.
20 It's shielded completely by an existing framed, detached framed
21 garage, and visibly, there would be no neighbor that could see the
22 generator in this proposed location versus putting it on the opposite
23 side of the property where the cellar entrance is, and I'm not 100
24 percent sure what this minimum side yard setback is.

25 CHAIRMAN MAMMINA: You should be.

26 MR. RANT: Yes, yes.

1 CHAIRMAN MAMMINA: You're the professional who's coming here,
2 so --

3 MR. RANT: I believe it's -- I believe -- I believe it's a
4 10-foot side yard setback.

5 CHAIRMAN MAMMINA: Let's try to talk one at a time.

6 MR. RANT: Sure.

7 CHAIRMAN MAMMINA: Because it's --

8 MR. RANT: Sure.

9 CHAIRMAN MAMMINA: -- it's very hard.

10 I don't see that generator, you know, being approximately 10
11 feet from the house. I mean, I see it as being maybe at least, I'm
12 looking at your 8-foot 9 dimension back there. It's got to be pretty
13 close to 20 feet away from --

14 MR. RANT: No, the generator is closer to the front of the
15 garage. The pool equipment is slid back into the rear.

16 CHAIRMAN MAMMINA: No, I see that.

17 MEMBER GOODSSELL: The site is 12.25 feet.

18 CHAIRMAN MAMMINA: Okay, so I'm saying, so it's --

19 MR. RANT: So putting it -- again, putting it on --

20 CHAIRMAN MAMMINA: 2 1/2 feet.

21 MEMBER GOODSSELL: As one Board member --

22 MR. RANT: Mm-hmm.

23 MEMBER GOODSSELL: -- I think the applicant's point is well
24 taken. Where the proposed location is, it's some 80 feet away from
25 the neighbor to the west. It's shielded from the noise and the view
26 from the neighbor to the east by the existing garage. There is no

1 neighbor to the south which is all a completely wooded area, and in
2 this particular instance, yes, it's more than 5 feet from the house.
3 But I think it has, in my opinion, as one Board member, a lesser impact
4 on the neighborhood than putting it 5 feet over on the east side of
5 the property where the cellar entrance is.

6 VICE-CHAIRMAN FRANCIS: Mr. Rant, what is the fuel source for
7 the generator?

8 MR. RANT: Natural gas.

9 VICE-CHAIRMAN FRANCIS: And that's being run from the house to
10 the generator?

11 MR. RANT: Yeah, the natural gas currently comes in from
12 that -- in that same location we're proposing it. So the gas line
13 runs down the east side of the property underneath the driveway, and
14 then enters the home where the existing A/C units are. So
15 it's -- again, it's -- we don't need to run an additional gas line
16 to the other side of the house. So from a practical standpoint of
17 installation, it's the ideal location, and again, the west side, in
18 putting it adjacent to the cellar entrance, would be only 5 feet away
19 from the neighboring property line.

20 Again, I understand the intent -- the code says maximum 5 feet,
21 but I think in looking at, globally, the impact, I think the alternate
22 location where we're showing has the least, if any, impact to any
23 of the surrounding properties and would not create any detrimental
24 impact. I think it's the ideal location. I think it would not be
25 visible from other neighbors, and I think that it's, again, serves
26 the property the best as well as the surrounding areas.

1 MEMBER DONATELLI: Let me -- let me pose a question. The site
2 plan, as part of the application, shows existing outdoor kitchen.
3 Is that area paved now?

4 MR. RANT: Yes.

5 MEMBER DONATELLI: So that if the gas were to somehow run down
6 the existing asphalt driveway and then across that area to a compliant
7 area on the west side of the house, that paved area would have to
8 be torn up or --

9 MR. RANT: It would have to be run between the existing patio
10 and the proposed pool. So it would -- it would require extending
11 of the gas line approximately, maybe 80 to 100 feet. It would cause,
12 you know, additional site damage, and obviously, expense to that
13 installation of that gas line.

14 MEMBER DONATELLI: Do you have any rough estimate of what the
15 expense might be for running the gas line an additional, let's say,
16 80 feet? Roughly.

17 MR. RANT: You know, it could be \$5,000, I mean, somewhere in
18 that range.

19 MEMBER DONATELLI: All right.

20 As one Board member, and I think the Chairman's comments are
21 very well taken in that we all wrestle with that pretty much on every
22 application that we hear, but having great respect for the Chairman's
23 comments, as one Board member, I think that -- I think that the
24 applicant has done their best to try and mitigate the variance.
25 Given the plans presented before us, I think it -- and the weighing
26 of the five factors, as one Board member, I think I would be in favor

1 of granting the variance.

2 CHAIRMAN MAMMINA: We have a motion.

3 Do we have a second?

4 MEMBER GOODSSELL: I'll be the second.

5 CHAIRMAN MAMMINA: Okay, so we have a motion by Member
6 Donatelli, and we have a second by Member Goodsell.

7 Please poll the Board.

8 SECRETARY WAGNER: Member Donatelli?

9 MEMBER DONATELLI: Aye.

10 SECRETARY WAGNER: Member Goodsell?

11 MEMBER GOODSSELL: Aye.

12 SECRETARY WAGNER: Vice-Chairman Francis?

13 VICE-CHAIRMAN FRANCIS: Aye.

14 SECRETARY WAGNER: Chairman Mammina?

15 CHAIRMAN MAMMINA: I vote nay, which I almost never do, only
16 because I'm looking at the way the ordinance is written, and we are
17 seeing more and more applications where people want the generator
18 just wherever they want, and you know, I think that the Planning
19 Board, you know, if the Planning Department is listening, maybe it
20 should go there, maybe it should go to the Town Board. But I
21 understand the argument, and I do believe that there are alternate
22 locations that an applicant has not presented, you know, why it can't
23 be put into those locations.

24 MR. RANT: Understood.

25 Thank you, very much. I appreciate it.

26 Have a good day.

1 CHAIRMAN MAMMINA: Thank you.

2 MR. RANT: Take care.

3 SECRETARY WAGNER: The application was granted.

4 CHAIRMAN MAMMINA: Oh, I'm sorry.

5 (WHEREUPON, this application was granted.)

1 SECRETARY WAGNER: Next appeal, Appeal number 21692, Jared
2 Mandel, 63 Wakefield Ave, Port Washington; Section 6, Block 69, Lot
3 12; in the Residence-B Zoning District.

4 Variance from §70-100.2(K) to install a generator too far from
5 a home.

6 CHAIRMAN MAMMINA: You've heard Appeal number 21692, Jared
7 Mandel.

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

10 (WHEREUPON, there was no response.)

11 CHAIRMAN MAMMINA: Seeing no one.

12 Please give your name and address.

13 MR. MANDEL: Jared Mandel, 63 Wakefield Avenue, Port
14 Washington.

15 CHAIRMAN MAMMINA: Okay.

16 Please, go ahead.

17 MR. MANDEL: Oh, sure.

18 I'm the property owner at 63 Wakefield Avenue in Port
19 Washington, and I'm here to respectfully request an area variance
20 to install a standby 24 kilowatt natural gas generator --

21 CHAIRMAN MAMMINA: Can you slow down?

22 MR. MANDEL: Sure, sure.

23 -- approximately 11 feet from my home, which is greater than
24 the 5-foot maximum distance permitted by the applicable town code.

25 The generator will not negatively impact the neighborhood's
26 character or create a detriment to nearby properties. It's in a

1 modest -- it is a modest modern unit with a professionally installed
2 and screened in appropriate landscaping and located in a rear yard
3 not visible from the street. Several neighboring homes have already
4 installed generators, and this one will be farther from any adjacent
5 home than if it were installed in the permitted 5-foot side yard
6 locations.

7 The proposed location is the only viable location on the
8 property. Both side yards are too narrow to accommodate the
9 generator while maintaining both the 5-foot setback from the house
10 and the 5-foot setback from the property line. Even if the widths
11 were sufficient, there are existing mechanical obstructions,
12 air-conditioning units, gas meters and operable windows on both sides
13 of the home that prohibit the installation in these areas due to the
14 safety and code restrictions. Placing the generator at the rear of
15 the home within 5 feet is also not feasible as it would obstruct a
16 walkway and patio area used regularly for access and recreation as
17 well as egress.

18 Within -- while 11 feet is more than twice the maximum allowed
19 distance from the dwelling, the variance is not substantial in
20 effect. In our opinion, the generator is compact and located in a
21 safe, unobtrusive area. The requested location better serves the
22 intent of the code by increasing the clearance from both the home
23 and the neighboring properties. The installation will comply with
24 all manufacturer guidelines, fire safety and environmental
25 regulations. It runs on clean burning natural gas and includes
26 built-in sound emission controls. The location poses no risk to

1 drainage or physical structures, avoids crowding, utility easements
2 and pedestrian walkways. It enhances safety by maximizing
3 clearances from flammable surfaces and adjacent structures, is
4 elevated and is not in a flood prone area as outlined in the Board's
5 evaluations guidelines. The need for a variance is not
6 self-created, it results from the layout of the existing home, fixed
7 utility placements and compliance with multiple overlapping safety
8 and zoning restrictions.

9 I have no way to achieve both compliance with the code and safe
10 functional placement without this variance. The proposed general
11 location, though farther from the home than the code permits, is
12 safer, more discreet and farther from the neighboring homes than a
13 side yard location would allow. It adheres to all best practices
14 for environmental safety, maintains the character of the
15 neighborhood and respects the spirit and intent of the town code.

16 I respectfully ask the Board to grant this variance so that I
17 may install the generator in the only safe and compliant area
18 available on the property.

19 Thank you, very much, for your time and consideration.

20 VICE-CHAIRMAN FRANCIS: First of all, it is self-created. It
21 always is.

22 MR. MANDEL: Sure.

23 VICE-CHAIRMAN FRANCIS: And installing one of the --

24 MR. MANDEL: Understood.

25 VICE-CHAIRMAN FRANCIS: -- because one, you purchased the
26 property, and two, you're installing the generator.

1 MR. MANDEL: Understood.

2 MEMBER DONATELLI: Let me jump in. You were here for the first
3 application --

4 MR. MANDEL: Sure.

5 MEMBER DONATELLI: -- the prior application, so you know our
6 concerns.

7 MR. MANDEL: Sure.

8 MEMBER DONATELLI: And the Chairman made some very good
9 points --

10 MR. MANDEL: Definitely.

11 MEMBER DONATELLI: -- in dissenting from the prior vote, and
12 those are concerns that we all share. So I guess my question is,
13 as I look at your survey and where the proposed generator is going
14 to be placed, and I see there is the rear of the house something called
15 a second story overhang.

16 MR. MANDEL: Yes.

17 MEMBER DONATELLI: Why is it not -- and it looks like there is
18 some -- a paver patio in the area of that second story overhang. Why
19 is it not possible to place the generator closer to the home in that
20 area where the paver patio is cut out?

21 MR. MANDEL: Sure.

22 Those are stairs down to a basement, a utility basement. The
23 part that's closest to the home with the kind of the lines in it.

24 MEMBER DONATELLI: Okay.

25 MR. MANDEL: If it were to be placed just after that, it would
26 block the side yard completely so there'd be no egress in that area

1 because there's a retaining wall. So our house is lower than all
2 the surrounding houses. So while the property line is, you know,
3 farther from the house, there's a retaining wall there as well. So
4 it would block that side yard if we put it there.

5 MEMBER DONATELLI: Yeah, I see the retaining wall --

6 MR. MANDEL: Sure.

7 MEMBER DONATELLI: -- on the survey, and I see the stairs
8 leading downstairs and the second story overhang. But again, I don't
9 understand why -- I don't see how the generator would interfere either
10 with the stairs going to the rear of the property or --

11 MR. MANDEL: Sure.

12 MEMBER DONATELLI: -- with the retaining wall. I'm
13 suggesting, again, why can't the generator be brought more behind
14 the house --

15 MR. MANDEL: Mm-hmm.

16 MEMBER DONATELLI: -- in the area where that paver patio is cut
17 out?

18 MR. MANDEL: So if we put it right behind there, then
19 the -- according to manufacturer's recommendations or requirements,
20 it has to be 36 inches from any other type of physical structure.
21 So it would be right in the middle of that walkway there.

22 CHAIRMAN MAMMINA: I don't think it'd be in the middle.

23 MEMBER GOODSSELL: What about behind the garage?

24 MR. MANDEL: So same thing with behind the garage, 36 inches
25 away from the house. It would be right in the middle of the patio.

26 CHAIRMAN MAMMINA: I might ask you to --

1 MR. MANDEL: Sure.

2 CHAIRMAN MAMMINA: -- demonstrate that --

3 MR. MANDEL: Sure.

4 CHAIRMAN MAMMINA: -- by presenting us something. Also, as an
5 architect --

6 MR. MANDEL: Yeah.

7 CHAIRMAN MAMMINA: -- I have great familiarity with generators
8 and generators 10 times the size --

9 MR. MANDEL: Sure.

10 CHAIRMAN MAMMINA: -- you know, of this generator, and also,
11 just taking what Member Donatelli has said, because air-conditioning
12 units need clearance, and you've got yours smack against --

13 MR. MANDEL: Sure.

14 CHAIRMAN MAMMINA: -- against the house. The generator -- why
15 couldn't the generator come to the, I guess I'm not seeing a north
16 arrow on here. Is there a north arrow on here, and I'm just missing
17 it? I guess I'm -- I'm saying, why can't it come to the -- if I'm
18 looking at the drawing as north --

19 MR. MANDEL: Sure.

20 CHAIRMAN MAMMINA: -- why can't that generator come around to
21 the other side, you know, at the house, which would probably make
22 less of a gas --

23 MR. MANDEL: Yeah.

24 CHAIRMAN MAMMINA: -- for you as well, and I'd have to agree
25 with Member Donatelli. I don't -- I don't see how that would block
26 your ability to come out of the -- to come out of the basement stairs.

1 MR. MANDEL: Which side are you referring to?

2 CHAIRMAN MAMMINA: The -- if we're calling --

3 MR. MANDEL: Yeah.

4 CHAIRMAN MAMMINA: If we're calling the -- if we're calling the
5 drawing --

6 MR. MANDEL: Yep.

7 CHAIRMAN MAMMINA: -- perpendicular to Wakefield.

8 SECRETARY WAGNER: You mean behind the garage?

9 MEMBER DONATELLI: It might be easier --

10 CHAIRMAN MAMMINA: No.

11 MEMBER DONATELLI: -- to talk about the garage side than the
12 non-garage side.

13 SECRETARY WAGNER: Yeah.

14 CHAIRMAN MAMMINA: Yeah, well, I mean, even the garage side.

15 MR. MANDEL: Sure.

16 CHAIRMAN MAMMINA: You've got, it looks like 8-foot 3, you know,
17 in, you know, in there. So I guess where the -- where the larger
18 black rectangle is is the existing electric meter, you know, and it
19 could come to there. We've had them there many times.

20 MR. MANDEL: Sure.

21 CHAIRMAN MAMMINA: We ask for, you know, a little shrubbery in
22 front of it, you know, so you don't see it from the street, and if
23 we -- if we were to look at it on the opposing side, this -- it says
24 LT, I think. I don't know what that -- what that is, but you have
25 your air-conditioning unit -- your air-conditioning unit --

26 MR. MANDEL: Mm-hmm.

1 CHAIRMAN MAMMINA: -- you have that black rectangle. Why
2 couldn't that generator move over --

3 MR. MANDEL: Sure.

4 CHAIRMAN MAMMINA: -- into there? You know, it blocks
5 the -- from your house, but also because there's a wall and things
6 in there, you know, that also shields from the other neighbor's house
7 who has --

8 MR. MANDEL: Sure.

9 CHAIRMAN MAMMINA: -- another side yard the same as yours.

10 MR. MANDEL: Sure, I'm happy to adress both of those, and we
11 did evaluate both of those because ideally, in a perfect world, I
12 would actually love for it to go on the side yard right next to that
13 black square that you mentioned. Unfortunately, because there are
14 windows that open all along that side of the house, it can't be placed
15 directly under or adjacent to an opening window.

16 On the opposite side, where you said the -- the garage side,
17 which is 8 feet 3 inches in width, you'll notice a line going down
18 the middle of that walkway. That's actually a retaining wall. So
19 our property actually falls off about by 4 or 5 feet right in the
20 middle. So it's really only about 3 1/2, 4 feet of a walkway. So
21 there wouldn't be enough clearance to even put the generator safely
22 far enough away from the house, and then it would be smack-dab in
23 the middle of a walkway.

24 VICE-CHAIRMAN FRANCIS: Does the manufacturer say that it can't
25 be placed under a window?

26 MR. MANDEL: The town code says that.

1 VICE-CHAIRMAN FRANCIS: Town code.

2 MR. MANDEL: Yeah, and then the manufacturer requires 36 inches
3 away from the house to comply with fire safety.

4 CHAIRMAN MAMMINA: I'm looking at the side of the garage.

5 MR. MANDEL: Sure.

6 CHAIRMAN MAMMINA: And I'm seeing the wall actually off your
7 property, not that that matters to me, I don't care about that.

8 So again, I'm just not understanding that, and where you said
9 there's a line, the line looks to me like an edge of a paver.

10 MR. MANDEL: Yeah, so right where it says 8.3 feet, just beyond
11 that 3, there's a wall right there. So even if it was all the way
12 to the property line, it doesn't matter anyway because it's 8.3 feet.
13 It would have to be literally right in the middle of the walkway with
14 that 36 inches required for fire safety.

15 CHAIRMAN MAMMINA: Walkways can be -- look, I'll say what I
16 said, you know, before.

17 MR. MANDEL: Yeah.

18 CHAIRMAN MAMMINA: I mean, the ordinance is in place for a
19 reason.

20 MR. MANDEL: Sure.

21 CHAIRMAN MAMMINA: You know, I would -- I will assume, maybe,
22 that the Building Department is consulted, you know, on these, the
23 zoning. The Zoning Board is not consulted on this, and this is
24 something that we get on every application.

25 MR. MANDEL: Sure.

26 CHAIRMAN MAMMINA: But they solve it, you know, they'll slide

1 it up or back, and as I said, we ask for some planting in front of
2 it.

3 MR. MANDEL: Of course.

4 CHAIRMAN MAMMINA: You know, and you know, the paver walk, I
5 mean, that's -- it's nice, you know, but you've got the same thing
6 on the other side. It's not for me to say really, but most people
7 just have grass in there. But you know, again, still, be that as
8 it may, I'm still looking at it, and you know, I'm saying it might
9 be able to come around the corner to the back of the garage, you know.
10 We've had applications, again, like this, where, you know, we have
11 had applicants, you know, come back three, four times --

12 MR. MANDEL: Sure.

13 CHAIRMAN MAMMINA: -- with different --

14 MR. MANDEL: Yeah.

15 CHAIRMAN MAMMINA: -- with different suggested areas on this,
16 and I think compared to the previous application, this is a bigger
17 piece of property, you know, than what they had. They had more
18 alternatives there.

19 ATTORNEY ALGIOS: Chairman, can I make a suggestion? So, Mr.
20 Mandel --

21 MR. MANDEL: Sure.

22 ATTORNEY ALGIOS: -- one of the factors the Board has to
23 consider is whether there's another suitable alternative that would
24 not require a variance.

25 MR. MANDEL: Absolutely.

26 ATTORNEY ALGIOS: So perhaps if you -- if the Board continues

1 this --

2 MR. MANDEL: Yeah.

3 ATTORNEY ALGIOS: -- and you put together on your plan --

4 MR. MANDEL: Right.

5 ATTORNEY ALGIOS: -- each of the alternate locations and why
6 it's not suitable.

7 MR. MANDEL: Sure, yeah, and I think I did address all of them.
8 I'm happy to -- I think the one that we're hung up on is the one behind
9 the garage. The biggest problem with that one is there -- aside from
10 the patio, which would -- if we had to remove the patio, it would
11 cause a significant -- an expense. The gas run would be
12 significantly farther, so that would also cause an additional, what
13 I'm being told, 10 to \$12,000 in expense.

14 ATTORNEY ALGIOS: So maybe put all --

15 MR. MANDEL: Yeah.

16 ATTORNEY ALGIOS: -- put all of that together --

17 MR. MANDEL: Okay.

18 ATTORNEY ALGIOS -- all of that, the explanation --

19 MR. MANDEL: Sure.

20 ATTORNEY ALGIOS: -- as to why.

21 MR. MANDEL: Happy to do that.

22 ATTORNEY ALGIOS: And resubmit that to the Zoning Board office.

23 MR. MANDEL: Okay.

24 MEMBER DONATELLI: That would be helpful.

25 Let me also ask, where does your gas service come from?

26 MR. MANDEL: Sure.

1 The gas service comes from the -- so if you're looking on the
2 non-garage side, closer to Wakefield Avenue, you'll see a circle
3 right by that corner of the house. So that's where the gas service
4 is. Right by the 9-foot marking.

5 CHAIRMAN MAMMINA: Could we -- look, I don't mean to be a wiseguy
6 or whatever.

7 MR. MANDEL: Sure.

8 CHAIRMAN MAMMINA: I spend more -- way more time on your side
9 of the podium --

10 MR. MANDEL: Sure, no problem.

11 CHAIRMAN MAMMINA: -- than, you know, than I do here. I don't
12 know who the surveyor is that did the survey. I mean, maybe they
13 can, at least in these areas, you know, clarify some, you know, some
14 of, you know, some of that, you know, in there, you know, for us,
15 and you know, say, you know, at a minimum, not seeing north, south,
16 east, west makes it difficult to describe even in an approval or a
17 denial, you know. On the previous application, it showed where the
18 gas lines ran all over the property, so --

19 SECRETARY WAGNER: I think it's on the plan.

20 MEMBER GOODSELL: There's no compass on the plan. But there
21 is -- there is --

22 CHAIRMAN MAMMINA: I didn't see anything that's --

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

24 CHAIRMAN MAMMINA: I've never heard of a gas trench.

25 MR. MANDEL: The trench is what it runs through, the gas line.

26 CHAIRMAN MAMMINA: So it's below grade?

1 MR. MANDEL: Correct, it's under.

2 CHAIRMAN MAMMINA: I don't think you're allowed to put it below
3 grade, not unless it opens to a cellar. But be that as it may, the
4 house is built.

5 MR. MANDEL: Yeah.

6 CHAIRMAN MAMMINA: You know, so --

7 MEMBER DONATELLI: So -- sorry, one more question.

8 MR. MANDEL: Sure.

9 MEMBER DONATELLI: And I know, again, that you talked about the
10 stairs leading downstairs, but -- and I see now that there is that
11 retaining wall that I guess, a 2.5 foot wall that runs along the side
12 of the house. Why isn't it possible to put the generator in the area
13 where I see, I guess, that must be a chimney, and it says --

14 MR. MANDEL: Sure.

15 MEMBER DONATELLI: -- toe and --

16 CHAIRMAN MAMMINA: Top --

17 MEMBER DONATELLI: -- top of --

18 MR. MANDEL: Yeah, I see -- I see what you're talking about,
19 yep.

20 MEMBER DONATELLI: Why isn't it possible to put the generator
21 in that area?

22 MR. MANDEL: That would be my ideal location to put it, but
23 unfortunately, there's operable windows there. So the code says
24 that it cannot be placed within 3 feet of any window that opens.

25 CHAIRMAN MAMMINA: Maybe you pull that back --

26 MR. MANDEL: There's -- there's --

1 CHAIRMAN MAMMINA: -- or against that wall where it actually
2 shields it from your neighbor better and gives us more of --

3 MR. MANDEL: Yeah.

4 CHAIRMAN MAMMINA: -- a foot to stand on, you know, if somebody
5 else were to come in, you know, with it there.

6 MR. MANDEL: I would love to. The side yard is only 4 feet total
7 in width with the retaining wall there. So 5 7 to the property line,
8 but with the retaining wall it's actually only 4 feet, the whole side
9 yard. That's the problem. The side yards in this area are very
10 small.

11 CHAIRMAN MAMMINA: The side -- the side yard says it's 9.1 feet.

12 MR. MANDEL: So 9.1 at the widest part, and then when you come
13 closer, it kind of curves in.

14 CHAIRMAN MAMMINA: Yeah, but you're in a Residence-B. My house
15 is in Residence-B.

16 MR. MANDEL: Sure, so if I put --

17 CHAIRMAN MAMMINA: You get a smaller side yard.

18 MR. MANDEL: Yeah, of course.

19 CHAIRMAN MAMMINA: But you do get a 10-foot side yard on one
20 side. I see 8.3, I think.

21 MR. MANDEL: I'm fine putting it there.

22 CHAIRMAN MAMMINA: On the garage side.

23 MR. MANDEL: I'm fine putting it there, but then it would also
24 be less than the 5 feet required from the property line which is also
25 in the town code. But it's right in the middle where you suggest.
26 I'm fine putting it there. That works for me, too.

1 MEMBER DONATELLI: We're not trying to give you a hard time.

2 MR. MANDEL: Yeah, no, no, not at all.

3 MEMBER DONATELLI: We're trying to explore other options.

4 MR. MANDEL sure, sure.

5 MEMBER DONATELLI: I would agree with what the Town Council has
6 said, perhaps you can, in your drawing, submit to the Board --

7 MR. MANDEL: Sure.

8 MEMBER DONATELLI: -- these other proposed locations, and
9 perhaps a brief description as to why they might work or why they
10 might not work. We are required to consider the five factors.

11 MR. MANDEL: Sure.

12 MEMBER DONATELLI: Review the proposed locations, you know.
13 It seems to me that there are other potential locations.

14 MR. MANDEL: Sure.

15 MEMBER DONATELLI: However, if they don't work, then --

16 MR. MANDEL: Yeah.

17 MEMBER DONATELLI: -- you can bring that to our attention.

18 MR. MANDEL: Sure.

19 Respectfully, those all -- and all of those suggestions were
20 in the filing as well as the statement I submitted and read today.
21 So I just resubmit the same thing.

22 CHAIRMAN MAMMINA: That's going to be your call. We
23 can't -- we can't tell you --

24 MR. MANDEL: Okay.

25 CHAIRMAN MAMMINA: -- how to -- how to administrate, if
26 that's --

1 MR. MANDEL: Sure.

2 CHAIRMAN MAMMINA: -- your -- the proper word, I don't think
3 it is --

4 MR. MANDEL: I guess.

5 CHAIRMAN MAMMINA: -- your submission.

6 MR. MANDEL: Okay.

7 CHAIRMAN MAMMINA: But in terms of showing alternatives, you
8 can -- you can show those to the Board, you know, of course, then
9 you'd have to go back to the Building Department, truly, just to make
10 sure that it doesn't create a different -- a different variance.

11 MR. MANDEL: Right.

12 CHAIRMAN MAMMINA: But Jared, you're a smart guy, so --

13 MR. MANDEL: Sure.

14 MEMBER GOODSELL: Could you -- could you also send us a picture.
15 I mean, we have the survey.

16 MR. MANDEL: Sure.

17 MEMBER GOODSELL: We can go on Google, we can see the aerial
18 view.

19 MR. MANDEL: Sure.

20 MEMBER GOODSELL: We can't see those windows.

21 MR. MANDEL: Sure.

22 MEMBER GOODSELL: So when we're looking at your survey, it
23 clearly looks like there's two or three other locations. If you give
24 us a photograph, and say, all right, this is where the
25 air-conditioning units are, this is what's in front of them, this
26 is where your stairs are, it becomes more real for us.

1 MR. MANDEL: Absolutely, happy to do that.

2 SECRETARY WAGNER: And if you have a plan, if you want to mark
3 on the plan where the windows are, too.

4 MR. MANDEL: Sure, we can do that as well.

5 SECRETARY WAGNER: So you go around the house and indicate why
6 those other areas are not suitable because there's a window, and then
7 it's a 36 inch distance --

8 MR. MANDEL: Sure.

9 SECRETARY WAGNER: -- then you can show that radius.

10 MR. MANDEL: No problem.

11 MEMBER DONATELLI: So, I'm sorry, you indicated that you had
12 already submitted something about proposed locations of the
13 generator?

14 MR. MANDEL: Yeah, in the statement that I submitted, that
15 addressed the potential for putting it on either side yard or behind
16 the house, which were, I guess, some of the suggestions.

17 MEMBER DONATELLI: In the application itself.

18 MR. MANDEL: Correct.

19 MEMBER DONATELLI: Your narrative --

20 MR. MANDEL: As well -- as well as the statement also submitted,
21 yes.

22 CHAIRMAN MAMMINA: You might want to submit some photos and
23 things.

24 MR. MANDEL: Sure, I'm happy to do that.

25 MEMBER DONATELLI: Yeah.

26 MR. MANDEL: That's not a problem.

1 MEMBER DONATELLI: Okay, photos and a little bit more detail.
2 That would be helpful.

3 MR. MANDEL: Sure, no problem.

4 VICE-CHAIRMAN FRANCIS: And talk about the difference in
5 elevations on the sides of your house because they are different.
6 What -- the right side of your house, looking at your house, it looks
7 like it's a little -- it's higher than the neighboring house.

8 MR. MANDEL: So my house is lower than the three neighboring
9 houses behind and on either side, so --

10 VICE-CHAIRMAN FRANCIS: Okay, because it looks higher.

11 MR. MANDEL: Sorry, you're right. So on one side of the
12 property, the neighbor is higher, on the other side it's lower. So
13 there's retaining walls on both sides. One is just a -- their
14 retaining wall and the other is ours, yeah.

15 VICE-CHAIRMAN FRANCIS: Yeah, and when you take the photos, if
16 you can take photos down both sides of the house.

17 MR. MANDEL: Sure, no problem. Yeah, I'll do that.

18 VICE-CHAIRMAN FRANCIS: Thank you.

19 MR. MANDEL: Sure.

20 MEMBER GOODSELL: It is a nice house.

21 MR. MANDEL: Thank you.

22 CHAIRMAN MAMMINA: Okay.

23 VICE-CHAIRMAN FRANCIS: So we'll continue?

24 MEMBER GOODSELL: So we'll continue.

25 CHAIRMAN MAMMINA: Then we'll continue.

26 MR. MANDEL: Thank you.

1 MEMBER DONATELLI: Thank you.

2 CHAIRMAN MAMMINA: All right?

3 So what I would say is, the sooner it gets back to us, the sooner
4 it gets back to you. What Wednesday -- what's our next date?

5 SECRETARY WAGNER: May 7th.

6 CHAIRMAN MAMMINA: Okay, so if you can get it on back, Ginny
7 will try to, you know, or we'll all try to take a look at it beforehand
8 in order to accommodate you as best we can.

9 MR. MANDEL: No problem, I appreciate that.

10 Thanks for your time.

11 CHAIRMAN MAMMINA: And thank you.

12 VICE-CHAIRMAN FRANCIS: Thank you.

13 (WHEREUPON, this application was continued.)

1 SECRETARY WAGNER: Appeal number 21693, Leslie and Anthony
2 Aiuto, 29 Anchorage Road, Port Washington; Section 5, Block 46, Lot
3 1478; in a Residence-C Zoning District.

4 Variance from S70-100.2.F to construct a pergola that is too
5 tall.

6 CHAIRMAN MAMMINA: You've heard appeal number 21693, Leslie and
7 Anthony Aiuto.

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

10 (WHEREUPON, there was no response.)

11 CHAIRMAN MAMMINA: Seeing no one.

12 Please give your name and address.

13 MR. KAPLAN: Andrew Kaplan, architect, Oyster Bay Drafting, 68
14 West Main Street, Oyster Bay.

15 CHAIRMAN MAMMINA: The question I always ask is, are you an
16 architect?

17 MR. KAPLAN: Yes, sir.

18 CHAIRMAN MAMMINA: Okay. It doesn't matter, it doesn't mean
19 you can't present an application.

20 MR. KAPLAN: I understand.

21 We have before you a proposed application for a proposed pergola
22 that is too tall as per the zoning requirements. The maximum
23 proposed height is 10 feet. We are proposing 11 feet. The reason
24 why we are taller than the 10-foot maximum is twofold.

25 One, the average grade of the property is a different elevation
26 than the natural grade of the property in that area of the land.

1 Secondly, while designing this pergola, we wanted to make it
2 tall enough to both cover the existing stoop that comes out of the
3 property in the reentry corner on the back of the house which means
4 we need clearances.

5 If we're looking specifically at the height of this pergola from
6 natural grade, which is 30.7 compared to the average grade, which
7 is 30.11, we are at an actual height of the structure at 10 feet 5
8 inches compared to the 11 feet by the code. So functionally, we're
9 only asking really for a 5 inch height difference, not a 1-foot height
10 difference. The 7 inch difference is due to the fact that the back
11 of the property is higher than what the average is from all the sides.
12 But looking at what we have here, we have an 8-foot 9 height clearance
13 from the top of the stoop, and again, the aforementioned 10-foot 5
14 inches height from the underside of the pergola. If we were to --

15 CHAIRMAN MAMMINA: I am going to ask you to slow that down --

16 MR. KAPLAN: Sure.

17 CHAIRMAN MAMMINA: -- a little bit, and maybe start over again
18 so that -- so that we can see those numbers --

19 MR. KAPLAN: Sure.

20 CHAIRMAN MAMMINA: -- clearly, you know, as, you know, as
21 you're -- as you're proceeding

22 MR. KAPLAN: All right.

23 So the first point is that the average grade calculated from
24 all the points of the elevation around the home is 30.11 feet. The --

25 CHAIRMAN MAMMINA: Okay, that's what -- that's what we see on
26 sheet one of four.

1 MR. KAPLAN: Yes, so it would be the calculations you see on
2 the center of the page.

3 CHAIRMAN MAMMINA: Okay, and on your drawing --

4 MR. KAPLAN: And if you look at the drawings --

5 CHAIRMAN MAMMINA: -- where are those -- where are those
6 elevations?

7 MR. KAPLAN: If you look at page two of four, you will see on
8 the elevations noted a dash line showing the average grade, and of
9 course, the solid line showing the natural grade. The average grade
10 is lower than the natural grade.

11 CHAIRMAN MAMMINA: And how do you -- this is -- there's no trick
12 questions.

13 MR. KAPLAN: Mm-hmm.

14 CHAIRMAN MAMMINA: How do you know that?

15 MR. KAPLAN: If you look at the site plan on page --

16 CHAIRMAN MAMMINA: That's what I'm looking at.

17 MR. KAPLAN: -- on page one.

18 CHAIRMAN MAMMINA: Right.

19 MR. KAPLAN: There -- at the corner --

20 CHAIRMAN MAMMINA: That's what I had said.

21 MR. KAPLAN: Yes. At the corner of the stoop between the
22 intersections are the dimensions 10 feet and 14.4 feet.

23 CHAIRMAN MAMMINA: Okay, wait a minute, I don't see where you
24 are yet.

25 MR. KAPLAN: Yeah.

26 CHAIRMAN MAMMINA: So just give me that one more time.

1 MR. KAPLAN: The northernmost corner of the home -- the
2 northernmost back edge of the home where the stoop is by the shaded
3 area.

4 CHAIRMAN MAMMINA: All right, I see the 30.7.

5 MR. KAPLAN: Yes. So that would be the, kind of, roughly, the
6 grade as you continue across that entire masonry patio that's
7 existing on the property.

8 CHAIRMAN MAMMINA: Okay, and then what else are we using for
9 that second dimension to take an average? Is that the 30.75?

10 MR. KAPLAN: It is all the -- the dimensions are taken at every
11 corner around the entire house as per how North Hempstead asks to
12 calculate average grade, and as you go around the property, there
13 are different heights, you know, just picking a couple of spots.
14 There's 29.1, 28.45, 31.16, et cetera.

15 CHAIRMAN MAMMINA: So now if you were to look at the patio, just
16 the -- just the corners, you know, of the patio, I'm seeing 30.71.

17 MR. KAPLAN: Correct.

18 CHAIRMAN MAMMINA: And then 30.75.

19 MR. KAPLAN: Correct.

20 CHAIRMAN MAMMINA: And then at the house, it's wherever the
21 existing is.

22 MR. KAPLAN: Correct, the closest point to there. If you're
23 looking at the western side of the property at the 4-foot 5 setback,
24 that corner elevation is the 30 point -- 30.2 feet. So the ground
25 kind of --

26 CHAIRMAN MAMMINA: I see it.

1 MR. KAPLAN: -- wiggle waggles quite a bit.

2 CHAIRMAN MAMMINA: I see it, there it goes. It goes vertically
3 on the sheet, and then that calculation of those numbers, and this
4 is for your benefit --

5 MR. KAPLAN: Mm-hmm.

6 CHAIRMAN MAMMINA: -- is where?

7 MR. KAPLAN: Those calculations is that center box you see on
8 page one, preexisting average mean grade calculation with the diagram
9 to the left showing, again, the same elevation markers from the site
10 plan just blipped out, and then labeled to show each line segment
11 calculating the height distances and then averaged out.

12 CHAIRMAN MAMMINA: I'm an old dog, I hate printers.

13 MR. KAPLAN: If you'd like, I can give you a larger copy.

14 CHAIRMAN MAMMINA: No, I can't see the numbers.

15 MR. KAPLAN: Hmm.

16 CHAIRMAN MAMMINA: My sight is good. I'll take your word for
17 it, it's okay.

18 MR. KAPLAN: I have a larger --

19 CHAIRMAN MAMMINA: Oh, if you have a larger one, that's great.

20 MR. PERROTTA: Exhibit 1.

21 MR. KAPLAN: I came prepared.

22 CHAIRMAN MAMMINA: Phones, if we can get them off, please.
23 Thank you.

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

25 MEMBER GOODSELL: Thank you for the pictures you submitted,
26 they're very helpful in understanding the topography --

1 MR. KAPLAN: Mm-hmm.

2 MEMBER GOODSELL: -- of the residence.

3 MR. KAPLAN: It happens to be a very strange property with a
4 20-foot retaining wall directly behind the house.

5 MEMBER GOODSELL: Well, again, we'll note for the record that
6 your client's rear neighbor appears to be much, much higher --

7 MR. KAPLAN: Mm-hmm.

8 MEMBER GOODSELL: -- than the backyard, and I see that the
9 photos show that the westerly rear corner of the property is terraced
10 with stone walls.

11 MR. KAPLAN: Yes, as well as that nearest neighbor that you
12 could physically see adjacent to that retaining wall is approximately
13 75-foot away plus the grade change. So likely there is no chance
14 that this pergola will have any impact on that neighbor.

15 MEMBER GOODSELL: I'm sure the rear neighbor wouldn't notice
16 whether it was 9 feet, 10 feet, 11 feet --

17 MR. KAPLAN: No.

18 MEMBER GOODSELL: -- 12 feet. Well, they won't --

19 MR. KAPLAN: Maybe then.

20 MEMBER GOODSELL: They might notice that, that's correct.

21 MR. KAPLAN: If I were to build a tower maybe they would finally
22 say hello.

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

24 CHAIRMAN MAMMINA: Question.

25 MR. KAPLAN: Yes.

26 CHAIRMAN MAMMINA: In the Building Department's denial,

1 putting aside the entire site, the concept of that, what would be
2 the height to the 2-by-6 that's turned upward?

3 MR. KAPLAN: The highest height from natural grade in this case,
4 which is the question you're asking for, is 10 feet 5 inches. That's
5 the actual physical height of this structure. It just so happens
6 that the additional 7 inches comes from the grade change because the
7 height is taken from the average as per the request of the Plans
8 Examiner.

9 CHAIRMAN MAMMINA: So the reality being that, if the Board were
10 to say, well, you know, it's -- it's the average of those grades that
11 actually are around the house and those vertical pieces of pergola
12 were to become a sheet of three-quarter inch plywood --

13 MR. KAPLAN: Mm-hmm.

14 CHAIRMAN MAMMINA: -- you would virtually have no variance
15 required or -- indeed, no variance required.

16 MR. KAPLAN: It would reduce it down from the average to
17 10-foot -- 10-foot 6. So we would still be in front of the Board.
18 If we remove the uprights, those are 6 inches tall.

19 CHAIRMAN MAMMINA: And those are 10-foot 11?

20 MR. KAPLAN: Well, the height from the average grade is 11 feet
21 to the top of those -- that -- the horizontal --

22 CHAIRMAN MAMMINA: I'm saying -- I'm saying --

23 MR. KAPLAN: If those were not there, the structure would now
24 be 10-foot 6 from average grade.

25 CHAIRMAN MAMMINA: Okay.

26 MR. KAPLAN: I would then -- if --

1 CHAIRMAN MAMMINA: If you took that -- if you took that 2-by-6 --

2 MR. KAPLAN: Mm-hmm.

3 CHAIRMAN MAMMINA: -- up on the top and turned it sideways --

4 MR. KAPLAN: We would then be approximately 10-foot 9 3/4.

5 Sorry, yeah.

6 CHAIRMAN MAMMINA: It would seem like it would be less than

7 that, I'm not -- but that's okay.

8 MEMBER DONATELLI: I know as part of your application, there
9 was some testimony, a point was made that the rear door would not
10 be able to open if the pergola were to be compliant, if the pergola
11 were 10 feet.

12 MR. KAPLAN: Correct.

13 MEMBER DONATELLI: Would you please put that on the record.

14 MR. KAPLAN: Yeah, if I may continue. If we were to --

15 MEMBER DONATELLI: Actually, and I know, I'm sorry, I know that
16 we kind of interrupted --

17 MR. KAPLAN: It's okay.

18 MEMBER DONATELLI: -- your flow. So whatever you want to put
19 on the record, please, we encourage you to continue with your
20 comments, but if you would also address that.

21 MR. KAPLAN: Yes, I shall be addressing that shortly.

22 CHAIRMAN MAMMINA: And apologies.

23 MR. KAPLAN: No worries.

24 CHAIRMAN MAMMINA: I try not to --

25 MR. KAPLAN: Math is complicated.

26 Talking about lowering it to meet the 10-foot requirement, we

1 have a twofold problem. One issue is the door. If we were to lower
2 it, then the pergola structure would be virtually in line with the
3 6, 8 foot mark on that door. So when you walk out, that -- you would
4 be just about underneath it directly.

5 Secondly, if we do lower it to that point, the structure would
6 be now in line with the fascia of the house, and if we nailed that
7 structure into the fascia or even designed a structure that would
8 be disconnected from the house adjacent to the fascia, there is now
9 no location for the gutter system to be installed unless we pull it
10 further from the home which then sort of defeats the purpose of now
11 really having that shaded space entirely, and also, furthering that,
12 there also could be interference with the windows that are directly
13 below the fascia as that fascia is, the soffit line is about 2 or
14 3 inches just above the window line itself. So then the structure,
15 we would need to remove it from the house, it would now disrupt the
16 view of those windows, possibly also the operation of them because
17 they're casements.

18 Additionally, looking at the photos I submitted for the
19 property, this house sits in a valley, functionally. Directly to
20 the north of this property is a giant retaining wall, at least 10,
21 15 feet tall with a 6-foot solid wood fence on top of it with
22 screening. One property that can be seen adjacent to that retaining
23 wall, which would be their northwest neighbor, is also extremely set
24 back, up on a hill, roughly 75 feet away from the closest point of
25 the house. So there shouldn't be any interference or view or
26 disruption for that neighbor for this pergola. The property

1 directly to the west of this property, even though we are, you know,
2 closer to them, and we are on the same plane as them, a pergola
3 shouldn't disrupt that neighbor's use of their land. This pergola
4 isn't large enough to create any shadows or any disruption of their
5 daily use.

6 Overall, this project doesn't have any real impact to the
7 environment. There's already an existing on-grade paver patio
8 there, so we're not covering any land that's already not previously
9 covered by an existing structure. It is in keeping, generally, with
10 the neighborhood as far as working within the means that we can. Yes,
11 it's self-created, but also we can't change our land, unfortunately,
12 and although I do understand the Board's concept of setting precedent
13 with other projects we've been in here in the past for, I'm not looking
14 to set a precedent for a higher pergola. I'm just trying to get
15 functional for this particular unique condition we're dealing with.

16 CHAIRMAN MAMMINA: And the 2-by-6, I'll call it the horizontal
17 screening of the pergola is 12 inches on center.

18 MR. KAPLAN: Mm-hmm.

19 CHAIRMAN MAMMINA: So if we took the 12 inches, and we split
20 it in half, I mean, we've got about an 11-foot wide opening, you know,
21 in there, which basically let's light and air, you know, through that,
22 it's not --

23 MR. KAPLAN: Correct.

24 CHAIRMAN MAMMINA: -- it's not a solid --

25 MR. KAPLAN: Correct.

26 CHAIRMAN MAMMINA: -- piece in there.

1 MR. KAPLAN: And just from an aesthetic standpoint, I don't
2 often see pergolas with flush mounted louvres to the beam, so even
3 if we were to discuss strapping it, it wouldn't be aesthetically
4 pleasing.

5 CHAIRMAN MAMMINA: Well, aesthetic, the aesthetic is wrong, and
6 while we are not an aesthetic Board, at the same time, you know, we
7 can say, yes, that's not -- that's not in keeping with what something
8 like this would look like.

9 MEMBER DONATELLI: I am the Port Washington person on the Board.
10 I will say that part of my responsibilities sitting on this Board
11 are to visit all of the properties, but particularly Port Washington
12 properties. I know that Anchorage is one of those very old, unique
13 streets in Port Washington, and the elevations really do vary quite
14 a bit on Anchorage and many of the surrounding properties.

15 Do any of the other Board members have any questions or comments
16 regarding this application?

17 (WHEREUPON, there was no response.)

18 MEMBER DONATELLI: All right, Mr. Chairman, I do -- I've taken
19 into account the arguments that the applicant has made with respect
20 to average height of the structure, as well as the pergola. It is,
21 essentially, open air. It will be built on top of the patio which
22 results in what I consider to be a fairly minor variance, and I am
23 also guided by the fact that this -- if the pergola were to be made
24 compliant, it would interfere with the sliding glass doors on the
25 premises.

26 Therefore, I make a motion that we grant the application.

1 CHAIRMAN MAMMINA: We have a motion to grant.

2 Do we have a second?

3 MEMBER GOODSSELL: I'll second that.

4 CHAIRMAN MAMMINA: We have a second by Member Goodsell, the
5 motion by Member Donatelli.

6 Please poll the Board.

7 SECRETARY WAGNER: Member Goodsell?

8 MEMBER GOODSSELL: Aye.

9 SECRETARY WAGNER: Member Donatelli?

10 MEMBER DONATELLI: Aye.

11 SECRETARY WAGNER: Vice-Chairman Francis?

12 VICE-CHAIRMAN FRANCIS: I'm sorry, aye.

13 SECRETARY WAGNER: Chairman Mammina?

14 CHAIRMAN MAMMINA: Aye.

15 The application is granted for the reasons as stated.

16 Thank you.

17 MR. KAPLAN: Thank you, very much.

18 Have great day.

19 MR. AIUTO: Thank you, Board.

20 (WHEREUPON, this application was granted.)

1 SECRETARY WAGNER: Appeal number 21694, Ernesto Marques, 54
2 Lindbergh Boulevard, Carle Place; Section 10, Block 35, Lot 96; in
3 the Residence-C Zoning District.

4 Variances from §§70-50.C, 70-100.2.A(2) and 70-100.2.A(4) (a),
5 to construct an addition that is too close to the street and to
6 legalize fencing that is too tall and in the front yard.

7 CHAIRMAN MAMMINA: You've heard appeal number 21694, Ernesto
8 Marques.

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

11 If you are the applicant then you're not going to speak against
12 it, so --

13 MR. HIGGINS: For the record, Timothy P. Higgins, 76 Hillside
14 Avenue, Manhasset, New York, for the applicant.

15 Good morning, Mr. Chairman, members of the Board. How are you?

16 On this application, the applicant seeks three area variances.
17 The first is a variance of the primary front yard setback. Required
18 is 33.2, proposed is 29.71, and the other two area variances deal
19 with the existing fence.

20 With respect to the variance of that front yard setback for the
21 proposed second floor addition, Section 70-50.C of the zoning code
22 requires a primary front yard setback of 25 feet or the average
23 primary front yard setback of the existing primary buildings used
24 as dwellings within 200 feet on either side of the subject property,
25 whichever is greater.

26 The existing primary front yard setback for the first floor of

1 the home is 29.71 which exceeds the minimum required setback of 25.
2 However, looking at the site plan, the average front yard setback
3 calculation is 33.20 which dimension, under the ordinance, controls
4 here. Notwithstanding the fact that the proposed second floor
5 addition does not extend further into the existing primary front yard
6 setback of the first floor of 2,971 feet and that the 2,971 feet
7 exceeds the 25 minimum. It's still 3.49 feet less than the average.
8 Clearly, to comply with the average front yard setback of 33.20, the
9 second floor addition would have to be set in which I think would
10 render, I'm not an expert, but would render the aesthetics of the
11 structure out of balance and create an architectural problem.

12 In addition, I note that the home at 53 Lindbergh, directly
13 across the street, Lot 95, also has a primary front yard on Curtis
14 Avenue with a primary front yard setback of 25.9. That property was
15 the subject of a variance application for the failure to meet average
16 front yard setback per the ordinance and that was granted.

17 Once again, the proposed second floor addition does not extend
18 further into the front yard setback of the first floor. The
19 nonconformity of the front yard setback of the original construction
20 existed from when the house was first built in 1948. The existing
21 front yard setback will not be decreased or lessened by that second
22 story addition. As such, when added to the existing first floor,
23 the second story addition, in our opinion, will have no negative
24 effect to the neighborhood.

25 May I continue? I'm sorry.

26 CHAIRMAN MAMMINA: Please.

1 MR. HIGGINS: With respect to the variances of 70-100.2.A(2)
2 and 70-100.2.A(4) for the 5-foot fence located between the street
3 and the nearest affected building line and located along the side
4 property, I note here that the maximum height of the fence facing
5 the street that's permitted is 4 feet, and the proposed height of
6 the existing fence that we seek to maintain is 6 feet. The permitted
7 height of the fencing along the side property is 5 feet, and we propose
8 to maintain the existing foot which, technically, is 6 feet, and the
9 third issue here on the fencing is that the fencing in the front yard,
10 the 6-foot fencing in the primary and secondary front yard, extend
11 further forward than permitted.

12 The existing fence that is there now has existed since the
13 applicant's purchase back in 1988 and has been in existence and was
14 in existence many years prior to '88. As such, I believe the fences
15 predate the provisions of 70-100.2.A(2) and 70-100.2.A(4) in
16 that -- in reading the code and my experience is, '96 especially,
17 that the town took a look at all this fencing that's in the front
18 yards and everything else, and at that time said, okay, going forward,
19 we're not going to permit fences further forward than the building
20 line and no fences in the front yard.

21 However, these fences existed prior to my client's acquisition
22 in '88 for some time, and I would argue, were not objected to by the
23 town at that time because the town was not as interested with
24 maintaining certain standards on the fencing.

25 VICE-CHAIRMAN FRANCIS: Mr. Higgins, do you have any evidence
26 to substantiate that the fencing has been there at least until '88

1 or maybe even before '88?

2 MR. HIGGINS: The only evidence I have, Mr. Francis, is my
3 client who will acknowledge that when they purchased it in '88, that
4 was the existing condition.

5 VICE-CHAIRMAN FRANCIS: No photos, no --

6 CHAIRMAN MAMMINA: A survey from when he purchased?

7 VICE-CHAIRMAN FRANCIS: Yeah.

8 MR. HIGGINS: I was not able to obtain that, but I can attempt
9 to comb through the files perhaps and see what I can gather.

10 CHAIRMAN MAMMINA: The fence -- the fencing certainly appears
11 to be a pre-19 --

12 MR. HIGGINS: Pre-'88, actually.

13 CHAIRMAN MAMMINA: Pre-'80, you know, '96.

14 MR. HIGGINS: Yeah, '96 was the revamp of the code, yeah.

15 MEMBER GOODSSELL: It's a white vinyl fence; correct?

16 MR. HIGGINS: Yes. It had been a stockade fence.

17 MEMBER GOODSSELL: Ah, so this is a replacement --

18 MR. HIGGINS: Yes, in the same place.

19 MEMBER GOODSSELL: -- that previously existed.

20 MR. HIGGINS: Yes.

21 MEMBER GOODSSELL: And obviously, the applicant didn't think
22 that a permit was necessary. Could the applicant tell us when the
23 fence went in?

24 MR. HIGGINS: I will defer to my client, if I may?

25 Put your name on the record.

26 MR. MARQUES: Sure.

1 My name is Bruno Marques, 54 Lindbergh Boulevard.

2 After my father --

3 MEMBER GOODSSELL: Just, tell us again, on the record, you
4 purchased the house in what year?

5 MR. MARQUES: Well, my parents purchased the house, it was under
6 the trust, and I'm the trustee now. They both have passed since.
7 I'm trying to make it beautiful again for the community and live there
8 for myself and my son and my family.

9 So I was living there since my parents purchased it. I must
10 have been -- that was 38 years ago, I was a young boy, and I remember
11 having those stockade fences and playing soccer and using those as
12 my goalposts behind me and trying to stop the ball with my friends.

13 MEMBER GOODSSELL: Do you recall the height of that stockade
14 fence?

15 MR. MARQUES: They were 6 feet.

16 MEMBER GOODSSELL: Six feet.

17 MR. MARQUES: Correct.

18 MEMBER GOODSSELL: And if you remember at the very beginning
19 before we started the hearing, the Chairman said, occasionally, we
20 continue because we ask the applicant for pictures. Would you happen
21 to have, in support of your application, a picture showing the
22 stockade fence?

23 MR. MARQUES: I would have to rifle through my old photos that
24 are in, you know, physical form, not even iPhone form anymore, and
25 I will submit.

26 MEMBER GOODSSELL: Is it -- is it your testimony, though, that

1 the white vinyl fence that is there now replaces the stockade fence
2 in the same position.

3 MR. MARQUES: Absolutely.

4 MEMBER GOODSSELL: Okay, you didn't move it a few feet in either
5 direction.

6 MR. MARQUES: No, ma'am.

7 MEMBER GOODSSELL: Now, on a slightly different note, could we
8 just note for the record, you're -- you have a corner property; is
9 that correct?

10 MR. MARQUES: It's a dead-end corner property.

11 MEMBER GOODSSELL: Okay.

12 Your existing garage would kind of be in your front yard;
13 wouldn't it?

14 MR. MARQUES: Correct, yes.

15 MEMBER GOODSSELL: Your existing garage, according to the
16 proposed site plan, is only setback 5 feet from your street. It's
17 a -- it looks like it's in the front yard even though it's not.

18 MR. MARQUES: It's technically in the front yard but off to the
19 left, yes.

20 MEMBER GOODSSELL: Okay.

21 MR. MARQUES: Yes.

22 MEMBER DONATELLI: So I'm not sure if this is a question -- I'm
23 sorry, was there an open question?

24 MEMBER GOODSSELL: No, there isn't.

25 MEMBER DONATELLI: Okay.

26 I'm not sure if this is a question for Mr. Higgins or for the

1 applicant. You mentioned that you purchased the property from a
2 trust that your parents --

3 MR. HIGGINS: No.

4 MEMBER DONATELLI: -- had?

5 MR. HIGGINS: Your parents bought it and put it into a trust.

6 MR. MARQUES: So my parents purchased it years and years and
7 years ago. Through the years, they created a trust and the
8 house -- the property was in the trust, and --

9 MEMBER DONATELLI: So do you know when the house was
10 transferred, was there title insurance? What I'm trying to get at
11 is whether or not we can track down the survey from who purchased
12 it in 1988 or whether or not we would have to go to a title company
13 prior to 1988 when your parents first purchased the property.
14 Because very often, as part of the title search --

15 MR. MARQUES: Right.

16 MEMBER DONATELLI: -- when you buy a property, there will be
17 a survey, and the survey might show the fence.

18 MR. MARQUES: Oh, okay.

19 MR. HIGGINS: There was no title insurance because the
20 conveyance was from the mom and dad to the trust.

21 Answering Member Goodsell, the garage was the subject of a CO.
22 I, too, thought we needed a variance for that and included it in my
23 initial application, only to be -- although I had the CO, and the
24 Zoning Board confirmed, no, we're good on the garage.

25 So that narrowed it --

26 CHAIRMAN MAMMINA: It's not a -- it's not a ha, ha, ha, that's

1 funny, but Member Donatelli and I were just discussing the garage
2 is probably without a permit, too. I'm surprised that the Building
3 Department didn't do it because you couldn't put a garage now as --

4 MR. HIGGINS: I pulled the file, and I found the CO for the
5 garage.

6 CHAIRMAN MAMMINA: I'm sorry, I was lounging.

7 MR. HIGGINS: Oh, no problem. I -- when I examined the file
8 at the Building Department I found the CO for the garage.

9 CHAIRMAN MAMMINA: I'm sure.

10 MR. HIGGINS: I was quite surprised.

11 MEMBER DONATELLI: A pleasant surprise.

12 MR. HIGGINS: It sure was.

13 MEMBER DONATELLI: All right, well, if we can find some
14 photographs --

15 MR. HIGGINS: We will do that.

16 MEMBER DONATELLI: -- as sort of evidence that a fence was
17 there, that would help us, and not that we're necessarily doubting
18 you, but again, you can understand why this Board gets many such
19 applications.

20 MR. MARQUES: Sure.

21 MEMBER DONATELLI: And we almost always require some sort of
22 proof. Whatever proof you can give us that the fence was
23 preexisting.

24 MR. HIGGINS: Absolutely, and I'll do my best to track down a
25 survey from the original title company back in '88. There wasn't
26 anything in the Building Department file but it doesn't mean it

1 doesn't exist, so we'll do our best to get that.

2 MEMBER GOODSSELL: As far as the second story is concerned, let
3 me just make sure. The second story, the proposed second story of
4 the dwelling does not encroach any further into the front yard than
5 the current house does; is that correct?

6 MR. HIGGINS: That's correct.

7 MEMBER GOODSSELL: Okay, I have less of an objection to the
8 second story than I do to the fence.

9 CHAIRMAN MAMMINA: I think -- let's see what we can find.

10 MR. HIGGINS: Okay.

11 CHAIRMAN MAMMINA: That's --

12 MEMBER GOODSSELL: A picture of you in your Little League uniform
13 showing the fence, your communion suit, whatever your parents may
14 have done that shows, and we do come across this, and the
15 Chairman -- that's what the Chairman, in his opening remarks said,
16 we may continue. We would accept that with your testimony as proof
17 that a fence did exist where now we would not grant a fence.

18 CHAIRMAN MAMMINA: Still need a variance --

19 MEMBER GOODSSELL: That's correct, you would still need a
20 variance but we would need --

21 CHAIRMAN MAMMINA: -- for that.

22 MEMBER GOODSSELL: -- or we would seriously consider that you
23 replaced a fence where a prior existing fence was, than you simply
24 put it up in the dead of night without a permit.

25 MR. HIGGINS: Understood.

26 MEMBER GOODSSELL: Which happens.

1 MR. HIGGINS: Understood.

2 MEMBER GOODSELL: Surprisingly.

3 MR. HIGGINS: Mr. Chairman, members of the Board --

4 VICE-CHAIRMAN FRANCIS: Off the record.

5 MR. HIGGINS: Sure.

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

7 MR. HIGGINS: Thank you, again, for your time.

8 MEMBER GOODSELL: Okay, we will --

9 CHAIRMAN MAMMINA: Thank you.

10 MEMBER GOODSELL: We will continue.

11 CHAIRMAN MAMMINA: Yes.

12 VICE-CHAIRMAN FRANCIS: Yes.

13 CHAIRMAN MAMMINA: We'll continue the application.

14 MR. HIGGINS: Thank you.

15 SECRETARY WAGNER: You'll submit to the Zoning Department.

16 MR. HIGGINS: We will, we will.

17 VICE-CHAIRMAN FRANCIS: Thank you.

18 (WHEREUPON, this application was continued.)

19 SECRETARY WAGNER: We're going to take a five minute break
20 before the commercial appeals.

1 CHAIRMAN MAMMINA: Okay, I think we're ready to get started
2 again.

3 SECRETARY WAGNER: Ready, Chairman?

4 CHAIRMAN MAMMINA: Yes, ma'am.

5 SECRETARY WAGNER: Appeal number 21690, Highfield Holdings,
6 LLC, Wall Signs, 199 Community Drive in Great Neck; Section 2, Block
7 358, Lot 10; in a Business-B Zoning District.

8 Variances from §§70-196(J) (1) (b) and 70-196(J) (1) (f) to
9 construct a sign that is too tall and too high above the ground to
10 the top of the sign.

11 CHAIRMAN MAMMINA: You've heard Appeal number 21690, Highfield
12 Holdings, LLC, Wall Sign.

13 Is there anybody in the room interested in the application other
14 than the applicant?

15 (WHEREUPON, there was no response.)

16 CHAIRMAN MAMMINA: Seeing no one.

17 Okay, I would assume --

18 MR. HARRIS: I'm the applicant.

19 CHAIRMAN MAMMINA: Okay.

20 Seeing one person, you'll have the opportunity to speak after
21 the presentation, if you would like to.

22 Thank you.

23 MR. HARRIS: All right, my name's Ira Harris, I'm the sign
24 company, and I design signs, 32 Cherry Lane, Floral Park, New York
25 11001.

26 So the sign, as you said, is taller than what's allowed, and

1 it's above -- 18 feet is the height limit, so anything above it, we
2 got to go for a variance.

3 As far as the height of the sign, that's their logo. There's
4 an existing sign there right now at that same height. It's been there
5 since -- about 18 years, from what I understand. So we're just
6 looking to freshen it up. That's basically it. It's basically the
7 same thing, just freshening up. Same height, same width.

8 VICE-CHAIRMAN FRANCIS: Let's talk about how we can mitigate
9 the height, meaning, bringing it down, because it is very high. Is
10 there any reason why the lettering has to be on four lines?

11 MR. HARRIS: That's their logo, that's the way it's laid out,
12 on their stationary, on their clothing, everything. That's the
13 existing sign. So you have a picture of the existing sign, too?
14 Yeah, there in the corner. So that's what's there now.

15 CHAIRMAN MAMMINA: I don't mean to interrupt, but is there a
16 permit for that sign when it was originally put up?

17 MR. HARRIS: From what I understand, there's no permit, there's
18 a variance filed for it. It was approved, but it was approved at
19 29 feet up, from what I understand. Same height, same width and
20 everything.

21 CHAIRMAN MAMMINA: What year was that?

22 MR. HARRIS: I don't know.

23 CHAIRMAN MAMMINA: I've been here -- I've been here 32 years,
24 and I can tell you that that would have, to the best of my opinion
25 and knowledge, that would have never been approved, 29 feet.

26 MR. HARRIS: Well, the Building Department said there was a

1 variance, and if we wanted to stick to those numbers, it wouldn't
2 have to go any further.

3 CHAIRMAN MAMMINA: So it probably was not 29 feet.

4 MR. HARRIS: No, it was filed, I think, 29 feet up, just, I think
5 maybe off to the corner of the building, but then they didn't file
6 the permit on it.

7 CHAIRMAN MAMMINA: Why wouldn't they take it at 29 feet high
8 if they already had an approval at 29 feet?

9 MR. HARRIS: Excuse me?

10 CHAIRMAN MAMMINA: Why wouldn't they take that variance at 29
11 feet if they already had been granted a variance of 29 feet, you know,
12 "X" years ago.

13 MR. HARRIS: Right.

14 CHAIRMAN MAMMINA: I do think that variances expire at some
15 point, but I'm not --

16 MR. HARRIS: Yeah, I wasn't with the sign company, so I didn't
17 make that decision.

18 CHAIRMAN MAMMINA: But then it might be unfair that you're here
19 from the sign company, but that's up to you.

20 VICE-CHAIRMAN FRANCIS: The Notice of Disapproval says that the
21 proposed height now is 37 feet 3 inches.

22 MR. HARRIS: Right, so the under -- you pull a car underneath
23 that area.

24 VICE-CHAIRMAN FRANCIS: Right.

25 MR. HARRIS: So that area's about 15, 16 feet up right there.
26 So then you got, you know, we're not all the way up, we're not even

1 centered on the building.

2 CHAIRMAN MAMMINA: But that's -- centering on the building has
3 nothing to do with it.

4 MR. HARRIS: No, I got you. So if you came down even lower,
5 we'd still be over that 18-foot height limit.

6 CHAIRMAN MAMMINA: Well, not if we don't grant the variance,
7 then you won't be --

8 MR. HARRIS: Excuse me?

9 CHAIRMAN MAMMINA: I said, not if we don't grant the variance,
10 you know, you won't be up above --

11 MR. HARRIS: No, I got you, I got you.

12 CHAIRMAN MAMMINA: -- that 18 -- that 18 feet.

13 MR. HARRIS: Well, the existing -- the sign that's up there,
14 variance or no variance, permit or no permit, it's been up there for
15 about 18 years. It's -- nobody said nothing. It looks good, it's
16 a long distance from the roadway, you got Northwell Hospital across
17 the street. Their signs are much higher than that, bigger than that,
18 so --

19 MEMBER GOODSELL: Well, they have variances.

20 MR. HARRIS: Right, that's why we're here to, you know, try and
21 get --

22 CHAIRMAN MAMMINA: And they're a hospital.

23 MR. HARRIS: Excuse me?

24 CHAIRMAN MAMMINA: They're a hospital.

25 MR. HARRIS: It's a nursing home. It's -- to me, they're both
26 a medical facility.

1 MEMBER GOODSSELL: You're also asking to have the sign backlit,
2 and lit so that it's illuminated between six p.m. and midnight --

3 VICE-CHAIRMAN FRANCIS: Midnight.

4 MEMBER GOODSSELL: -- I think, which is also part of the
5 disapproval. Now, I do understand why Highfield Gardens would want
6 to illuminate their sign, they're kind of on a quiet stretch of
7 roadway. I believe their address, the 199 Community Drive, is
8 illuminated. I wasn't there at night, but it looks to me that it
9 was illuminated.

10 I am familiar with this facility, I've had several clients that
11 are there, and I will say that it is -- the sign has been there for
12 a long time, but I am surprised to find out that it does not have
13 a permit because it is much, much higher than what is normally
14 allowed, and we can't say, and the applicant really can't say, well,
15 it's not centered on the building. The applicant will presumably
16 build the building. So if you build a building, and say, well, the
17 sign has to go here because that's the way we built it, that's a
18 bootstrap argument.

19 So we're looking at why it needs to be so high, why it needs
20 to be backlit.

21 MR. HARRIS: Well, if you see this band at the bottom. So it
22 starts at about 15, 16 feet, the driveway over there.

23 MEMBER GOODSSELL: I see --

24 MR. HARRIS: And then there's a 2 -- a 2-foot, like, little wall
25 over there or whatever it is, 2-foot, then from there -- so if you
26 drop the sign down, it's going to be almost touching that 2-foot area,

1 and right then and there, you're still at over 18 feet, so, or close
2 to it. The sign itself is 12-foot tall. You have a 4 1/2 foot limit
3 in the Town of North Hempstead. So I don't know.

4 MEMBER GOODSSELL: It's -- we're not -- we're not particularly
5 swayed by the fact that, you know, this is our logo, it's always been
6 done this way. That's --

7 MR. HARRIS: Is the --

8 MEMBER GOODSSELL: I'm having trouble with the fact that the
9 original sign, we don't have proof that the original sign was
10 approved, and the new sign appears to be going higher.

11 MR. HARRIS: No, it's the same height. If you look at the -- if
12 you look at the drawing, they filed at 29 feet for the -- from the
13 zoning, from what I understand, but someone who installed it just
14 put it wherever they wanted to put it.

15 MEMBER GOODSSELL: Which is 37 feet high.

16 MR. HARRIS: Which is 37. We went out there accurately with
17 a truck and took a look at it, and it's 37.

18 MEMBER GOODSSELL: So it's 8 feet higher than what might have
19 been --

20 MR. HARRIS: Right, right.

21 MEMBER GOODSSELL: -- approved.

22 MR. HARRIS: Right, so that's -- the existing sign is at 37,
23 yes.

24 MEMBER GOODSSELL: And if, in fact, it had been installed at the
25 height that might have been approved, 29 feet, your application would
26 be, now we need to move it up another 9 feet?

1 MR. HARRIS: Yeah. Also, it's a little difficult, and
2 actually, I don't know who put it up, how they put it up, it's a little
3 difficult to measure because the driveway tapers down. So depending
4 on where you're measuring from, you could get different measurements,
5 but when you're -- if you got a big enough truck, which we had out
6 there that day to measure it up, it's 37, you know, being honest.

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

8 MEMBER DONATELLI: May I ask a question?

9 I see the prior approval that was granted for a variance, I
10 believe, in 2008, but I don't see any measurement in that. How do
11 you know that it was approved at 29 feet?

12 MR. HARRIS: I believe Anthony Basile told me. Someone told
13 me.

14 MEMBER DONATELLI: Who is that?

15 MR. HARRIS: One of the Plans Examiners.

16 MEMBER DONATELLI: Oh, Plans Examiner.

17 MEMBER GOODSSELL: Well, I certainly think that --

18 MR. HARRIS: If we come down to the 29 feet then the bottom of
19 the letters are going to be almost touching that 2-foot band at the
20 bottom.

21 MEMBER GOODSSELL: Well, only if you keep a four line sign. If
22 you change -- if the applicant changes the sign and brings it into
23 a more compliant position, it might be more favorable.

24 MR. HARRIS: I can't speak for the client.

25 MEMBER GOODSSELL: You are speaking for the client.

26 VICE-CHAIRMAN FRANCIS: And the size of the lettering.

1 MR. HARRIS: The size -- only the big letters are big. The rest
2 of the letters are maybe 20 inches. The rest of the letters are not
3 that big.

4 CHAIRMAN MAMMINA: It's the overall impact of that sign, and
5 the recognition of what we would normally grant for, you know, for
6 something, you know. Look, I understand it's a nursing home, it's
7 not North Shore Hospital.

8 MR. HARRIS: So what's the difference between North Shore
9 Hospital and the nursing home?

10 CHAIRMAN MAMMINA: The way that this Board has been
11 consistently granting things. So your job then would be to research
12 this and find, what has this Board done before, and then present that
13 that -- that that works because we've granted here, we granted it
14 there, we granted it there. You're not going to find that, but you
15 certainly, you know, you certainly may, if you'd like to. You may
16 try if you'd like to.

17 ATTORNEY ALGIOS: So if I can just say, you may want to present
18 the Board, you may ask for a continuance and submit a FOIL request
19 and ask for other similar variances, height variances of signs that
20 were granted by the Board, and you can use that as precedent to show
21 the Board that you've granted these types of variances before because
22 it is a substantial variance, 38 feet, so -- but if you can show,
23 drive around, you can drive around town, if you spot other ones that
24 you think are about that, get the property address and submit a FOIL
25 and see if a variance was granted by this Board for that.

26 MR. HARRIS: So it's basically about the height or is it the

1 height of the letters, as well?

2 CHAIRMAN MAMMINA: We really can't answer that until -- unless
3 we were to see it. That's just the way that it, you know, that's
4 the way it works --

5 MEMBER GOODSELL: The height is the initial objection and just
6 because nobody has complained doesn't mean it's right.

7 MR. HARRIS: No, I understand that. So what's a favorable
8 height? I'm just curious.

9 MEMBER GOODSELL: What's permitted in the code. We don't --

10 MR. HARRIS: That's 18 feet.

11 CHAIRMAN MAMMINA: Then that's the favorable height.

12 MEMBER GOODSELL: That is -- well, you're asking --

13 MR. HARRIS: Well, that's why we're here for a variance.

14 CHAIRMAN MAMMINA: Absolutely, and that's why we're -- that's
15 why we're here. But as I've said several times before, the Town Board
16 makes the rules. We're here as a judicial body to weigh it, you know,
17 see the scales of justice, you know, with, you know, the two doodads
18 on each side. I'll ask you attorneys if doodads --

19 MEMBER GOODSELL: Doodads? Doodads?

20 CHAIRMAN MAMMINA: Look, I'm an architect; okay? So they're
21 doodads, you know, and that's part of the process.

22 MEMBER DONATELLI: Let me also add, there are times when a
23 particular building has certain, let's say, characteristics that
24 make the 18 feet difficult, okay, and we understand that, but
25 having -- the way this building is situated, and I understand that
26 there's a drive lane underneath for access for parking, so that's

1 certainly something that this Board can consider. But I,
2 personally, as one Board member, have never seen a sign this large,
3 this high on a building, and so you know, while, if you were to check
4 the records, as the Town Attorney has suggested, you might find
5 variances that have been granted. But we always try to minimize the
6 variance that we grant in any particular case. This is a very large
7 sign, and it is very high up. So you really have two issues to
8 address, and like I said, we do try to consider a building's
9 characteristics, but that is one of -- a factor that we consider after
10 we've tried to minimize the variances.

11 MR. HARRIS: I do believe this is one of those buildings that
12 has the characteristics because it is set back.

13 CHAIRMAN MAMMINA: But sir, I don't mean to be curt with you,
14 we're saying, why don't you come back again --

15 MR. HARRIS: No, I got you.

16 CHAIRMAN MAMMINA: -- and then you can present those things that
17 you feel are the character, you know, of this building.

18 ATTORNEY ALGIOS: You don't want to come back.

19 CHAIRMAN MAMMINA: No, I'm sorry, you can resubmit, I'm sorry.
20 You can resubmit. As I said earlier, we don't do second hearings,
21 you know, especially for a sign.

22 MR. HARRIS: Okay.

23 CHAIRMAN MAMMINA: So I mean, you can send that with a text,
24 and --

25 MR. HARRIS: Do you want to say anything?

26 MR. WHITE: Yeah, just that --

1 CHAIRMAN MAMMINA: Well, sir, you'd have -- you have to come
2 up, give your name and address.

3 MR. WHITE: I'm John White, I represent Highfield Gardens Care
4 Center, 199 Community Drive, and you know, I was listening to the
5 reasons. We are set back from Community Drive probably 100 feet or
6 so. So we're not directly on Community Drive, you know, there is,
7 you know, quite a distance. That's one of the reasons why we wanted
8 somewhat of a bigger sign just to be -- enhance the front of the
9 building and make it, I guess, equal to the size of where we're putting
10 it. So we wanted to center it, and you know, just make it a --

11 CHAIRMAN MAMMINA: I apologize, I really don't mean to
12 interrupt you.

13 MR. WHITE: No, it's okay.

14 CHAIRMAN MAMMINA: Those are -- those are all fine arguments
15 that may indeed be valid, but then, you know, we need to see how that's
16 presented, you know, something that shows us. You see many people
17 today, I think virtually everybody comes in with a survey --

18 MR. WHITE: Sure.

19 CHAIRMAN MAMMINA: -- saying here's where this is, and these
20 are the setbacks, and you know, on yours, and I'm not telling you
21 how to present it.

22 MR. WHITE: Nope, understood.

23 CHAIRMAN MAMMINA: -- show from across the street, you know,
24 how far it is or whatever --

25 MR. WHITE: Okay.

26 CHAIRMAN MAMMINA: -- you know, it might be, you know, it might

1 be part of that.

2 MR. WHITE: Sure, thank you.

3 MEMBER GOODSSELL: Your sign company, Mr. Harris, said that this
4 is your logo. I see you're wearing a a vest with your logo. Is that
5 a four line logo?

6 MR. WHITE: Yes, yes, one, two, three, four.

7 MEMBER GOODSSELL: Okay, I can see the two lines clearly, I can't
8 see from here.

9 MR. WHITE: Yeah, there are two, where is says care center.

10 CHAIRMAN MAMMINA: I think in proportion, they're different,
11 though. That one's a little more horizontal.

12 MR. WHITE: Yeah.

13 MR. HARRIS: The sunburst is in a different location.

14 MR. WHITE: Yeah, the sun --

15 MR. HARRIS: We're just duplicating what they had.

16 CHAIRMAN MAMMINA: But I'm saying, go -- and I understand.
17 Look, you have a job to do as a sign manufacturer, so, and you've
18 done your job, you've asked him for what --

19 MR. WHITE: Correct.

20 CHAIRMAN MAMMINA. -- you would like. Now go back to your
21 existing application that was approved as one thing. Go back to
22 other facilities that you see that are in the area or of similar use,
23 and you'll put all that together and resubmit that, you know, to the
24 Board, to Ms. Wagner, and then she'll distribute that, you know, to
25 the Board members, and we try our best to turn those around right
26 away.

1 MEMBER GOODSSELL: We'll consider everything that you submit.
2 MR. WHITE: Okay, we appreciate --
3 CHAIRMAN MAMMINA: Thank you.
4 MR. WHITE: -- appreciate your time.
5 Thank you.
6 CHAIRMAN MAMMINA: You're both gentlemen.
7 Thank you.
8 CHAIRMAN MAMMINA: So this will be continued, yes.
9 MR. WHITE: Have a good day.
10 CHAIRMAN MAMMINA: Thank you, again.
11 (WHEREUPON, this application was continued.)

1 SECRETARY WAGNER: Appeal number 21695, Fifth Avenue of Long
2 Island Realty Associates, LLC, London Jewelers Rolex clock Sign,
3 2032.A Northern Boulevard, Manhasset; Section 3, Block 183, Lot 12;
4 in the Business-A and Parking District.

5 Variances from §§70-196.J(5)(a), 70-196.J(5)(c),
6 70-196.J(5)(i), 70-196.J(5)(j) and 70-196.J(5)(l) to construct an
7 internally illuminated sign, not permitted, with lighting that is
8 not exterior from above or from the side of the sign, that is too
9 thick, and has two brackets that are side mounted, which is not
10 permitted and constitutes too many signs on a wall.

11 CHAIRMAN MAMMINA: You've heard Appeal number 21695, Fifth
12 Avenue of Long Island Realty Associates, LLC, London Jewelers Rolex
13 Clock Sign.

14 Is there anyone in the room interested in the application other
15 than the applicant?

16 (WHEREUPON, there was no response.)

17 CHAIRMAN MAMMINA: Seeing no one.

18 Please give your name and address.

19 VICE-CHAIRMAN FRANCIS: This sounds like the Mount Everest of
20 variances based on that description.

21 MS. GONZALEZ: I'm here to try and --

22 VICE-CHAIRMAN FRANCIS: Okay.

23 MS. GONZALEZ: -- make it a little bit simpler for you guys.

24 VICE-CHAIRMAN FRANCIS: Get your climbing boots on.

25 MS. GONZALEZ: Yeah.

26 Taylor Gonzalez of the law firm Forchelli Deegan Terrana, 333

1 Earle Ovington Boulevard, Uniondale, New York.

2 So as Ginny has so kindly laid out for us, there are five sign
3 variances here today for this very unique Rolex sign that has become
4 a brand staple. A lot of their boutique stores, their standalone
5 stores, have this sign. It's different than most signs this Board
6 sees. It's not a wall sign, it's not a ground sign. It sticks out,
7 and I know you guys are a bit familiar with this London Jewelers store.
8 We were here in September for a height variance to renovate the facade
9 and add a third story addition. The covering has come off as of the
10 last couple of days, so the facade is completed, and yeah.

11 So as I said, this proposed sign is unique, but a brand staple
12 at boutique Rolex stores around the world. The sign features a
13 working clock and extends from the building visible to patrons
14 walking along the street, but not visible to anyone driving on the
15 road.

16 This sign will be located at the right corner of the building
17 which abuts a neighboring storefront. That neighboring storefront
18 is actually going to be a tenant that is a sister brand of Rolex,
19 so they will both be Rolex stores, technically. The sign brackets
20 will be built into the new facade of the recently renovated
21 storefront. Because of the uniqueness and complexity of the sign,
22 it has triggered a number of variances, including for its thickness,
23 illumination and how it's mounted, hung 11 feet above the sidewalk
24 and extending 2.73 feet from the building facade. The sign is just
25 under 6 square feet in size and 8.75 inches in thickness. This
26 thickness allows the sign to feature two working clocks, one on each

1 side, while protecting all of the internal mechanics from the
2 elements. Those mechanics also add additional weight which requires
3 the two mounts instead of the one that's permitted by code.

4 The proposed sign will not result in any undesirable changes
5 to the neighborhood nor be a detriment to the surrounding properties.
6 As discussed, the sign is meant to be visible from the sidewalk, so
7 it doesn't face the road nor does it face the houses on the other
8 side of Northern Boulevard. So the internal illumination will not
9 face the road or the homes. The lights are operated by the shopping
10 center and will be shut off at the same schedule as other businesses
11 in the center.

12 In addition, the residential homes don't face Northern
13 Boulevard and are heavily screened by trees and bushes in the rear
14 shielding those homes from view of the Americana. Further, the sign
15 is consistent with other protrusions from storefronts in the
16 Americana like the canopies that extend from Hermes, Tiffany & Co.,
17 Ralph Lauren and more. So there will be no negative impact on the
18 patrons or the tenants of the Americana by this protrusion.

19 The benefit sought by the applicant can not be achieved by any
20 other feasible means. The sign's thickness is designed to protect
21 the internal clockwork mechanics while the brackets are designed to
22 safely support the sign's weight.

23 The clock cannot be rendered compliant with these aspects of
24 the code without compromising the safety of the Americana patrons.
25 The requested variances are not substantial. While the Rolex store
26 will have two signs, the Rolex clock blade sign is less than 6 square

1 feet in size and other stores in the Americana do have more than one
2 sign per business.

3 Finally, the illumination will face the sidewalk, not the
4 parking lot, Northern Boulevard or the adjacent homes and is no
5 different than the other illuminated wall signs within the Americana.

6 Although the Board may view the need for this variance as being
7 self-created, in light of the affirmation factors weighing in favor
8 of granting the relief, this should not be dispositive, and I'd like
9 to answer any questions you guys may have. I know this is a pretty
10 unique sign.

11 MEMBER GOODSSELL: Could we start by clarifying the record
12 that --

13 MS. GONZALEZ: Yeah.

14 MEMBER GOODSSELL: -- this sign and this building --

15 MS. GONZALEZ: Mm-hmm.

16 MEMBER GOODSSELL: -- are going to face the Northern Boulevard
17 side or the parking lot side --

18 MS. GONZALEZ: So the --

19 MEMBER GOODSSELL: -- of the shopping center?

20 MS. GONZALEZ: -- building faces Northern Boulevard, but the
21 way the sign protrudes, the sign faces will face the sidewalks.

22 MEMBER GOODSSELL: Yes, but that will be --

23 MS. GONZALEZ: Yes --

24 MEMBER GOODSSELL: -- on the Northern Boulevard side --

25 MS. GONZALES: -- on the Northern Boulevard side.

26 MEMBER GOODSSELL: -- of the shopping center.

1 MS. GONZALEZ: Yes.

2 MEMBER GOODSSELL: Okay, and there is already a Rolex display
3 in one of those windows, or rather, it's not a sign, it's a display
4 with a large internal sign clearly identifying that Rolex is there.

5 MS. GONZALEZ: Yeah.

6 MEMBER GOODSSELL: And there is also a sign on the building.

7 MS. GONZALEZ: Mm-hmm.

8 MEMBER GOODSSELL: Now the purpose --

9 MS. GONZALEZ: Yeah.

10 MEMBER GOODSSELL: -- of this sign, the reason the applicant
11 wants this is because this is their trademark sign?

12 MS. GONZALEZ: So for their boutique stores, their standalone
13 stores, which they don't have many of, they have this sign that
14 protrudes. As you can see in the exhibit package submitted, there
15 is --

16 MEMBER GOODSSELL: I'm looking at your plans, yes.

17 MS. GONZALEZ: Yes, there is one in the Short Hills Mall in New
18 Jersey, Italy, England, Madrid and other stores throughout the world,
19 and there's also the page from the guidebook in there as well which
20 shows a similar sign from one of their other locations.

21 MEMBER GOODSSELL: There are similar signs in the Americana
22 shopping plaza?

23 MS. GONZALEZ: Not signs, other protrusions like the
24 canopies --

25 MEMBER GOODSSELL: Canopies --

26 MS. GONZALEZ: -- the other stores have.

1 MEMBER GOODSSELL: -- I understand.

2 MS. GONZALEZ: Yeah.

3 MEMBER GOODSSELL: Canopies have appeared, and they are on both.
4 I believe, most of them are on the parking lot side.

5 MS. GONZALEZ: Yes, the the ones I listed, the Hermes, Tiffany's
6 and Ralph Lauren also face Northern Boulevard. They are in the
7 second -- so where -- it's multiple, as you may know, and they're
8 the building next to us.

9 MEMBER GOODSSELL: Well, the applicant is clearly aware of the
10 town code which doesn't --

11 MS. GONZALEZ: Yeah.

12 MEMBER GOODSSELL: -- allow multiple signs.

13 MS. GONZALEZ: Yes.

14 MEMBER GOODSSELL: And tell me again their reasoning why they
15 feel a second sign is necessary. Is there that much pedestrian
16 traffic on these sidewalks?

17 MS. GONZALEZ: It's not necessarily that it's pedestrian
18 traffic, it's Rolex really likes these signs. It gets to feature
19 their watch which is something they're very proud of, their brand
20 history. It's unique, and it draws attention to their shopping
21 center, or their storefront.

22 MEMBER GOODSSELL: Well, that I would agree with.

23 MS. GONZALEZ: Yeah.

24 MEMBER GOODSSELL: But so would the neon sign which I don't think
25 we allow either.

26 MS. GONZALEZ: Yeah.

1 MEMBER GOODSSELL: As one Board member, I'm not in favor of
2 multiple signs here.

3 MEMBER DONATELLI: Well, I -- while I understand why the
4 Building Department may have called this a sign, and I agree, it does
5 act as a sign, it also acts as a clock, which --

6 MS. GONZALEZ: Yeah.

7 MEMBER DONATELLI: -- you know, can be a public service. Even
8 though it does identify Rolex, I think that the public is used to
9 seeing clocks in public places, whether it's at a train station or
10 at a storefront, right in the middle of Grand Central Station. I
11 don't see it as purely a sign, even though I understand the Building
12 Department would call it a sign.

13 As one Board member, I don't know that I have an objection to
14 it. I think that it's -- while we're not an aesthetic Board, it is
15 tastefully done, it -- I don't think that it will be out of character
16 for the Americana. There are other protrusions. I personally don't
17 have any objections.

18 CHAIRMAN MAMMINA: For myself, I hear what Member Goodsell is
19 saying, you know, and at the same time, what Member Donatelli is
20 saying. I do think that there's a certain elegance to the sign,
21 again, not that we're here to say, well, it's elegant, so yes. It's
22 in scale with the -- with the building, and you know, my feeling is,
23 it's -- and I'm not knocking gasoline station prices, I am a gasoline
24 station price hunter.

25 MS. GONZALEZ: Yeah.

26 CHAIRMAN MAMMINA: But nobody driving down Northern Boulevard

1 is, you know, is going to say, you know, what time is it? You know,
2 it's -- especially that, you know, cars nowadays mark what time it
3 is all over the place just to remind me that I'm late. But you know,
4 it -- I guess I can, you know, I can see it, you know, in, you know,
5 in this location. I don't want to characterize something, per se,
6 but I mean, if this was a delicatessen, on, you know, I don't know,
7 Jericho Turnpike or something, I'd say no, you know, not necessary,
8 you know, and I see it more just as an architectural element, and
9 that would give us the way to potentially separate it, you know, from,
10 you know, from other, you know, from other signs.

11 MEMBER GOODSSELL: I'd not considered that, or what Member
12 Donatelli had said about a clock being a public service because most
13 of the clocks that I see aren't working. I mean, seriously. When
14 was the -- they start off working, and then they don't.

15 MS. GONZALEZ: Yeah.

16 MEMBER GOODSSELL: And that would seriously say something about
17 Rolex.

18 MS. GONZALEZ: No, I can assure you the Rolex sign will always
19 work. It probably wouldn't help them sell if they didn't work.

20 VICE-CHAIRMAN FRANCIS: Anyone under 21 is not going to be able
21 to tell the time by looking at this clock because they use digital
22 clocks. So this might even be an educational device.

23 MS. GONZALEZ: There you go.

24 CHAIRMAN MAMMINA: It's not -- it's location is in scale --

25 VICE-CHAIRMAN FRANCIS: Yup.

26 CHAIRMAN MAMMINA: -- with the, you know, with the rest of

1 the -- of the facade. I also, you know, would say, again, we're not
2 an aesthetic Board, but Rolex is not going to do anything that feels
3 not positive, you know, for their properties and then this gives me
4 a chance to tell my wife I have to go to Italy to do an inspection.

5 MS. GONZALEZ: Exactly, you could travel the world.

6 MEMBER GOODSELL: And Spain.

7 CHAIRMAN MAMMINA: And Spain.

8 MS. GONZALEZ: Yes.

9 MEMBER GOODSELL: And Spain and Manhattan.

10 MS. GONZALEZ: New Jersey, but you may want to skip that one.

11 VICE-CHAIRMAN FRANCIS: Nobody wants to go to New Jersey.

12 MEMBER DONATELLI: It's on the record.

13 MS. GONZALEZ: Yeah, the pictures are in the exhibits.

14 MEMBER DONATELLI: You know, I would just also add -- sorry.

15 VICE-CHAIRMAN FRANCIS: Go ahead.

16 MEMBER DONATELLI: I would just also add that even though this
17 is fronting Northern Boulevard, that one of the charming aspects of
18 the Americana is that there is parking, and there's a lot of
19 pedestrian traffic between where the parking ends in front and where
20 the stores are. There's a lot of pedestrians that walk by there.
21 So I think that, in my mind, that while we are, of course, on Long
22 Island, which is the center of car culture, there are aspects to the
23 Americana that lend themselves to pedestrian traffic, and that area
24 is one of them, and I think that, again, as an architectural feature,
25 and thank you for that, but I think that that's a good term. So
26 therefore, that's my opinion.

1 CHAIRMAN MAMMINA: Can we consider that a motion?

2 MEMBER DONATELLI: Well, I think Member Francis was going to
3 say something.

4 VICE-CHAIRMAN FRANCIS: No, no, go right ahead.

5 MEMBER DONATELLI: No?

6 All right, Mr. Chairman, for the reasons indicated above, I make
7 a motion that we grant the application.

8 CHAIRMAN MAMMINA: Okay, we have a motion by Member Donatelli.
9 Do we have a second?

10 VICE-CHAIRMAN FRANCIS: Second.

11 CHAIRMAN MAMMINA: Seconded by Vice-Chairman Francis.
12 Please poll the Board.

13 SECRETARY WAGNER: Member Goodsell?

14 MEMBER GOODSSELL: Reluctantly, yes. Make sure that clock
15 works.

16 MS. GONZALEZ: I will make sure it always works just for you.

17 SECRETARY WAGNER: Member Donatelli?

18 MEMBER DONATELLI: Aye.

19 SECRETARY WAGNER: Vice-Chairman Francis?

20 VICE-CHAIRMAN FRANCIS: Aye.

21 SECRETARY WAGNER: Chairman Mammina?

22 CHAIRMAN MAMMINA: Aye.

23 Your application is granted.

24 MS. GONZALEZ: Thank you.

25 CHAIRMAN MAMMINA: Thank you.

26 (WHEREUPON, this application was granted.)

1 SECRETARY WAGNER: So Appeal number 21696, Bolla EM Realty,
2 LLC, 901 Hillside Avenue, New Hyde Park; Section 8, Block B2, Lot
3 182A; in the Business-A Zoning District.

4 Variances from §§70-196.J(1)(a), 70-196.J(1)(b), 70-196.K,
5 70-196.K (4), 70-103.F, 70-103.F(1), 70-132.B, 70-203.P(2)(a) and
6 70-203.W, to construct alterations to convert an existing gas station
7 service area into a convenience store that is too large, proposes
8 to heat food items other than coffee, tea or cocoa with no loading
9 zones, no refrigerated garbage locker, too many signs on a wall, a
10 wall sign that is too tall, ground signs that are too tall and too
11 big, construction of a new canopy that is too close to the street
12 and signs on the canopy that are not permitted.

13 CHAIRMAN MAMMINA: You've heard Appeal number 21696, Bolla EM
14 Realty, LLC.

15 Is there anyone in the room interested in the application other
16 than the applicant?

17 (WHEREUPON, there was no response).

18 CHAIRMAN MAMMINA: Seeing no one.

19 Please give your name and address.

20 MR. INGBER: Okay, good afternoon, for the applicant, Matthew
21 Ingber from the law firm of Brown Altman, LLP, 538 Broadhollow Road,
22 Suite 301, Melville, New York. I'm here this afternoon for Bolla's
23 area and sign variance applications to redevelop the existing
24 gasoline station and to convert the existing 1,807 square foot
25 building into a convenience store at the property located at 901
26 Hillside Avenue in New Hyde Park.

1 With me today are the following experts who are available to
2 address any questions that the Board may have. Behind me is Nick
3 Tortorella, PE, of Stonefield Engineering and Design, project
4 traffic expert, and as well as Nicholas Buscemi, PE, of High Point
5 Engineering, the project's civil engineer.

6 At this time we would like to amend the application as it relates
7 to the variance request from town code Section 70-196.J(1)(b) which
8 is for the wall sign with a vertical measurement of 4 feet 8 inches,
9 where the town code permits 4 feet 6 inches. We'd ask that that
10 variance request be removed as the applicant will provide a wall sign
11 that complies with the town code's vertical height requirement.

12 As a way of background, the property is located at the
13 northeasterly corner of the signalized intersection of Hillside
14 Avenue and Lakeville Road. The subject site is located in an area
15 with predominantly commercial use properties.

16 Just abutting the property to its north and to its east is the
17 North Shore Commons shopping center which includes a Papa Johns
18 pizza, a Douglas Elliman real estate office, an Orangetheory Fitness,
19 and a limousine service, and then behind the shopping center, I guess,
20 further to the north, is the off-street parking area that serves the
21 businesses. Directly south of the property, across Hillside Avenue,
22 is an Excel Urgent Care facility. Southwest of the property is a
23 Sunoco gas station which includes a building that's used as a
24 convenience store with a two bay auto service station. To the west
25 of the site, on the opposite side of Lakeville Road is a bank branch
26 and a diner.

1 So based on available town records, the property has been used
2 as a gas station since circa 1964. The existing building, which is
3 used as a three bay auto service station has been at the property
4 since at least 1979.

5 So currently, the property is improved with a gas station and
6 a 1,807 square foot building that includes an auto repair facility
7 with three auto service bays and a convenience store. The existing
8 gas station has two different fuel islands which provides a total
9 of six fueling positions.

10 So this -- sorry.

11 MEMBER DONATELLI: I hate to interrupt.

12 MR. INGBER: Sure.

13 MEMBER DONATELLI: Can you tell us what the size of the existing
14 convenience store is?

15 MR. INGBER: I don't have the specifications. Maybe my project
16 engineer has the size of the convenience store.

17 MEMBER GOODSSELL: We'll hold that.

18 MR. INGBER: Sure, okay.

19 So this application seeks to redevelop the property with a new
20 gas station consisting of eight fueling positions under a new canopy.
21 The fuel -- there will no longer be a fuel island that faces Lakeville
22 Road as the new pumps will all be positioned towards the center of
23 the property.

24 The applicant also seeks to convert the existing 1,800 square
25 foot building into a convenience store which will include a Bolla
26 Market and a Tim Hortons coffee shop. The auto service use will be

1 discontinued once the property is redeveloped. New ground and wall
2 signs are also proposed.

3 Does the Board want me to go through each of the variance
4 requests or are you familiar with the request based off the call of
5 the case?

6 CHAIRMAN MAMMINA: No, please, I mean --

7 MR. INGBER: Oh, sure, okay.

8 CHAIRMAN MAMMINA: -- it's your application --

9 MR. INGBER: Okay.

10 So as part of the --

11 CHAIRMAN MAMMINA: -- put it all on the record.

12 MR. INGBER: Okay.

13 So as part of the redevelopment, the applicant is before the
14 Board seeking the following relief:

15 To include three wall signs on the south elevation of the
16 building which faces Hillside Avenue where one wall sign is
17 permitted;

18 A variance to allow two canopy signs where such signs are not
19 permitted at gasoline stations;

20 A variance for two proposed ground signs, each with an area of
21 85.94 square feet and a height of 21 feet for a maximum area of 24
22 square feet and a maximum height of 18 feet is permitted;

23 A variance to allow the property to have no loading stalls where
24 one stall is required;

25 A variance --

26 CHAIRMAN MAMMINA: I'll apologize for interrupting you.

1 MR. INGBER: Sure.

2 CHAIRMAN MAMMINA: I think it might be helpful to the Board --

3 MR. INGBER: Sure.

4 CHAIRMAN MAMMINA: -- and I saw the other gentlemen put
5 something up on --

6 MR. INGBER: Oh, sure.

7 CHAIRMAN MAMMINA: -- on the --

8 MEMBER DONATELLI: Easel.

9 CHAIRMAN MAMMINA: -- easel, thank you.

10 Maybe if you can go through those and kind of point out or have
11 somebody point out --

12 MR. INGBER: Yeah, do you want to point them out?

13 CHAIRMAN MAMMINA: -- where they are, you know --

14 MR. INGBER: Yeah.

15 CHAIRMAN MAMMINA: -- and you know, maybe even give it a second
16 explanation.

17 MR. INGBER: Yeah.

18 CHAIRMAN MAMMINA: You know, if you're going to speak, sir, then
19 just give your name and address.

20 MR. BUSCEMI: Nicholas Buscemi, PE, of High Point Engineering
21 with an office located at 1860 Walt Whitman Road, Melville, New York
22 11747.

23 CHAIRMAN MAMMINA: Thank you.

24 MR. INGBER: Okay, sure.

25 So for the first variance I had mentioned where the three wall
26 signs are proposed, the signs will all be, okay, the canopy signs,

1 one will be facing Hillside Avenue, and one proposed canopy sign will
2 be facing Lakeville Road.

3 The two ground signs where we're requesting height and
4 variance -- a height variance and a variance for the total square
5 footage, they'll both be located along Hillside Avenue.

6 I mentioned we're requesting a variance for the loading, to have
7 no loading stalls where one is permitted.

8 A variance for the proposed canopy to be three feet from Hillside
9 Avenue, where a 10-foot setback is required.

10 A variance to permit the -- a 1,800 square foot convenience store
11 where a maximum floor area of 1,250 feet is permitted on a property
12 with a lot area of under a half acre. So that's a -- converting the
13 entire building into a convenience store.

14 CHAIRMAN MAMMINA: I don't think that 1,250 is permitted. I
15 believe that's 700 or 750 --

16 VICE-CHAIRMAN FRANCIS: 750.

17 CHAIRMAN MAMMINA: -- is permitted --

18 MR. INGBER: Oh, sorry.

19 CHAIRMAN MAMMINA: -- for a, I don't know, I'll call it a
20 7-Eleven even though I know it's not a 7-Eleven, you know, or a
21 convenience store.

22 MR. INGBER: Okay.

23 CHAIRMAN MAMMINA: Okay, because that's a -- that's a very
24 important factor.

25 MR. INGBER: Okay.

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

1 CHAIRMAN MAMMINA: I stand corrected.

2 MR. INGBER: Okay.

3 CHAIRMAN MAMMINA: The zoning has been changed by the Town
4 Board.

5 MR. INGBER: Okay, thanks, and the last variance request is to
6 allow the new convenience store to operate without a refrigerated
7 garbage locker where one is required.

8 So as previously noted, the application will not change the use
9 of the property as the site has been improved with a gas station for
10 approximately 61 years, nor will the application change the
11 commercial character of the surrounding area.

12 The new ground signs, wall signs and canopy signs will not be
13 a detriment to any nearby properties as they will face Hillside Avenue
14 and Lakeville Road so they will be visible to the motorists on the
15 roadways.

16 As mentioned, the applicant is seeking to convert the 1,870
17 square foot building into a convenience store with a Bolla Market
18 and Tim Hortons coffee shop. No expansion of the building is
19 proposed.

20 As will be discussed by the project engineer, the overall
21 appearance of the building will be improved as the applicant will
22 be refacing the exterior elevations with a design similar to other
23 Bolla Markets on Long Island.

24 Upon completion of the overall project, vehicles will no longer
25 be stored and parked throughout the property as the applicant will
26 be discontinuing the longstanding auto service use that's been

1 associated with the site.

2 The redevelopment of the gas station and the conversion of the
3 building into a convenience store will not have a significant traffic
4 impact on the adjacent roadway network. As part of the application,
5 a traffic -- the parking and traffic assessment was prepared and
6 submitted by the applicant, and our project traffic engineer will
7 discuss the traffic impacts after my presentation.

8 So as it relates to the new canopy, the applicant requests a
9 front yard setback to allow the canopy to be located 3 feet 6 inches
10 from Hillside Avenue, where a 10-foot setback is required. While
11 the relief may seem substantial, it's -- it is not possible to design
12 the site and the canopy without the need for variance relief. But
13 we also note that the new canopy will improve existing conditions
14 as variance relief was previously granted by this Board to allow the
15 existing canopy to be 3 feet from Hillside Avenue. So this will
16 actually improve existing conditions by having the canopy set back
17 further from the street.

18 The new canopy will also include an Exxon sign that faces
19 Hillside Avenue and a second Exxon sign that faces Lakeville Road.
20 Variance relief is needed because, as previously mentioned, the town
21 code doesn't allow canopy signs at gas stations, and for reference,
22 the existing canopy already includes an Exxon sign. Actually, it
23 has two signs. One that faces Lakeville Road and one that faces
24 Hillside Avenue. In addition, the Sunoco station across the street
25 at 720 Hillside Avenue also provides canopy signs that face both of
26 the roadways.

1 Granting relief for the requested canopy signs will therefore
2 not change the character of the area, and we also note that the Board
3 has granted relief for this request at other gasoline stations, such
4 as in the matter of Bolla EM Realty, LLC, at 225 Willis Avenue in
5 Roslyn Heights, where canopy sign variance relief was granted. That
6 was Appeal number 20 -- 21403, decided on October 24th of 2023.

7 As it relates to the conversion of the auto repair facility into
8 a convenience store, the property is unique in this respect in that
9 the -- the building's already at the property. Tearing it down and
10 knocking -- and building a new building for the convenience store
11 is not a feasible alternative.

12 VICE-CHAIRMAN FRANCIS: But why can't you make the convenience
13 store compliant with the code and make it 1,250?

14 MR. INGBER: So that would -- so knocking down --

15 VICE-CHAIRMAN FRANCIS: No. So the building -- what you're
16 proposing is a convenience store that's the size of the building which
17 is 1,870 feet.

18 MR. INGBER: Correct.

19 VICE-CHAIRMAN FRANCIS: Why can't you make it 1,250?

20 CHAIRMAN MAMMINA: And I will -- I will say, because I am the
21 architect on the Board, and what I used to say to people is, give
22 me your drawing, and I will show you how to -- how to economically
23 take a piece off of that drawing, and yeah, you might have to chop
24 your foundation down, you know, a little bit, but I virtually
25 guarantee you that whatever the value of this will be as a compliant
26 store, you know, can be achieved, you know, for a minimal amount of

1 money when you look at the return, you know, against what variance
2 you're looking for, because then that basically means, well, anybody
3 who comes in with, you know, any kind of a, you know, of a station
4 like this can just say, well, it's the existing building

5 MR. INGBER: Right.

6 VICE-CHAIRMAN FRANCIS: And I don't think there's another
7 convenience store at a gas station anywhere in North Hempstead that's
8 as big as the one that you're proposing.

9 MR. INGBER: Just for example, the one that was approved in 2023
10 for Bolla on Willis Avenue, the convenience store was 4,200 square
11 feet, and --

12 MEMBER GOODSELL: But it's a separate building. It was a
13 separate building.

14 MR. INGBER: So is this -- so is this building.

15 VICE-CHAIRMAN FRANCIS: 4,000?

16 MR. INGBER: The building size is 4,000 square feet.

17 VICE-CHAIRMAN FRANCIS: And how big is the convenience store?

18 MR. INGBER: That's how it's calculated -- the town code, at
19 least our application, the 1,800 square feet calculates the entire
20 square footage of the convenience store because the town code looks
21 at gross floor area, not just the gross floor area of the retail sales
22 area. If we're just calculating the retail sales area, the
23 convenience store is actually a lot less than the -- what is -- than
24 the 1,807 square feet.

25 CHAIRMAN MAMMINA: You're going have to explain that.

26 MR. INGBER: Yeah, I'll have the project engineer discuss that.

1 CHAIRMAN MAMMINA: Again, because it follows the size of the
2 site.

3 VICE-CHAIRMAN FRANCIS: Site, right.

4 MR. INGBER: Right, so --

5 VICE-CHAIRMAN FRANCIS: And so the two sites, the site that you
6 mentioned is the same size site?

7 MR. INGBER: The site at Willis Avenue that I referenced is a
8 larger site, but it was answering your question in terms of the size
9 of the convenience store in the township. This one is not largest
10 one.

11 CHAIRMAN MAMMINA: How large was that site?

12 MR. INGBER: Do you have the site?

13 MR. BUSCEMI: About an acre.

14 MR. INGBER: Roughly an acre.

15 VICE-CHAIRMAN FRANCIS: As opposed to your site which is a half
16 acre.

17 MR. INGBER: Yeah, we're less than a half acre.

18 CHAIRMAN MAMMINA: Okay. With an acre you can -- you can have
19 a --

20 MR. INGBER: Right.

21 CHAIRMAN MAMMINA: So it's a different animal.

22 MR. INGBER: Yeah, so -- and as part of the conversion of the
23 building we have to note that the entire layout of the building will
24 be modified so the convenience store provides for the ADA compliant
25 bathroom as well as ADA compliant aisle ways. So part of the square
26 footage that we're proposing will go towards the ADA compliance.

1 So just in terms of the numbers, the area that's devoted to
2 retail sales for the Bolla Market will be approximately 680 square
3 feet, and approximately 400 square feet will be provided for the Tim
4 Hortons coffee shop. The remaining portions of the building will
5 include approximately 677 feet of storage space and about 50 square
6 feet for the new restroom. So we're looking at the convenience
7 store, the area that's devoted to sales, and it's well under the 1,807
8 square feet.

9 MEMBER DONATELLI: Well, again though, if we calculate this
10 consistently the way the Building Department does, it is really the
11 footprint of the convenience store, not the portion of the
12 convenience store that may be dedicated to the bathroom, that may
13 be dedicated to storage. When the Town Board imposed these
14 restrictions, they already calculated those areas in their -- in
15 their measurements, in their sizes --

16 MR. INGBER: Right.

17 MEMBER DONATELLI: -- so that, you know, we can't factor those
18 numbers out. The Town Board has indicated what it wants in terms
19 of size of these stores.

20 MR. INGBER: Right, so -- but if the concern for the size of
21 the store -- the stores was the traffic and parking demand,
22 notwithstanding the size of the proposed convenience store, the site
23 is providing code compliant parking in terms of number of stalls,
24 where seven are provided, and as will be discussed by the project
25 engineer, the addition of the convenience store will not have an
26 impact to the -- traffic impact on the adjacent roadway network. So

1 if the Town Board is looking -- is concerned about the impact to the
2 traffic as well as the area by the size of the convenience store,
3 we're -- we submit that this application will not have an impact.

4 MEMBER DONATELLI: Well, but your Notice of Denial does not
5 indicate a deficiency in parking.

6 MR. INGBER: Correct, but it's -- I brought it up to -- for the
7 point that, even with the convenience store, we are still providing
8 the required number of parking stalls. So it's not as if we're asking
9 for a variance to have a convenience store that's too large and at
10 the same time be deficient in the number of parking stalls.

11 CHAIRMAN MAMMINA: It may not be -- may not be a legitimate
12 comparison, but I think it, you know, I think it probably is. I mean,
13 look at a Chick-fil-A, you know, their parking is going to be based
14 on how big that store is, and they got a little tiny parking lot,
15 you know, outside, and then the traffic backs up, down the street
16 and around. Same thing with Starbucks that we've had submitted
17 recently, and we've cut those back because even though they'll have
18 compliant parking, and those are on Northern Boulevard, those cars
19 are going to back up, you know, into, you know, into the street. So
20 all that means is that the parking consultant was incorrect, and I
21 don't say that to disparage, you know, the parking consultant at all.
22 As I had said earlier, you may not have been here, I spend 90 percent
23 of my time --

24 MR. INGBER: Right.

25 CHAIRMAN MAMMINA: -- you know, on that side of the, you know,
26 of the podium, but just putting that out there.

1 MR. INGBER: Okay, thanks.

2 So in terms of the new wall signs, the convenience store will
3 have -- will include a 17.1 square foot Bolla placard, an 18 square
4 foot Bolla Market word mark, as well as an 18.1 square foot Tim Hortons
5 sign, all of which will be significantly below the town code's maximum
6 permitted wall sign area which is noted on our plans as 121.6 square
7 feet, and the requested relief for the number of signs is consistent
8 with the Board's recent precedent. In the Bolla application at
9 Willis Avenue that was previously mentioned, relief was granted to
10 allow a total of four wall signs on the Bolla Market, so in here we're
11 proposing three, and the -- to conclude it, my presentation, the last
12 request is for the proposed ground signs for the height to have a
13 21 -- be 21 feet, where 18 feet is permitted, and to have an area
14 of 85.94 square feet, where 24 is permitted. The ground signs will
15 be located towards the front of the property facing along Hillside
16 Avenue, the Hillside Avenue one towards the corner of the property,
17 and as can be more fully discussed by the project experts, given that
18 the property's on a major commercial thoroughfare, the signs are
19 needed -- need to be visible to motorists so that they have enough
20 time to identify the price of gasoline as well as the Bolla Market
21 and two important uses that are conducted at the site so that
22 motorists will have enough time to safely maneuver and enter the
23 property. This benefit cannot be achieved using code compliant, 24
24 square foot ground signs.

25 So with that, I'd like to call the project engineer, Nicholas
26 Buscemi of High Point Engineering, who could further discuss the site

1 plan and provide information on variance requests.

2 VICE-CHAIRMAN FRANCIS: Before you do that, with regard to the
3 food preparation and the lack of having a refrigerated garbage.

4 MR. INGBER: Right.

5 VICE-CHAIRMAN FRANCIS: Which one of your experts is going to
6 address that?

7 MR. INGBER: The project civil engineer. He's going to come
8 up now and address that.

9 VICE-CHAIRMAN FRANCIS: Okay.

10 MR. INGBER: Thanks.

11 MR. BUSCEMI: I mean, I think -- I think you guys all have your
12 questions, you've seen the site plan. I can run through the site
13 plan, but I --

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

15 MEMBER GOODSSELL: Name and address, please.

16 MR. BUSCEMI: Sure.

17 It's Nicholas Buscemi, PE, of High Point Engineering, office
18 located at 1860 Walt Whitman Road, Suite 600, Melville, New York
19 11747.

20 VICE-CHAIRMAN FRANCIS: Okay, thank you.

21 MR. BUSCEMI: Sure.

22 So again, I see you guys have a couple of questions already,
23 so as opposed to me just explaining what the site plan is, you guys
24 all are cleared to know what you're looking at, so I'll be happy to
25 answer all your questions.

26 VICE-CHAIRMAN FRANCIS: All right.

1 Let's begin with the food preparation. What are we talking
2 about in terms of food, and why does the facility not need
3 refrigerated garbage?

4 MR. BUSCEMI: So let's start with the Tim Hortons.

5 The Tim Hortons, the reheating of donuts is typically -- and
6 then the reheating of paninis that are typically brought in, and then
7 they're just reheated, you know, the waste being refrigerated is a
8 very specific thing to the Town of North Hempstead, you know, we have
9 Bollas all over the New York area where they have Burger Kings, Tim
10 Hortons, their own delis, which don't utilize lockers, we'll call
11 them freezers, to store their food. That's the reason we're not
12 proposing one here. It is a tight store as it is with the 1,800.
13 That is the smaller Bolla model. So that's why we're here, and we're
14 at the point we're at. I'm not going to say we won't acquiesce, and
15 I'm not going to die on a hill here, so --

16 MEMBER DONATELLI: We -- as we've been reminded, we've had some
17 Bolla applications before this Board in the past. Do you know if,
18 as part those variance requests, we granted a variance for
19 non-refrigerated garbage?

20 MR. BUSCEMI: So at 225 Willis Avenue, this actually didn't come
21 up until the after the BZA hearing. We weren't aware, at that time,
22 that it was a requirement, so we had to meet code. It required a
23 5-foot by 6-foot locker within inside of the building. So as opposed
24 to coming backwards and coming back in front of the Board, because
25 we were so close to pulling permits, we just installed a locker -- a
26 freezer. Again, apologies for the word locker.

1 MEMBER DONATELLI: We did not grant the variance in the prior
2 application.

3 MR. BUSCEMI: It was not put in front of you, correct.

4 CHAIRMAN MAMMINA: Okay, because there are -- there are other
5 stipulations that are connected to the refrigerated garbage. I
6 mean, that means any putrescible material has to be in that locker
7 and has to be documented that it's picked up by a company that, you
8 know, it was going to pick up, you know, that garbage and that can't
9 be stored out, outside of the building, and you know, so there are
10 a lot of other things to that, and you know, I'm -- I don't -- I don't
11 mean to criticize other, you know, other food uses like this, but
12 yeah, I mean, rats are a very, very common thing, you know, when you
13 have any kind of food, any kind of food, even squirrels, you know,
14 and that's documentable. So the town, you know, we try to keep a
15 certain standard, you know, and unless you can explain how come, you
16 know, how there's not going to be any rats, you know.

17 MR. BUSCEMI: Yeah, no, and you know, that's what's -- it's one
18 of the easy parts about representing Bolla is if you go to any of
19 their stations, I mean, you could just see how beautiful it is, you
20 know, they keep up with a very certain standard of cleanliness, I
21 mean, where, again, Bolla is operating over 100 stations with these
22 uses, Tim Hortons, Burger Kings, which is even more intense than I
23 would say a Tim Hortons would be.

24 CHAIRMAN MAMMINA: I would say regardless of how pretty their
25 store might look on the inside, I've never been to one, you know,
26 that doesn't matter as far as I'm concerned.

1 MR. BUSCEMI: Well, there's a lot of pride in the organization
2 on cleanliness.

3 CHAIRMAN MAMMINA: As far as I'm concerned, you know,
4 regarding, you know, food and those standards that we have, you know,
5 for these types of, you know, of buildings, because I think as a result
6 of us hold -- having these standards and holding these standards,
7 these have not become, to the best of my knowledge, nuisance uses,
8 you know, in the --

9 MR. BUSCEMI: Mm-hmm.

10 CHAIRMAN MAMMINA: -- in municipalities.

11 MR. BUSCEMI: Okay, I mean, so, loud and clear. We can modify
12 the application to install the refrigeration locker if that's what
13 the Board is more comfortable with.

14 CHAIRMAN MAMMINA: Yeah, and also the other stipulations that
15 come along with it.

16 MR. BUSCEMI: Of course.

17 MEMBER DONATELLI: What -- as I look at your site plan, I
18 am -- let me try and identify the page. I believe it's page SN-2,
19 yeah. When I look at the site plan, on --

20 MR. BUSCEMI: Mm-hmm.

21 MEMBER DONATELLI: -- the east side of the property, the right
22 side of the proposed building.

23 MR. BUSCEMI: Mm-hmm.

24 MEMBER DONATELLI: You have some sort of designation there.
25 What is to the right of the building?

26 MR. BUSCEMI: Yeah, so, I'll bring this a little closer, it's

1 probably easier to see. So you're talking about this area up here.

2 MEMBER DONATELLI: Yes.

3 MEMBER GOODSSELL: Yes, yes.

4 MR. BUSCEMI: So that is --

5 MEMBER GOODSSELL: Yes.

6 MR. BUSCEMI: -- fence enclosure with the trash enclosure shown
7 inside of it with the bollards so the dumpster doesn't get pushed
8 too far back into that area.

9 MEMBER DONATELLI: Okay.

10 VICE-CHAIRMAN FRANCIS: Let me circle back to the food issue
11 again. In addition, you mentioned heating or reheating paninis.
12 Heating food is not a permitted use. So that's something that you're
13 going to need a variance for, if in fact, we were to grant that
14 variance.

15 CHAIRMAN MAMMINA: Anything over a half an acre.

16 MR. BUSCEMI: What's that?

17 MEMBER GOODSSELL: Anything under.

18 CHAIRMAN MAMMINA: Anything under a half an acre, I'm sorry,
19 I'm backwards.

20 MEMBER GOODSSELL: So what is the acreage on this property?

21 MR. BUSCEMI: It's under an acre, it's .29.

22 MEMBER GOODSSELL: .29, okay. So a quarter of an acre.

23 MR. INGBER: And the call for the -- the denial letter from the
24 Building Inspector mentions -- it notes that we are proposing warming
25 and heating food, so it is -- the application is properly noticed
26 and denied by the Building Department.

1 CHAIRMAN MAMMINA: Okay, but you're not addressing it.

2 VICE-CHAIRMAN FRANCIS: Correct, you did it right.

3 MR. INGBER: Okay, all right.

4 VICE-CHAIRMAN FRANCIS: So do you want to address that?

5 MR. BUSCEMI: Yeah, in what sense? What do you -- what are you
6 looking --

7 CHAIRMAN MAMMINA: In what sense do you think we would want it?

8 MEMBER GOODSSELL: You want to put -- your client wants to put
9 a convenience store with features that are not permitted by the town,
10 and I presume the reason they're applying is because a convenience
11 store makes a great deal of money for a gas station because of the
12 number of people who put gas in the tank and come in and grab something
13 to go, and we're all familiar with a grab and go. Bolla Market, in
14 my opinion, in the last 20 years, has made great expansions onto Long
15 Island. I understand the attraction. I have been in several of
16 them. But you have to explain to us why your client feels it should
17 fit into this property when it's half the size of what the town code
18 requires.

19 MR. BUSCEMI: So --

20 VICE-CHAIRMAN FRANCIS: And discuss the scope of food use
21 because I'm sure there's going to be more than just paninis.

22 MEMBER GOODSSELL: Yes.

23 MR. BUSCEMI: Okay, so we'll start with, to your point. The
24 convenience store has rapidly changed over the last few years as you
25 noted. You know, people aren't going in anymore just looking for
26 a piece of candy or a drink. Yes, it's still a driver. People are

1 looking at the convenience of being able to do quick on their way
2 to work. If you're heading westbound, you jump into a Bolla Market
3 which has a Tim Hortons, you can grab a cup of coffee, you can grab
4 your breakfast sandwich and you can go. That is just the way the
5 industry is going now to stay competitive with the QuickCheks, the
6 7-Elevens, and all the other large brands out there. That's just
7 what the new offering has become, really, post-COVID, so it's been
8 a relatively short time.

9 Regarding the food or I guess -- does that answer your --

10 MEMBER GOODSELL: It's getting out of hand --

11 MR. BUSCEMI: Right.

12 MEMBER GOODSELL: -- because the size of the store, according
13 to the plan, is accommodating the food.

14 MR. BUSCEMI: Right.

15 So to breakdown, again, to breakdown the areas, this is the floor
16 plan here, which, Mr. Mammina, I'm sure. So back here is the
17 attendant area. This is purely just for the gas, cigarettes, lotto,
18 stuff like that. Back here in this area, this rectangle up here,
19 this will be your food prep area. So you'll notice all of your food
20 prepping equipment is lined on that back line. So again, in that
21 area you have panini presses, you have ovens to reheat donuts, and
22 you'll have other forms of equipment, such as their coffee machines,
23 they have mochas and lattes and all those fun coffee offerings, as
24 well, as well as -- I believe that is a dishwasher. So I believe
25 that is all the equipment food-wise. It's going to be ovens, panini
26 presses, which, again, which are preheated -- which are pre-made at

1 a different location, they're frozen -- not frozen, but chilled, and
2 then they can come in, and they can be pressed, just to heat up and
3 sell as is.

4 CHAIRMAN MAMMINA: So it's strictly paninis, that's the only
5 thing.

6 MR. BUSCEMI: Paninis, donuts, munchkins, which they call
7 Timbits.

8 VICE-CHAIRMAN FRANCIS: No pizza, no hot dogs, no --

9 MEMBER GOODSSELL: Pretzels.

10 VICE-CHAIRMAN FRANCIS: -- pretzels.

11 MR. BUSCEMI: As part of the Tim Hortons, no. That is not their
12 brand.

13 CHAIRMAN MAMMINA: The code just doesn't permit that, though.
14 The code doesn't permit that, and regardless of what Bolla thinks,
15 that's not what the Town Board thinks regardless of what you might
16 have built before, which maybe got by the Building Department. That
17 doesn't matter, you know. Now you can argue why you -- why you need
18 that on this -- right, it's all connected to the size of the property,
19 and I would assume that that's well known. So you know, you certainly
20 seemed to be prepared, you know, for, you know, what the questions
21 will be, you know, and again, that refrigerated garbage, you know,
22 is tied into a pickup inside the building. There are -- there are
23 agreements that are signed that that's what's going to happen. It's
24 not going to go into that dumpster, you know, out there, you know.
25 If you've got people eating in the parking lot and throwing it into
26 that dumpster, that's a problem. That is a problem in the Town of

1 North Hempstead.

2 MR. INGBER: The problem could happen in the town on any size
3 lots.

4 MR. BUSCEMI: Yeah, I mean --

5 CHAIRMAN MAMMINA: You're missing my point, and we can go back
6 and forth all you want, read aloud, if you would like into the record,
7 what the ordinance says.

8 MR. BUSCEMI: And I understand you, but --

9 CHAIRMAN MAMMINA: Excuse me.

10 MR. BUSCEMI: Sorry.

11 CHAIRMAN MAMMINA: The ordinance is the ordinance. We live and
12 die by ordinances, you live and die by ordinances, I live and die
13 by ordinances, otherwise, we don't need a Zoning Board, you know,
14 that's -- we're here, you know, to do that balancing test.

15 MR. INGBER: Right, and then, as a balancing --

16 CHAIRMAN MAMMINA: So if you have that everywhere --

17 MR. INGBER: Right.

18 CHAIRMAN MAMMINA: -- that doesn't happen.

19 MR. INGBER: So the gas station industry has changed, and I'm
20 not sure if the town code has factored in how the industry -- the
21 changes in the industry, and gas stations --

22 VICE-CHAIRMAN FRANCIS: That really -- the the town code is the
23 town code.

24 MR. INGBER: Right, and that's why we're here because we don't
25 comply because --

26 VICE-CHAIRMAN FRANCIS: So I mean, don't tell us that, you know,

1 the town code hasn't kept up with the changes. I mean, the code is
2 the code.

3 MR. INGBER: Right.

4 VICE-CHAIRMAN FRANCIS: You're here either to comply with the
5 code or to convince us that we need to vary it.

6 MR. INGBER: Right, and the way that gas stations do without
7 a convenience store, it's just not -- and the amount of investment
8 that Bolla's putting into this property --

9 VICE-CHAIRMAN FRANCIS: We understand that.

10 MR. INGBER: The convenience store makes the site --

11 VICE-CHAIRMAN FRANCIS: First of all, let me back up. Is this
12 a 24 hour convenience store?

13 MR. INGBER: Yes.

14 VICE-CHAIRMAN FRANCIS: All right, so in terms of intensive
15 use, this is about as intensive as you can get. On top of that, now
16 you want a store that's bigger than the code allows.

17 CHAIRMAN MAMMINA: And also, I'll say, where does it say in the
18 ordinance that the return has to happen in favor of an applicant?

19 MR. INGBER: It doesn't say that, but that's it -- that's --

20 CHAIRMAN MAMMINA: It doesn't say that. In a use variance, you
21 talk about that kind of a thing, but not in area variances.

22 MR. INGBER: Right.

23 CHAIRMAN MAMMINA: And we're here for area variances.

24 MR. INGBER: Right.

25 VICE-CHAIRMAN FRANCIS: Correct.

26 CHAIRMAN MAMMINA: You know, you're 500 square feet over what

1 you're allowed.

2 MR. INGBER: Right.

3 CHAIRMAN MAMMINA: Me, as an architect, if I'm building a
4 supermarket, and it says that supermarket could be 10,000 square
5 feet, that includes the storage areas, that includes the lockers,
6 that includes everything. It's a gross area.

7 MR. INGBER: Right.

8 CHAIRMAN MAMMINA: You know, and I think you know, that probably
9 all three of you would say, yes, you know, that, you know, that is
10 the case, investing, and if they're investing a lot of money in this,
11 maybe they bought the wrong piece of real estate or if they don't
12 want to chop it down, you know, that's, you know, that's what business
13 is all about.

14 MR. INGBER: Right.

15 CHAIRMAN MAMMINA: You know, we're all in business, you know,
16 and we have to make decisions.

17 VICE-CHAIRMAN FRANCIS: Off the record.

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

19 CHAIRMAN MAMMINA: Name and address.

20 MR. TORTORELLA: Yeah.

21 For the record, my name is Nicholas Tortorella,
22 T-O-R-T-O-R-E-L-L-A. I'm a licensed professional engineer in the
23 State of New York and a traffic engineering project manager with
24 Stonefield Engineering and Design located at 584 Broadway, Suite 310,
25 New York, New York.

26 I will stick to just the traffic engineering elements of this

1 application, just to keep it as brief as possible, but no need to
2 rehash totally.

3 Pretty much our proposed project is proposing to take an
4 existing site with six vehicle fueling positions and 800 -- 1,800,
5 excuse me, square foot building that serves as a small convenience
6 store and an auto service station, and we are proposing to have a
7 development with eight fueling positions in that same 1,800 square
8 foot building which will be entirely a convenience store, inclusive,
9 as we've talked about, of storage areas, bathrooms, you know,
10 walkways and all that.

11 So essentially, we are looking at an increase of two vehicle
12 fueling positions and the conversion from an auto service station
13 to a convenience store. I do want to just note for the record, as
14 we've talked about before, based on the town requirement for parking,
15 we are compliant by providing seven onsite parking spaces, where
16 seven are required, and really, we are seven square feet total over
17 requiring six parking spaces.

18 The existing site has four access points, two along Hillside
19 Avenue, two along Lakeville Road. Just for the record, Hillside
20 Avenue is a roadway under the jurisdiction of New York State DOT,
21 New York State Route 25B, and Lakeville Road is a roadway under the
22 jurisdiction of Nassau County, County Route 11.

23 We are proposing to maintain the two existing access points
24 along Hillside Avenue. The access to the east of the site will be
25 a right turn ingress only driveway. The access located closer to
26 the signal along the western edge of the site frontage will be a right

1 turn egress only driveway.

2 Along Lakeville Road, we are proposing to consolidate the two
3 existing access points to provide only one curb cut in the future
4 that will be a right turn in and right turn out only driveway. So
5 there will be no left turns permitted into or out of this site via
6 any of the three proposed curb cuts.

7 Just generally speaking, I do view this project as an overall
8 improvement to site access because we are consolidating the access
9 on Lakeville Road. We are shifting the curb cut further away from
10 the traffic signal, and we are proposing to remove the existing
11 fueling dispenser that's located to the right of the middle of one
12 of the existing curb cuts. So just generally speaking, I do view
13 it as an overall improvement to circulation at not only the
14 intersection but into and out of the site to and from Lakeville Road.

15 MEMBER GOODSSELL: And if I could just clarify for a second.

16 MR. TORTORELLA: Yes, absolutely.

17 MEMBER GOODSSELL: You are keeping the green space at the actual
18 corner of the property. At the corner of Lakeville and Hillside.

19 MR. TORTORELLA: That's correct, and our project engineer can
20 confirm, but I believe we are actually expanding the existing
21 landscaped area at that corner.

22 MEMBER GOODSSELL: In my opinion, that is a safety issue. It
23 stops people from cutting that corner which I have seen people do
24 at others gas stations.

25 MR. TORTORELLA: So you're saying -- you're saying that
26 people --

1 MEMBER GOODSSELL: I'm saying it's a safety issue because people
2 traveling along Hillside Avenue, instead of stopping for the light,
3 just cut across the gas station. So I just want to clarify that that
4 green space is, in fact, staying.

5 MR. TORTORELLA: That is correct.

6 One point I will make to that is the driveway located adjacent
7 to the signal where that cut-through maneuver could occur is an egress
8 only driveway. So it will be posted as such, and it is restricted
9 to exiting only. Of course, that requires people to actually follow
10 what it's posted for, but we have designed it --

11 MEMBER GOODSSELL: I'm familiar with the station.

12 MR. TORTORELLA: Yeah, we --

13 MEMBER GOODSSELL: I was there --

14 MR. TORTORELLA: Yeah.

15 MEMBER GOODSSELL: -- the other day, I get gas there.

16 MR. TORTORELLA: Understood.

17 MEMBER GOODSSELL: I'm very familiar with it, and I'm very
18 familiar with the general public who generally follows the suggested
19 signs.

20 MR. TORTORELLA: Yes.

21 One note about the existing, I also get gas there occasionally.
22 It is a full movement driveway right now. It is not restricted to
23 exit only. We are proposing to change that to an exit only, but your
24 point is well taken, and then just in terms of the traffic and trip
25 generation specifically, because we are here, as we've talked about,
26 regarding the size of the convenience store, 1,807 square feet. That

1 is the reason, or one of the reasons, we are in front of the Board
2 this afternoon.

3 So my office prepared trip generation estimates for the proposed
4 convenience store in comparison to what the existing auto service
5 station with fueling currently generates. Basically, what ITE, or
6 the Institute of Transportation Engineers, projects for this change
7 in use is that the proposed Bolla with fueling will generate no more
8 than 30 additional vehicle trips in any single peak hour which
9 represents approximately one total new vehicle trip every two minutes
10 which is generally imperceptible to any driver on either roadway,
11 and based on traffic volume data for both Hillside Avenue and
12 Lakeville Road, that additional trip generation would constitute
13 less than a one percent increase in peak hour traffic volumes on those
14 two roadways traveling past the site, which again, based on industry,
15 you know, experience and my professional judgment, is completely
16 imperceptible to any driver traveling past this site.

17 I do also want to note that ITE projects trips for these
18 convenience stores with fueling uses for convenience stores that are
19 typically larger than 2,000 square feet. So for our 1,800 square
20 foot proposed convenience store, those trip estimates are actually
21 expected to be somewhat conservative. So the additional trip
22 generation for the site, could even, in theory, be lower than the
23 projected 30 in any single peak hour. But again, from a traffic
24 engineering perspective, simply, you know, taking out all other
25 aspects of the application, converting the 1,800 square foot building
26 to a convenience store is not expected to significantly or adversely

1 impact traffic operations on Hillside Avenue or Lakeville Road.

2 MEMBER DONATELLI: So I'm going to interrupt. I'm going to
3 renew my question because I don't think I got an answer to it. Do
4 we know what the size of the existing store is, and my followup
5 question to that, in light of what you just said --

6 MR. TORTORELLA: Mm-hmm.

7 MEMBER DONATELLI: -- is, does your traffic generation report
8 take into account what is already there versus what is proposed with
9 the 800 -- 1,800 square foot store?

10 MR. TORTORELLA: Yeah, understood.

11 So first question, the existing size of the convenience store
12 is approximately 585 square feet. Yeah, and the auto repair
13 component of the building, approximately just over 1,200 square feet,
14 first question.

15 Second question, the trip generation analysis. Yes, it does
16 take into account what the existing use is onsite and what the
17 proposed use is onsite, and the 30 trips that I'm talking about total
18 in any single peak hour is the additional volume generated by the
19 proposed as compared to existing.

20 One thing I do want to point out is, ITE does separate the two
21 uses. One is an auto service station with fueling that ITE actually
22 notes typically do contain a small convenience store element similar
23 to what's at the site today. The second use for the proposed Bolla
24 convenience store is a convenience store only with fueling. There
25 is no auto service component to that land use per ITE, which is why
26 it's directly applicable to our project today.

1 VICE-CHAIRMAN FRANCI: I don't know if you can speak to this,
2 but because this is 24 hour store --

3 MR. TORTORELLA: Mm-hmm.

4 VICE-CHAIRMAN FRANCIS: -- how much foot traffic is this going
5 to generate in addition to the vehicle traffic?

6 MR. TORTORELLA: In terms of pedestrian trips?

7 VICE-CHAIRMAN FRANCIS: Mm-hmm.

8 MR. TORTORELLA: I don't know the exact number off the top of
9 my head. There is information out there that we could calculate.
10 Generally speaking, this type of use, the convenience store leverages
11 the gas to generate its traffic. That's why, oftentimes, in these
12 applications, when parking is discussed, it's obviously not an item
13 that we're talking about, you know, specifically today, but it often
14 does come up on these applications, and typically, the vehicle
15 fueling positions are actually counted as parking spaces for the
16 development because a majority of the business driven by the
17 convenience store component is basically a subset of the fueling.
18 So people park their car in a fueling position and actually then walk
19 into the convenience store to pick up whatever they'd like to in the
20 store, and that is, really, a long form way of answering your question
21 to say a majority of the trips are expected to be vehicle trips.

22 CHAIRMAN MAMMINA: I've never heard --

23 MR. TORTORELLA: Yeah.

24 CHAIRMAN MAMMINA: I've never heard that. Is that -- is that
25 something that you could submit to the Board?

26 MR. TORTORELLA: It actually -- it is contained in the write-up

1 in my report.

2 CHAIRMAN MAMMINA: But, your write-up is fine.

3 MR. TORTORELLA: Okay.

4 CHAIRMAN MAMMINA: But I'm saying to document it in terms of,
5 this is what ITE says, because if everybody getting gas or even two
6 people getting gas go in to get coffee, and you know, a donut or
7 whatever, you know, where is that -- where is that stacking space
8 for those other cars while they're coming out, you know, they got
9 little kids, they're using the bathroom, you know, I've just -- I've
10 just never heard that before, so --

11 MR. TORTORELLA: Okay.

12 CHAIRMAN MAMMINA: I would just ask to see that. It could be
13 an opinion, opinions are nice. I have lots and lots of opinions.
14 Of course, mine are always correct.

15 MR. TORTORELLA: Of course, especially in this room.

16 Yeah, we can absolutely submit that.

17 CHAIRMAN MAMMINA: Okay, no, if you could. I'm just curious
18 because I like to keep these things in my own mind for the projects
19 that I do.

20 MEMBER DONATELLI: And you also indicated that this is going
21 to be open 24 hours.

22 MR. TORTORELLA: That is correct.

23 MEMBER DONATELLI: In the notice we don't have a loading zone,
24 it's one of the variances being requested here. How will supplies
25 be brought to the site? When will they be brought in to the site?
26 What kind of trucks or other conveyance vehicles will you have for

1 the supplies? How will be they loaded and unloaded?

2 MR. TORTORELLA: Yup, understood.

3 MEMBER GOODSSELL: When will the gas be delivered?

4 CHAIRMAN MAMMINA: One more thing to attach to it is that based
5 on where the dumpster is and the parking spaces that are there; what
6 happens? How do you pick up the, you know, the trash if there's one
7 parking space any place in there that's occupied with a car?

8 MR. TORTORELLA: So I'm going to take those one at a time if
9 that's okay, and I'll kind of just move left to right, if that's all
10 right as well.

11 So first question, I'm just going to do fueling quickly before
12 deliveries.

13 Fueling. The plan is to deliver fuel about twice per week.
14 It's with a standard tractor-trailer fuel delivery truck. This was
15 submitted, or this plan that I'm about to discuss was submitted and
16 discussed with the New York State DOT as Hillside Ave. is under their
17 jurisdiction. They have reviewed and approved this delivery plan
18 and the reason I'm pointing that out is because the plan is for the
19 WB-50, a wheel-based 50 tractor-trailer fueling truck, to enter the
20 site traveling westbound on Hillside, making a right turn into the
21 exit only driveway. You can obviously see the fuel banks located
22 at the southwest corner of the site. It would basically park in the
23 southwest corner of the site directly adjacent to the landscaped
24 area, conduct its fuel delivery and exit the site by essentially
25 pulling straight out of the curb cut on Lakeville Road making a right
26 turn to turn to travel northbound on Lakeville Road. Those would

1 be scheduled to occur during off-peak hours, basically right in the
2 middle of the day, very early morning or late at night to not coincide
3 with the peak hours of activity of the site or the roadways that
4 traverse past the site, and again, that would be approximately two
5 times per week.

6 Moving now to deliveries. Similarly, those would be expected
7 to be conducted between two, and potentially, up to three times per
8 week. Those would be conducted using a single unit box truck up to
9 40 feet in length, not a tractor-trailer. In the same vein, they
10 would enter the site by traveling westbound on Hillside making a right
11 turn into the egress only driveway, closer to the signal, and they
12 would park or stage directly adjacent to that landscaped area.

13 Now, I ran some calculations on the site plan. The requirement
14 per the code is a 10-foot by 25-foot designated loading area. We
15 can provide a designated area of that size directly adjacent to that
16 landscaping where access to all three driveways will be maintained,
17 full movement throughout the site will be maintained and access to
18 every vehicle fueling position will also be maintained while a
19 vehicle, or delivery truck I should say, is occupying that parking
20 space directly adjacent to that landscaped area. But that is our
21 loading plan. Similarly to the fueling truck, it would exit
22 northbound on Lakeville Road.

23 MEMBER DONATELLI: So your loading plan is to put the truck in
24 the same location as where the gas delivery truck would be.

25 MR. TORTORELLA: Yes, that is correct.

26 MEMBER DONATELLI: Well, God forbid they'd show up at the same

1 time.

2 MR. TORTORELLA: They're controlled by the operator, and you
3 know, considering the frequency of those deliveries, the chance of
4 that is very unlikely, in my opinion.

5 MEMBER DONATELLI: All right, and the garbage?

6 MR. TORTORELLA: Garbage would be collected two to three times
7 per week. Those truck would enter via the ingress only driveway for
8 access to the receptacle at the northeast corner.

9 The Chairman's point is well taken. There are parking spaces
10 directly adjacent to that garbage receptacle. It would be a private
11 carting service. They would be scheduled to occur during overnight
12 hours or very early morning or late evening hours where the chances
13 that those parking spaces were occupied would be very low. There
14 are attendants onsite who would have -- at all times who would be
15 able to help coordinate the movement of cars parked in those spaces,
16 just temporarily, while the garbage truck needs to conduct it's
17 pickup. In the case that a car could not be moved, the garbage truck,
18 again, a private carting service, would simply exit the site and
19 continue on its route without picking up the trash. The
20 schedule -- the pickups, excuse me, are scheduled frequently enough
21 where if a delivery was missed, there is sufficient capacity,
22 according to our project engineer, to accommodate the additional
23 demand generated by the site until the next pickup would occur.

24 So you know, it's not that there is no chance that the parking
25 spaces would block access to the trash receptacle. It is just my
26 opinion that the chances are relatively low because we, as the

1 operator, have the ability to schedule those deliveries at times when
2 it's very unlikely those spaces would be occupied. But in the case
3 that they are occupied, they would simply continue on their route
4 and return at a later time of day or simply return at their next
5 scheduled pickup in two days.

6 VICE-CHAIRMAN FRANCIS: How much fuel is being pumped or sold
7 per month right now?

8 MR. TORTORELLA: That I would have to defer to the project -- I
9 don't know that piece of information.

10 VICE-CHAIRMAN FRANCIS: Okay, and then is there an anticipation
11 that that's going to increase?

12 MR. TORTORELLA: I would say the ideal goal would be for it to
13 increase somewhat proportionally with the increase from six to eight
14 fueling positions.

15 VICE-CHAIRMAN FRANCIS: So right now, is there -- is there two
16 deliveries a week right now?

17 MR. TORTORELLA: It's an -- it's a separate gasoline operator
18 that we don't control, so I do not know the frequency, but typically,
19 for gas stations, in my experience, in applications that I've worked
20 on, it's about two times per week. But I don't want to say -- I don't
21 want to pretend like I know the answer to what's going on there right
22 now. I do not.

23 VICE-CHAIRMAN FRANCIS: So that's about 10,000 gallons a week.

24 MR. TORTORELLA: Delivered? What's the capacity of the tank?

25 MR. BUSCEMI: 24,000 gallons.

26 MR. TORTORELLA: 24,000 gallons stored onsite at any one time.

1 VICE-CHAIRMAN FRANCIS: Yeah, but that's not going to be --

2 MR. TORTORELLA: No, of course not, of course not, yeah.

3 VICE-CHAIRMAN FRANCIS: I'm just trying to figure out, you
4 know, because I'm, you know, I'm still thinking about the intensity
5 of the use.

6 MR. TORTORELLA: Mm-hmm.

7 VICE-CHAIRMAN FRANCIS: And if, you know, if you're -- if you're
8 saying two deliveries a week, you don't really know what it is right
9 now, I just think the intensity is going to increase one way or the
10 other.

11 MR. TORTORELLA: I am not -- I completely agree with you. Like,
12 I am saying that the intensity will somewhat increase from what is
13 there currently to what we are proposing. What I'm saying is, based
14 on industry standard data for these uses, the projected increase in
15 volume, specifically during those peak hours, is at a level where
16 the additional traffic will be imperceptible to people driving past
17 the site, and we've designed the site with a sufficient number of
18 fueling positions, parking spaces and drive aisle widths so that it
19 can accommodate the additional intensity even without, what's the
20 right word, even without having a lot size, you know, that is required
21 for the convenience store.

22 VICE-CHAIRMAN FRANCIS: A convenience store of this size, would
23 you say that it's more akin to, like, a 7-Eleven operation? A
24 standalone 7-Eleven? Because this is a very big convenience store.
25 It's not your typical gasoline station convenience store.

26 MR. BUSCEMI: Yeah, so our office works with 7-Eleven as well.

1 7-Eleven's standard is 3,000 square feet. So this is 1,800, so not
2 exactly half, but it's smaller than the 7-Elevens.

3 VICE-CHAIRMAN FRANCIS: But bigger than a normal -- I won't even
4 say normal, bigger than a -- what we're used to in terms of seeing
5 convenience stores at gasoline stations.

6 MR. BUSCEMI: I would respectfully disagree with you.

7 VICE-CHAIRMAN FRANCIS: Okay.

8 MR. BUSCEMI: And the reason -- the only reason why I'm going
9 to say that is I know Bolla themselves, we -- I alone have done over
10 50 of them. This is smaller scale. So the only time they ever go
11 this small is when there's code issues like this.

12 CHAIRMAN MAMMINA: Well, that -- now, you raise an interesting
13 point. I'm sure Bolla went in with their eyes open, and they knew
14 that this was at least 30 percent bigger or maybe I'm a little bit
15 off, but they elected to buy it. Now, did they seek out other sites?
16 I mean, otherwise, this is self-created. I mean, we, you know, it's
17 very difficult for us, you know, and I can make up five other examples
18 of, you know, I want to create a such and such, you know, and I go
19 ahead and buy it, and I say, what do you mean I can't get double the
20 office space that I wanted, but that's what I want, you know. It's
21 like Christmas with my kids, you know, but that's what I want. So
22 I mean, that, I don't see any answer, you know, to that at all, you
23 know, is why can't it be smaller, and of course it can. You may not
24 make as much a money, that's not our problem. It may not work within
25 your four corners of how you do this kind of a store, you know, and
26 then, you know, further, there's gas stations closing all over place.

1 There's one right across the street from here that's been open for
2 decades, decades, decades. They're closing. So the question is,
3 unequivocal answer, not a dance around it answer. Why can't it be
4 made smaller?

5 MR. BUSCEMI: You, I mean, you just answered the question.

6 CHAIRMAN MAMMINA: Okay, but --

7 MR. BUSCEMI: There's a gas station closing right here. To be
8 competitive in the market you have to provide an offering that isn't
9 available.

10 CHAIRMAN MAMMINA: But why can't this be made smaller? Why
11 can't it comply?

12 MR. INGBER: Yeah, all right, yeah.

13 CHAIRMAN MAMMINA: You know, and that's what --

14 MR. INGBER: Understood.

15 CHAIRMAN MAMMINA: -- that's what so much of this application --

16 MR. INGBER: Yeah.

17 CHAIRMAN MAMMINA: -- is about.

18 MR. INGBER: Yeah, understood.

19 CHAIRMAN MAMMINA: Compliance.

20 MR. INGBER: Yeah, so going back to -- before I finish my
21 presentation, we would like to discuss this with our client, we can't
22 give you an answer now. So if the Board is inclined, we'd like to
23 have the -- keep the hearing open so we could discuss this issue with
24 the board.

25 VICE-CHAIRMAN FRANCIS: We can continue the application,
26 absolutely.

1 MR. INGBER: Okay.

2 CHAIRMAN MAMMINA: But do we want to give another hearing?

3 VICE-CHAIRMAN FRANCIS: Oh, no, I don't think we need --

4 MR. INGBER: No, just continue it.

5 MEMBER DONATELLI: Are you asking for a second hearing?

6 MR. INGBER: No, this will require -- this will require more
7 than a second call. We'll have to really look at this with our
8 client.

9 CHAIRMAN MAMMINA: Tell your client there is no second hearing.

10 MR. INGBER: We'll leave the record open.

11 VICE-CHAIRMAN FRANCIS: Yeah, we're leaving the record open.

12 ATTORNEY ALGIOS: So what about -- I don't think we've addressed
13 the canopy signs. I don't -- did you talk about that?

14 MR. INGBER: I addressed it in my testimony.

15 ATTORNEY ALGIOS: So I know we've been talking --

16 MR. INGBER: I haven't -- we have not addressed the ground
17 signs.

18 ATTORNEY ALGIOS: Oh, the ground signs, okay. I don't know if
19 the Board has any questions.

20 MR. INGBER: Yeah, so we're -- that's -- yeah. We want to see
21 if the Board has any other questions before we --

22 ATTORNEY ALGIOS: I also just wanted to let you know, so the
23 Board recently, probably about a year ago, denied an application,
24 200 Hillside Avenue, which requested a 1,500 square foot convenience
25 store.

26 MR. INGBER: Okay.

1 ATTORNEY ALGIOS: So you may want to look into that.

2 MR. INGBER: Yup.

3 ATTORNEY ALGIOS: And you may want to address to the Board why
4 this application is different.

5 MR. INGBER: Okay.

6 ATTORNEY ALGIOS: And just to distinguish it from that one.

7 MR. INGBER: Right, okay.

8 CHAIRMAN MAMMINA: And I think that's -- that is a crucial
9 point. We've denied this, you know, and in doing your homework, you
10 know, that did anybody look at what our past history is and the
11 decisions on this? Has anybody looked at what we normally grant for
12 this signage, you know, coming in?

13 MR. INGBER: Right.

14 CHAIRMAN MAMMINA: You know, I mean, it's not, you know, it -- I
15 can't even think of the word I want.

16 MR. INGBER: Right.

17 CHAIRMAN MAMMIN: You've got Synergy, Tim Hortons, Bolla
18 Market. It's a gas station.

19 MR. INGBER: Right and understood, and in anticipation --

20 CHAIRMAN MAMMINA: And you'll have your signs that are on the
21 building.

22 MR. INGBER: Yeah.

23 CHAIRMAN MAMMINA: I don't know if we've even gotten to those
24 yet, but --

25 VICE-CHAIRMAN FRANCIS: You mentioned that.

26 CHAIRMAN MAMMINA: -- you know, but I'm saying, as one Board

1 member, do you really have to put on there fuel economy --

2 MR. INGBER: Right.

3 CHAIRMAN MAMMINA: -- Synergy?

4 MR. INGBER: Understood.

5 CHAIRMAN MAMMINA: Who knows what Synergy means?

6 MR. INGBER: Right.

7 CHAIRMAN MAMMINA: I know what Synergy means to me.

8 MR. INGBER: Right.

9 CHAIRMAN MAMMINA: You know, that's great. We agree that's
10 great synergy we have, and I think nobody knows what that, you know,
11 what that is, and I'll tell you what, half the world doesn't know
12 what Tim Hortons coffee is. I am the world's biggest coffee drinker.

13 MR. INGBER: Right.

14 CHAIRMAN MAMMINA: I went by one on Old Country Road in the Carle
15 Place area for years before I said, oh, they sell coffee there? I
16 didn't --

17 MR. INGBER: Right.

18 CHAIRMAN MAMMINA: -- know that.

19 MR. INGBER: So more the reason to have Tim Hortons' branding
20 so the public is aware of the coffee shop.

21 VICE-CHAIRMAN FRANCIS: -- pylon sign, I don't see the need.

22 MR. INGBER: Okay, I'll have a -- we did anticipate that, this
23 question. So we would like to amend the size of the square footage
24 and the height of the proposed ground signs to match what was approved
25 by the Board for the previously mentioned Bolla application at Willis
26 Avenue. Our project engineer has a -- do you have anything to -- do

1 you want to go over the revised plan?

2 MR. BUSCEMI: Yeah.

3 MR. INGBER: Sure, the engineer who prepared the revised plan
4 can let the Board know what we are proposing, you know, in its place.

5 CHAIRMAN MAMMINA: But I do want to punctuate one more time.
6 We've denied things smaller than this.

7 MR. INGBER: Right, thanks.

8 CHAIRMAN MAMMINA: I want to make sure you take that --

9 MR. INGBER: Right.

10 CHAIRMAN MAMMINA: -- back to Bolla.

11 MR. BUSCEMI: No, and understood.

12 So to answer your first question or your first point of what's
13 Synergy, what the heck is Synergy? It means our oil brands. You're
14 100 percent right. Nobody knows what it means other than the oil
15 brands. However, we are required to show it. We do have to show
16 proof that it was attempted to get. It is part of their standards.
17 They spend millions and millions of dollars a year understanding that
18 we have now made that effort knowing that most municipalities don't
19 want it.

20 So we have removed that. Additionally, we've removed an
21 additional price panel. So the overall height of the sign will now
22 be 18 feet.

23 MR. INGBER: Eighteen feet is now code compliant.

24 So we ask that the application be amended to remove the request
25 for the height variance for the --

26 MEMBER DONATELLI: Let me --

1 MR. INGBER: -- two ground signs.

2 MEMBER DONATELLI: Let me suggest this.

3 You are proposing to make some changes to the application. I
4 think the proper thing to do, because there's a lot going on on this
5 application, the proper thing for you to do would be, whatever
6 proposals you're making to change the application, to run it first
7 by the Building Department. If things are now compliant, for
8 example, you mentioned one of the signs being dropped from 4 8 to
9 4 6. If that were to come compliant, you -- whatever other changes
10 you're proposing, to run them by the Building Department first. If
11 they are then compliant, then you know, we'll be advised of that by
12 the Building Department. But it's not appropriate for us to just
13 be saying, well, we'll do this here, and we'll do this here. I think
14 that we would want to see new plans run by the Building Department
15 for their input, and then we can make a determination based on that.
16 I will say that I think you've heard loud and clear the skepticism
17 on this Board --

18 MR. INGBER: Right.

19 MEMBER DONATELLI: -- so that if you take that skepticism and
20 you rework the plans to either make the market smaller or to make
21 it more compliant, or to point out to us where we may have done
22 something in the past that sets some precedent. All of that would
23 be helpful.

24 MR. INGBER: Right.

25 MEMBER DONATELLI: But it's not really appropriate to be doing
26 it verbally here in the course of this hearing.

1 MR. INGBER: Okay, understood.

2 So we would have to submit -- we would submit revised plans to
3 the Building Department, and then the Board would be aware of the
4 updated review.

5 CHAIRMAN MAMMINA: I think our suggestion, for your benefit --

6 MR. INGBER: Right.

7 CHAIRMAN MAMMINA: -- so that, you know, you don't -- you don't
8 create something that you think is wonderful, that we think is
9 wonderful --

10 MR. INGBER: Right.

11 CHAIRMAN MAMMINA: -- and then you go back to the Building
12 Department --

13 MR. INGBER: Understood.

14 CHAIRMAN MAMMINA: -- and you get other objections.

15 MR. INGBER: Okay.

16 CHAIRMAN MAMMINA: Thank you to the three of you, sincerely.

17 MR. INGBER: In terms of what --

18 CHAIRMAN MAMMINA: Oh, oh, we're going to do signs.

19 MR. INGBER: Yeah, I want to have him finish the signs.

20 CHAIRMAN MAMMINA: Sorry, sorry, please, please, please.

21 MR. INGBER: Okay.

22 MR. BUSCEMI: I mean, if we're going to resubmit plans, I mean,
23 I can go over with you what's in front of you just so you could see.

24 So it'll be an 18-foot tall sign, which, as Matt indicated, is
25 code compliant. We reduced the size of the sign from 84.9?

26 MEMBER GOODSSELL: 85.9.

1 MR. BUSCEMI: 85.9 to 67.4. That is more than in the range of
2 what this Board has approved before. I believe the Bolla on Willis
3 Avenue was 65, 66 square feet, don't quote me exactly, it's plus or
4 minus 4 or 5 square feet.

5 Additionally, the building will have Bolla Market, the Bolla
6 lion placard, and then the Tim Hortons. You know, it's important
7 to note, this site is the yellow outline. We're surrounded on two
8 of the sides by a very large building. So to be able to present to
9 motorists the offerings that we do have with the constraints that
10 are there is the reason we're requesting so many signs.

11 MEMBER DONATELLI: We try and do the right thing. We try and
12 follow precedent. We know that, you know, the applicant may come
13 in and ask for the moon and the sun and the stars. We know that very
14 often the -- what is actually granted is something less than the moon
15 and the sun and the stars. I would urge you to take the skepticism
16 that you've heard from this Board to rework your plans and to see
17 what we come with.

18 MR. BUSCEMI: Absolutely, understood. Thank you, very much,
19 for your time.

20 VICE-CHAIRMAN FRANCIS: One other point.

21 I would love for your traffic engineer to provide us with some
22 research with regard to how intense foot traffic is going to be to
23 this location because in my head I'm thinking it's going to be part
24 of the -- it's going to be part of the development of this --

25 MR. BUSCEMI: Well, and it is part of the development. So part
26 of the New York State DOT requirements is we actually are required

1 to provide an ADA accessible path from the DOT road. That ADA
2 accesible path starts up on Lakeville Avenue (sic) and provides
3 the -- anybody walking onto the site, a clear path to enter the site
4 and get to the store safely without going into traffic bearing areas.

5 MR. TORTORELLA: If I could just add one thing.

6 Well taken, point is well understood. One other thing I'd like
7 to point out is that there are ADA compliant pedestrian crosswalks,
8 curb ramps, pedestrian signals and ADA accessible push buttons across
9 all four approaches to the intersection in our southwest corner. So
10 in terms of pedestrian access, as our project engineer just testified
11 to, onsite and along our frontage, we have great pedestrian
12 accessibility, and at the kind of cornerstone intersection right at
13 our frontage, also as about ADA compliant as you can have a state
14 intersection to be in New York, in my professional opinion, like,
15 this site is very conducive to pedestrian access. But again, when
16 we resubmit, I will provide additional information about the volume
17 of pedestrian trips --

18 VICE-CHAIRMAN FRANCIS: That's what I'm --

19 MR. TORTORELLA: -- in the peak hours.

20 Yes, we can absolutely do that.

21 ATTORNEY ALGIOS: I also have a question for you --

22 MR. TORTORELLA: Yup.

23 ATTORNEY ALGIOS: -- that I didn't see addressed in your report,
24 but it seems to me that if you're going from just providing what's
25 allowed, which is prepackaged items for offsite consumption, like,
26 your typical little --

1 MR. TORTORELLA: Mm-hmm.

2 ATTORNEY ALGIOS: -- small convenience store to no lunch items;
3 right?

4 MR. TORTORELLA: Mm-hmm.

5 ATTORNEY ALGIOS: Paninis, and other type of food, pizza. You
6 may also attract people who aren't just getting gas. I mean, I know
7 for myself, when I go to pick my daughter up in college, and my husband
8 and I, sometimes we start getting hungry for lunch, we'll pull into
9 a Tim Hortons.

10 MR. TORTORELLA: Mm-hmm.

11 ATTORNEY ALGIOS: Just to get lunch, not gas.

12 MR. TORTORELLA: Yup.

13 ATTORNEY ALGIOS: We go in there just for the food. So maybe
14 also address that, because I didn't see that anywhere, what
15 percentage of volume are you expecting of traffic, not just foot
16 traffic --

17 MR. TORTORELLA: Mm-hmm.

18 ATTORNEY ALGIOS: -- but actual vehicle traffic in addition to
19 cars coming in just, you know, for gas, that are coming in just for
20 the food.

21 MR. TORTORELLA: Yeah, so this is a point that I touched on
22 earlier, and it was addressed in the report, respectfully. The
23 Institute of Transportation Engineers, which is, in the traffic
24 engineering industry, it is the gold standard. That is what's
25 referenced when you project the amount of additional trips that will
26 be generated by a development or redevelopment project. The land

1 use code for a convenience store with fueling does account for the
2 sale of lunch items and pizza or whatever it is in a typical
3 convenience store. Take out what this municipality considers
4 permissible to sell in a convenience store of this size, just take
5 that aside for a moment, in a typical convenience store that sells
6 everything from breakfast to lunch to dinner items, that land use
7 code projects vehicle trips generated by gas only, by the convenience
8 store only and by the combination of gas and convenience store.

9 So all three, quote/unquote, type of trips that could be
10 generated by this use are included in that land use code which is
11 why we used that land use code for our proposed project as compared
12 to a land use code in ITE for an auto service station and gas station
13 for the existing site because you're very correct. They are two
14 different things. They generate trips in both different intensity
15 and in a different manner which is why we separated them out. So
16 we did account for that.

17 ATTORNEY ALGIOS: So I think you did mention that, and so is
18 that -- you were saying then, you anticipated it generating one
19 additional vehicle about every two minutes over the use --

20 MR. TORTORELLA: That's currently there.

21 ATTORNEY ALGIOS: -- that's there now.

22 MR. TORTORELLA: That's correct.

23 ATTORNEY ALGIOS: Okay, thank you.

24 MR. TORTORELLA: No problem.

25 VICE-CHAIRMAN FRANCIS: What is the current convenience store
26 selling now in terms of food items?

1 MR. TORTORELLA: I believe it's very limited. It's packaged
2 candy, it's chips, crackers, nicotine products. There is no, like,
3 prepared food that's sold there. It is an auxiliary convenience
4 store to the service station and gas station uses.

5 VICE-CHAIRMAN FRANCIS: Coffee, tea, that kind of thing.

6 MR. TORTORELLA: Exactly, yeah.

7 ATTORNEY ALGIOS: I'm sorry, one other question.

8 MR. TORTORELLA: Mm-hmm.

9 ATTORNEY ALGIOS: What are the existing store hours of that?

10 MR. TORTORELLA: 24/7 for the convenience store. I would
11 assume the service station is not open 24 hours.

12 ATTORNEY ALGIOS: Thank you.

13 MR. TORTORELLA: Yup.

14 CHAIRMAN MAMMINA: Thank you.

15 MEMBER DONATELLI: So we're --

16 VICE-CHAIRMAN FRANCIS: Continue.

17 CHAIRMAN MAMMINA: We'll continue this, yeah.

18 MR. TORTORELLA: Thank you, very much, for your time. Have a
19 nice day.

20 VICE-CHAIRMAN FRANCIS: Thank you all. Thank you.

21 CHAIRMAN MAMMINA: Thank you for a very thorough presentation.

22 (WHEREUPON, this application was continued.)

1 MR. PERROTTA: Last application for the day, Appeal 21644,
2 Jeffrey Pliskin, Q-ZAR, 151 Voice Road, Carle Place; Section 9, Block
3 663, Lot 16; zoned Industrial-B.

4 Variance from 70-103.A(1) and conditional use 70-187.P to
5 legalize interior alterations to a laser tag facility including a
6 bar/snack bar, a conditional use, and an axe throwing area with not
7 enough parking on site.

8 CHAIRMAN MAMMINA: You have heard Appeal number -- here it is.

9 VICE-CHAIRMAN FRANCIS: 21644.

10 CHAIRMAN MAMMINA: Thank you.

11 Number 21644.

12 VICE-CHAIRMAN FRANCIS: Jeffrey Pliskin.

13 CHAIRMAN MAMMINA: Yes, that's what I wanted, the last name.
14 21644, Jeffrey Pliskin, Q-ZAR, 151 Voice Road, Carle Place.

15 Is there anyone in the room who's interested in the application
16 other than the applicant?

17 (WHEREUPON, there was no response.)

18 CHAIRMAN MAMMINA: Seeing no one.

19 MS. DEEGAN DICKSON: It's all my people.

20 CHAIRMAN MAMMINA: Yes.

21 VICE-CHAIRMAN FRANCIS: Kathleen, I have tell you, when I first
22 saw this application, I started chuckling to myself because I saw,
23 in my head, Jell-O shots and axes. It just didn't make a lot of sense
24 to me. But, please --

25 MS. DEEGAN DICKSON: It was one of the first questions I asked
26 my client about, I can tell you that.

1 Good afternoon, my name is Kathleen Deegan Dickson, I'm a
2 partner in the law firm of Forchelli Deegan Terrana, 333 Earle
3 Ovington Boulevard, Uniondale, New York, here on behalf of the
4 applicants, Jeffrey Pliskin, which -- who is a principal of Plaza
5 200 Associates, LLC, the landlord and owner of the property, and
6 Q-ZAR, which is more officially know as Laser Tag of Carle Place,
7 Inc., who is the tenant that's the primary focus of this application.

8 I also have with me a representative from the VEG, veterinary
9 emergency hospital who is here to answer any questions because part
10 of the parking variance also includes a conversion of some retail
11 space to medical office space, and so we rolled it all into one
12 application so that you wouldn't have to see me repeatedly on
13 the -- for the same relief over and over.

14 VICE-CHAIRMAN FRANCIS: That would not be a hardship, by the
15 way.

16 MS. DEEGAN DICKSON: Thank you. Right back at you.

17 So Plaza 200 Shopping Center is in Carle Place, you guys
18 are -- have been familiar with the shopping center over the years,
19 we've had a number of applications before this Board. It's currently
20 made up of 34 different tenant spaces and storefronts, but the spaces
21 morph and change depending on, you know, when tenant's leases are
22 up and who's coming in and who's going out.

23 So the application before you today is for a parking variance
24 and conditional use for food service at Q-ZAR, but as I said, it's
25 really two applications in one.

26 The overall site requires a parking variance due to changes in

1 the parking calculations for Q-ZAR, and also for the conversion of
2 a retail area to veterinary office in another part of the shopping
3 center. So just to give you your bearings, the Q-ZAR site is in the
4 rear of the shopping center, there's the intervening parking lot,
5 and then the second building has the retail spaces along Voice Road,
6 and also facing the interior parking lot, and then the VEG veterinary
7 hospital is going to move to the space that was formerly, until just
8 recently, the Camille's Dress Shop facing Glen Cove Road. VEG is
9 currently in tenant space 3A, I believe, it might be 3B. So they're
10 going to just relocate a little bit to the north in the shopping center
11 but continue their same operations.

12 The Q-ZAR has existed in its present location since 1993. It
13 started as a laser tag and sort of arcade party place. The space
14 that it's in measures 8,469 square feet, and the parking for this
15 space has always been calculated as 45.7 parking spaces, that's been
16 since it's inception, and all prior applications for this shopping
17 center count that space as 45.7 parking spaces.

18 When Q-ZAR opened, and until just the last few years, the
19 Building Department had different methods of calculating public
20 assembly space, and it's always been one car for every four occupants,
21 but occupants has been something that they have interpreted
22 differently over the years. Sometimes it was based on how many seats
23 there were, sometimes it was, you know, if you're running around,
24 they'd say, well, one person for every 50 square feet. So it was
25 always interpreted a little bit differently. So I'm sure
26 that's -- they came up with a number at that time, and the use hadn't

1 changed for 20 years. Twenty years? No, 30 years, I guess. So
2 until COVID, when a new owner took over, bought the -- bought the
3 business and decided to make some minor modifications, and one of
4 the modifications was to take part of the space and add four axe
5 throwing lanes. I've never done it myself, but it's a popular thing
6 as far as I can see. A lot of places have it as a, you know, as like
7 a fun group activity similar to bowling or, I guess, laser tag.

8 MEMBER DONATELLI: Sorry, and when was that done?

9 MS. DEEGAN DICKSON: That was done sometime over COVID. In
10 2020, 2021.

11 MEMBER DONATELLI: Like four years ago.

12 MS. DEEGAN DICKSON: Yes, and so it's been operating that way
13 since then. I was contacted in 2023 by the client because they had
14 received a violation from the Building Department that they had made
15 this change without building permits and without getting a
16 conditional use permit. We've been in court since then, this has
17 been a pending court case. We've been waiting to come in. There's
18 been a lot of back and forth between the project architect and the
19 Building Department trying to calculate what the actual parking
20 demand is based on New York State building code occupancy levels.
21 What it came down to, at the end of the day, was that the parking
22 requirement for this space effectively doubled to 91.5 parking spaces
23 because they calculated each individual area of the space, some as
24 one person per 11 square feet, some as one person per 50 square feet,
25 and then everything in between where they determined that the
26 occupancy under the New York State building code is 334 individuals,

1 which, I don't know if you've ever been in the space, there's no way
2 that you could physically put 334 people in this space, let alone
3 operate a business while you were doing it. But that's technically
4 what it requires, and so the parking requirement has doubled from
5 47 -- 45.7 to 91.5.

6 The use really hasn't changed in any meaningful manner. The
7 trigger for the conditional use permit is because now they are going
8 to be, or they are selling beer and wine from a concession, as a
9 concession, and they also have a warming oven where they will do
10 mozzarella sticks and sort of pub food, heat up chicken fingers or
11 chicken wings, and you know, in the past, they've always had food
12 that was brought in. There was always a pizza party, they would have
13 a caterer bring in the pizza or the ziti or whatever, and that's always
14 been the case, and that will continue. But now, with the addition
15 of the limited alcohol service, they also have, you know, wings, you
16 can go to the concession stand and buy a beer and a soda and a thing
17 of mozzarella sticks and bring it back to one of the high top tables
18 that are sort of scattered around. So while you're playing Skee-Ball
19 or you're, you know, playing air hockey, you can -- you can do that
20 at the same time. So that addition triggered the need for the
21 conditional use permit, and the fact that they needed a building
22 permit for something new was what triggered the reexamination of the
23 square footage. So while, as I said, the use really isn't changing
24 in any -- in any meaningful manner, it does bring us back before this
25 Board so that the Building Department files will be up to date with
26 the current uses under current interpretation of the parking code.

1 The last parking variance that this site received was in 2018
2 when VEG veterinary hospital was approved for a 3,453 square foot
3 space, as I mentioned, over on the Glen Cove Road side of the shopping
4 center. VEG is going to be moving. The new tenant area for VEG is
5 5,496 square feet, which is an increase of 2,043 square feet, excuse
6 me. That adds a new net parking demand of 6.81 additional cars if
7 you factor in the conversion of the old vet office back to retail,
8 and then some of the retail into vet space. So it's -- the net
9 addition is 6.81 square -- 6.81 additional cars and while VEG is
10 adding to their interior footprint, they really don't expect to see
11 any increase in the number of the clients that they see. They are
12 not an appointment veterinary practice. They are only urgent care
13 and emergency medicine. So you can't make an appointment to get your
14 vaccinations or to get your wellness checks. Really it's, the demand
15 that's there is the demand that's there. Most of their activity is
16 in the evenings and on Sundays when people's regular vets are closed,
17 and they -- or they come home from work, and they notice their dog
18 has been throwing up, and they need to do something, so they go.
19 Having more space doesn't mean that any more dogs are going to be
20 throwing up while they're at work. So the demand is what the demand
21 is. The additional space is really to accommodate some additional
22 staff areas because it's a 24 hour a day, seven day a week operation.
23 They have techs and doctors and nurses and staff there all the time.
24 So they're adding a little more back of house space, they're adding
25 some additional space for families to -- so that they can stay with
26 their pets during treatment. There're a few larger treatment areas,

1 but it's, as I said, it's not expected to be a driver of more traffic
2 to the site. So I don't expect the parking demand for this to
3 increase despite the larger size. I do have Josh Shelley, who's the
4 Director of Real Estate for VEG here if you have any questions as
5 we go through this. He can give you a little bit more insight if
6 you have any questions.

7 MEMBER DONATELLI: I do have one question. As I look at the --

8 MS. DEEGAN DICKSON: Yes.

9 MEMBER DONATELLI: -- your page A-002. Where is the beer area?
10 Where is the beer being sold?

11 MS. DEEGAN DICKSON: So the -- you'll see the cashier -- where
12 are we. A-002, so cashier's sales counter. It's right in the middle
13 of the store a little bit to the left of the -- to the party rooms.

14 VICE-CHAIRMAN FRANCIS: Yeah.

15 MS. DEEGAN DICKSON: So there is a --

16 MEMBER DONATELLI: In that area?

17 MS. DEEGAN DICKSON: In that area, so --

18 MEMBER DONATELLI: Will there be seating there?

19 MS. DEEGAN DICKSON: No, no. It's a go up, order a beer, order,
20 you know, an iced tea and take it, and go back to your game.

21 MEMBER DONATELLI: I know my last time in Q-ZAR was when I think
22 my youngest was 10, which would have been about 20 years or so ago,
23 so I would imagine that a lot has changed since then.

24 MS. DEEGAN DICKSON: Yeah, so the layout, you know, the laser
25 tag is still there and the arcade, but everything's been updated,
26 everything's been cleaned up, you know, the party rooms, I think,

1 just reconfigured a little bit, but essentially, it's the same type
2 of business that it was. It's just a little more enjoyable for the
3 parents while they're waiting for their kids to finish the -- their
4 laser tag.

5 VICE-CHAIRMAN FRANCIS: Kathleen --

6 MS. DEEGAN DICKSON: Yes.

7 VICE-CHAIRMAN FRANCIS: Because, you know, part of -- we're
8 talking about axe throwing and alcohol. Can you talk about some of
9 the safety protocols that they have in place with regard to that
10 activity.

11 MS. DEEGAN DICKSON: So they, you know, this was a question that
12 their insurance company had as well.

13 VICE-CHAIRMAN FRANCIS: I'm sure.

14 MS. DEEGAN DICKSON: So they went through -- and actually, when
15 we originally submitted this application to the Building Department,
16 we provided the Building Department with the specifications. There
17 is an attendant for each of the axe throwing lanes. They can
18 accommodate eight people, but only one person is allowed to be at
19 the line throwing toward the target. There is a separation between
20 lanes so if somebody's a bad shot, they're not throwing over to
21 somebody else. It's really just supervision and the physical
22 barriers on either side, you know, they are -- they had to get their
23 insurance company's blessing before they could sell alcohol. They
24 actually had -- they allow children as young as 12 now to throw axes,
25 it used to be 16, but they were able to convince the insurance company
26 or the insurance company, through whatever methods, they approved

1 it for children as young as 12. But there are no children younger
2 than 12. So you're not going to have a 6 year old there, you know,
3 wielding an axe.

4 MEMBER GOODSSELL: And none of the underaged are drinking.

5 MS. DEEGAN DICKSON: And none of the -- of course not, no, and
6 they have a liquor license. It's a beer and wine license, and you
7 know, it's a valuable asset.

8 VICE-CHAIRMAN FRANCIS: Sure.

9 MS. DEEGAN DICKSON: They are not going to mess around with
10 that. So they're very, very careful about ID'ing. Anybody who's
11 asking for an alcoholic beverage, and they're not selling to somebody
12 to bring it over to somebody else. They're being very conscious.

13 VICE CHAIRMAN FRANCIS: And I'm assuming that they have some
14 kind of instruction on how to properly throw the axes.

15 MS. DEEGAN DICKSON: Yes, you know, and I can't speak to that
16 as well as, I have Miguel Ortiz here today from Q-ZAR, and he may
17 be able to answer questions as far as, you know, what the training
18 is, and you know, what the instruction is if someone comes in. I
19 would imagine that there's probably a technique that you'd want to
20 learn, and I don't know if you want to hear from him now or wait until
21 I get through the rest of the --

22 CHAIRMAN MAMMINA: Can we get a demonstration?

23 VICE-CHAIRMAN FRANCIS: The Chairman wants a demonstration.

24 MS. DEEGAN DICKSON: Not from me you don't, that I can promise
25 you.

26 CHAIRMAN MAMMINA: Kathleen goes there, I know.

1 MS. DEEGAN DICKSON: So getting back to the parking variance,
2 quickly. The shopping center has 324 parking spaces. It's pretty
3 much always had 324 parking spaces. The variance in 2018 was for
4 a use mix within the shopping center with a parking requirement of
5 599 spaces. The new parking requirement with the relocation of VEG
6 to the larger space and the recalculation of the Q-ZAR space and the
7 current use mix in the shopping center is 642 spaces.

8 So today's request is for 43 parking spaces, relief for 43
9 parking spaces. You know, I was going through the math and the
10 numbers, trying to get everything to match up, and it's a little bit
11 hard to go from one variance to the next because, as I mentioned,
12 with 34 tenant spaces, sometimes somebody goes in, they take a little
13 bit of that space and that guy moves over here, and then sometimes
14 the restaurant goes out and a retail space goes in, and we don't come
15 back before this Board because it reduces the parking requirement.
16 There's been instances of that over the years when the comedy club
17 which required 77 parking spaces went to a retail use that required
18 22 1/2 parking spaces. So there's sort of a -- it feels a little
19 squishy, but you can rest assured that every application for a
20 building permit that goes in to the Building Department, there is
21 a chart, a parking chart, where every single tenant is identified
22 and what the calculation is and what the parking is, and it, you know,
23 it took a little while between 2018 and now for a new use to trigger
24 a new parking variance, but at the same time, you know, the two tenants
25 that are triggering this need are existing tenants, and their
26 operations really aren't changing in any meaningful manner.

1 The -- we submitted with our application, a report from R&M
2 Engineering, a parking study that takes into account both uses and
3 all of the other uses in the shopping center. I do have Wayne Muller
4 here this afternoon from R&M. I'd like to invite him up quickly just
5 to kind of discuss the findings of the report and to answer any
6 questions that the Board may have, and then we can bring up Mr. Ortiz
7 or Mr. Shelley to talk about operations if you have questions for
8 them, as well.

9 So, take it away, Wayne.

10 MR. MULLER: Good afternoon, for the record, Wayne Muller, R&M
11 Engineering, offices at 50 Elm Street, Huntington, New York. As
12 Kathleen has indicated, yes, we did prepare a report for the subject
13 application. That report was originally prepared October 8th, 2024,
14 and then was revised on March 17th, 2025, and was submitted as part
15 of this application. Kathleen has done a very, very thorough job
16 explaining how the application is configured, the parking, the
17 differences in the previous application to this application, so I'll
18 just cut to the chase as far as what we did as far as an analysis.

19 We observed the level of parking activity on the subject
20 property on two times, that being a Friday and a Saturday in September
21 of 2024, and we performed those observations through the peak times
22 of the center, and we summarized those in the tables and figures in
23 the back of the report, and what we found was that peak time on Friday
24 occurred at seven p.m. at which point there were 212 vehicles parked
25 and 112 vacant parking spaces. That translated to an occupancy of
26 65 percent, and again, on Saturday, what we saw was that there were

1 80 vacant parking spaces, 244 vehicles parked, translating to a 75
2 percent occupancy and a 25 percent vacancy.

3 As Kathleen has indicated, the two uses that are before the Board
4 this afternoon are both existing on the site. So therefore, the
5 parking conditions that exist today include the activity generated
6 by both the Q-ZAR and the veterinary use. So we would not -- and
7 there are some small vacant spaces within the center that we factored
8 into our analysis, but essentially, most shopping centers always have
9 some level of vacancy, though I believe the landlord would probably
10 like them to always be 100 percent occupied, but the level of activity
11 that's occurring on the property today should not significantly
12 change or will not significantly change if the Board were to approve
13 this application this afternoon.

14 So that is essentially my testimony, and I'd be happy to answer
15 any questions, and as a sidebar, I did represent a few axe throwing
16 places, specifically, one on Main Street in Huntington, it think it's
17 called Axe, USA, and it's tantamount to a bowling alley. People go,
18 there's competitions with the axes. I don't know, not my thing, you
19 know, it's kind of like darts, really, but --

20 MEMBER GOODSELL: Big darts.

21 MR. MULLER: -- but with axes.

22 MEMBER GOODSELL: Very big darts.

23 MR. MULLER: With axes.

24 I don't know, I remember growing up they had those lawn darts.
25 I don't know if you guys remember those. Yeah, they outlawed those
26 at some point along the way because they were -- they were a little

1 dangerous and not a lot of supervision on those, unfortunately, but,
2 yeah --

3 CHAIRMAN MAMMINA: Mr. Muller, I guess, I'm very familiar with
4 the shopping center having lived a mile away from there in Carle
5 Place, and this is not a trick question, but the Planet Fitness --

6 MR. MULLER: Mm-hmm.

7 CHAIRMAN MAMMINA: -- that was in there, did anything go into
8 that yet?

9 MR. MULLER: I don't recall.

10 CHAIRMAN MAMMINA: Because I'm just saying, I never had a
11 problem parking there.

12 VICE-CHAIRMAN FRANCIS: No.

13 MS. DEEGAN DICKSON: Actually, you saw them a couple of weeks
14 ago for a conditional use permit. It was Champion Martial Arts.

15 CHAIRMAN MAMMINA: Okay.

16 MS. DEEGAN DICKSON: I did the -- they added a cafe to
17 their -- to their site. So that's --

18 CHAIRMAN MAMMINA: I never had any problem, you know, parking
19 there. The place where there was a problem parking, but only on the
20 holidays, which, I think would not be fair to even include in here
21 was that little strip of stores that front onto Voice.

22 VICE-CHAIRMAN FRANCIS: Yeah.

23 CHAIRMAN MAMMINA: You know, and then you used to go and park
24 across the street.

25 VICE-CHAIRMAN FRANCIS: Right.

26 MS. DEEGAN DICKSON: But we don't encourage that.

1 CHAIRMAN MAMMINA: Of course, of course.

2 MR. MULLER: You know, it's interesting, because yeah, we found
3 it -- this shopping center is a little bit unusual in its
4 configuration.

5 CHAIRMAN MAMMINA: Yup.

6 MR. MULLER: Just based on the way that it's I broken up. But
7 as we performed the observations, we found that there's parking
8 available all around the site.

9 CHAIRMAN MAMMINA: Mm-hmm.

10 MR. MULLER: So the, you know, some of the areas along the
11 building frontage by Q-ZAR, that was occupied, but as we get into
12 the other areas, there's always -- there's always areas for people
13 to park.

14 CHAIRMAN MAMMINA: The gyros are pretty good, too, the Greek
15 place.

16 MEMBER DONATELLI: Well, to my mind, one of the most important
17 things is whether or not there's a potential for any spillover parking
18 to any residential sections, and --

19 VICE-CHAIRMAN FRANCIS: Yeah.

20 MEMBER DONATELLI: -- I think we all know that Voice Road, there
21 is no residential area that might be subject to any parking spillover
22 from Q-ZAR or from any of the stores in that shopping center.

23 CHAIRMAN MAMMINA: No.

24 MR. MULLER: No.

25 We were wondering, bantering back at the office, this is kind
26 of like off the record --

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

2 MS. DEEGAN DICKSON: So as I mentioned, I do have
3 representatives from both of the tenants. I also have two of the
4 landlord representatives, next generation of Pliskin, Stuart and
5 Adam, if you have any questions about the shopping center or about
6 anything that we've presented to you today.

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

8 MEMBER GOODSSELL: You know, other than the novelty of the axe
9 throwing, which really, really is the focus of this case, I've never
10 had any problem parking over there. I'm like Mr. Donatelli, I
11 haven't been there in 25 years. I did take my kids to Q-ZAR, I did
12 take my kids to laser tag. I don't remember a liquor license back
13 then, although it certainly would have been lovely, and really, the
14 usage seems to be, as you say, akin to a bowling alley which serves
15 beer and wine, snacks, hot snacks, things like that while we're
16 waiting in lanes or we're waiting for our kids to finish.

17 So I, as one Board member, I don't have any objection.

18 VICE-CHAIRMAN FRANCIS: It's also very similar to an indoor
19 shooting range, except that --

20 MS. DEEGAN DICKSON: Mm-hmm.

21 VICE-CHAIRMAN FRANCIS: -- an indoor shooting range doesn't
22 sell alcohol.

23 MEMBER GOODSSELL: I wonder why.

24 MR. MULLER: That's not true. Plattduetsche Park. At
25 Plattduetsche Park they have an indoor shooting range. They serve
26 beer all over the place.

1 VICE-CHAIRMAN FRANCIS: Do they really?

2 MR. MULLER: Yeah.

3 VICE CHAIRMAN FRANCIS: Okay.

4 MR. MULLER: Right? They have that beer garden outside the
5 restaurant.

6 MS. DEEGAN DICKSON: I didn't know it was a shooting range.

7 MEMBER DONATELLI: So in my mind, the fact that it's existed
8 for four years.

9 MR. MULLER: Inside there's a shooting range.

10 VICE-CHAIRMAN FRANCIS: Yeah, I mean, it's --

11 MEMBER DONATELLI: So we have a history to point to, so it's --

12 CHAIRMAN MAMMINA: And I think also, and then we'll come to the
13 motion, it absolutely is self limiting because there's --

14 VICE-CHAIRMAN FRANCIS: Oh, absolutely.

15 CHAIRMAN MAMMINA: -- no place to go, you know, unless you want
16 to hop the fence going into the hotel, or you know, whatever. There
17 really is nowhere to go other than -- other than there.

18 So I will ask for a --

19 MEMBER GOODSSELL: A motion.

20 CHAIRMAN MAMMINA: Motion?

21 MEMBER GOODSSELL: I will make a motion that, in light of all
22 the testimony that we have heard, that we grant the application.

23 CHAIRMAN MAMMINA: Okay, so we have a motion.

24 Do we have a second?

25 MEMBER DONATELLI: I will second.

26 CHAIRMAN MAMMINA: Okay, I will give that second to

1 Mr. Donatelli.

2 Please poll the Board.

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

4 MEMBER GOODSSELL: Do you think the food condition as a
5 restriction --

6 CHAIRMAN MAMMINA: They're not serving food.

7 MS. DEEGAN DICKSON: Well, so they have the heat and serve
8 stuff.

9 CHAIRMAN MAMMINA: Oh.

10 MS. DEEGAN DICKSON: And there's not really seats, so there's
11 seat conditions, but you know, they will provide refrigerated garbage
12 if that's required.

13 CHAIRMAN MAMMINA: I think that would be --

14 SECRETARY WAGNER: They have to do that anyway; right?

15 CHAIRMAN MAMMINA: Yeah, okay.

16 MS. DEEGAN DICKSON: Yeah.

17 VICE-CHAIRMAN FRANCIS: All right.

18 MEMBER DONATELLI: So on the condition that restaurant
19 conditions apply. Refrigerated garbage.

20 SECRETARY WAGNER: So there will be refrigerated garbage?

21 MS. DEEGAN DICKSON: Yes, we're not seeking relief from that.

22 CHAIRMAN MAMMINA: Okay.

23 MS. DEEGAN DICKSON: If it's required, we'll provide it.

24 CHAIRMAN MAMMINA: Yeah, that's the main thing.

25 MS. DEEGAN DICKSON: It was not cited by the Building
26 Department, and we didn't show it on the plans, but I have -- I have

1 informed the client that they should expect to include that.

2 MEMBER DONATELLI: Amend the motion to --

3 MEMBER GOODSSELL: I amend the motion to include the
4 limited -- to include the refrigerated garbage.

5 ATTORNEY ALGIOS: Refrigerated garbage.

6 CHAIRMAN MAMMINA: Poll the Board, please.

7 SECRETARY WAGNER: Did we get a second?

8 MEMBER DONATELLI: I did.

9 SECRETARY WAGNER: Member Goodsell?

10 MEMBER GOODSSELL: Aye.

11 SECRETARY WAGNER: Member Donatelli?

12 MEMBER DONATELLI: Aye.

13 SECRETARY WAGNER: Vice-Chairman Francis?

14 VICE-CHAIRMAN FRANCIS: Aye.

15 SECRETARY WAGNER: Chairman Mammina?

16 CHAIRMAN MAMMINA: Aye.

17 The application is granted with the food conditions.

18 ATTORNEY ALGIOS: Just the refrigerated garbage.

19 VICE-CHAIRMAN FRANCIS: Yeah.

20 MS. DEEGAN DICKSON: Very good.

21 CHAIRMAN MAMMINA: Refrigerated garbage.

22 MS. DEEGAN DICKSON: Thank you, very much, nice to see you all.

23 CHAIRMAN MAMMINA: Go throw some axes.

24 (WHWREUPON, this application was granted.)

1 CHAIRMAN MAMMINA: Okay.
2 I guess SEQR?
3 VICE-CHAIRMAN FRANCIS: SEQR.
4 SECRETARY WAGNER: I got to send it to you.
5 Okay, I just sent it to you.
6 MEMBER DONATELLI: E-mailed it?
7 SECRETARY WAGNER: I just e-mailed it, yeah.
8 MEMBER DONATELLI: So I make a motion that we adopt SEQR.
9 CHAIRMAN MAMMINA: Okay, we have --
10 VICE-CHAIRMAN FRANCIS: Second.
11 CHAIRMAN MAMMINA: -- a motion.
12 Second by Vice-Chairman Francis.
13 Please poll the Board.
14 SECRETARY WAGNER: Member Goodsell?
15 MEMBER GOODSSELL: Aye.
16 SECRETARY WAGNER: Member Donatelli?
17 MEMBER DONATELLI: Aye.
18 SECRETARY WAGNER: Vice-Chairman Francis?
19 VICE-CHAIRMAN FRANCIS: Aye.
20 SECRETARY WAGNER: Chairman Mammina?
21 CHAIRMAN MAMMINA: Aye.
22 SEQR is approved.
23 (WHEREUPON, this meeting was concluded at 2:06 p.m.)

C E R T I F I C A T E

STATE OF NEW YORK)

SS

COUNTY OF NASSAU)

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

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

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

A handwritten signature in dark ink, appearing to read "Debbie Babino", written in a cursive style.

Debbie Babino, Certified Reporter