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Town of North Hempstead
Board of Zoning Appeals
PUBLIC HEARINGS

Wednesday, October 22, 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
Jay Hernandez, Member

ALSO PRESENT:

Debra Algios, Deputy Town Attorney
Virginia Wagner, Secretary
Steven Perrotta, Planner

1 CHAIRMAN MAMMINA: If everyone would please
2 rise, and join Vice Chairman in the Pledge.

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

4 CHAIRMAN MAMMINA: Good morning, everyone, and welcome
5 to the Town of North Hempstead Zoning Board of Appeals.

6 We'd like to take a minute to go through the way that
7 we do things here in the town, in case you've been to other
8 zoning boards, or you've never been before a zoning board
9 before. I think it's going to be conducted differently from
10 one municipality to another.

11 So, the way that we do things is that the application
12 will be called by our secretary, Virginia Wagner, and at that
13 point, we will ask for the applicant to identify themselves by
14 standing up and come forward to the podium, and she will also
15 ask if anyone else here is interested in the application. That
16 could be in support of it, or it could be in opposition. What
17 will happen is then everyone gives their name and address to
18 our stenographer. This is a quasi-judicial hearing, so there
19 is a record taken of the Proceeding.

20 At that point, then the podium belongs to the
21 applicant. An applicant will put their case onto the record,
22 and the Board will ask whatever questions it sees appropriate.
23 If there is anyone else who wishes to speak, they can come on
24 up, one at a time, not necessarily, and the applicant will have
25 a seat wherever. Then you'll be able to put onto the record
26 what you would like to say. Again, either support or in

1 opposition to the application. The Board will ask
2 whatever questions that it sees fit. We generally -- we put a
3 three-minute limit on opposition or support from the public.
4 As I like to say, we don't cut anybody's head off at the three
5 minutes.

6 We have a relatively small group here today, but we try
7 to control how long the hearing will go on for. We just ask
8 that we try not to repeat one another because the way that it
9 works is that if something is on the record two times, three
10 times, five times, it doesn't make it, you know, any stronger.
11 We need a stop sign at that corner, and that creates a problem,
12 and that's why the variance shouldn't be granted. I don't
13 know. I'm just making that up. So, in that case, you would
14 just stand up and say I agree with the previous person or
15 whatever, regarding a stop sign and the effect on traffic. At
16 that point, if there is anyone who speaks in opposition or
17 support, then the applicant has the opportunity to come back up
18 to the podium and either support or refute what people say.
19 The Board gets another opportunity then to create that dialog
20 with the applicant, so that we kind of get everybody's thoughts
21 and things out on that.

22 At that point, the hearing is concluded, and the Board
23 will do one of four things. We will either deny the
24 application; we will reserve the application; we will continue
25 the application. If we continue the application, then that
26 means that the Board is looking for potentially some other

1 information that we may want to come forward from the
2 applicant. It could be a legal document; whatever it might be,
3 or we'll just -- wait, one, two, three, four. So, we hit all
4 four. In the case of the latter two, generally, those
5 decisions will not be made today. So, we deny; we approve; we
6 continue the application, or we reserve. Continuation is for
7 another document. Reserve is the Board wants to look at it
8 again.

9 So, just getting to electronic devices. We just ask
10 that everybody take their phones and, you know, their laptops,
11 their iPads, wherever, and turn them off. Put them on silent,
12 whatever you need to do, so that they don't create a
13 disturbance to the Board Members, and to people at the podium.
14 Our stenographer has a hard enough time getting the whole
15 record down. I don't know how she does that, but she does.

16 If you need to have a conversation with somebody, it's
17 fine. You can stand up, and go out into the corridor area. I
18 like to say we're all ladies and gentlemen here, and there
19 should be no problem with something like that. If there is
20 someone who is not here yet who you're expecting, we just ask
21 that you give them that same information, and again, we
22 don't -- we just don't want that disturbance. I would say,
23 let's pretend we're in a courtroom because on some level, you
24 know, we are. If you need to get up and just scoot on outside,
25 that's absolutely okay.

26 What I like to say to anybody who's never

1 been before a zoning board before, just pretend
2 you're talking to us. It's okay. It's really
3 nothing to be nervous about. I know it's easy for
4 me to say that, but, you know, truly, truly, we try
5 to help you through that as well.

6 So, with all of that said, do we have any
7 amendments to today's calendar?

8 SECRETARY WAGNER: Chairman, we have a request for an
9 adjournment for Appeal #21748, Mark Chou, 39 Meadow Lane,
10 Roslyn Heights; Section 7, Block M, Lot 62; Zoned:
11 Residence-B.

12 Variance from 70-41.A to construct additions that are
13 too close to the side property line.

14 CHAIRMAN MAMMINA: The podium is yours. Good morning.

15 MR. GOMOKA: Good morning, Mr. Chairman. Good morning,
16 Members of the Board. Christopher Gomoka, G-O-M-O-K-A. I have
17 recently been retained on this, and I would ask for some time
18 to prepare. My wife was in the hospital, so I need a few weeks
19 to prepare with Mr. Chou and our witnesses. We've spoke to the
20 Board about a possible date, subject to Board's approval of
21 November 19th. Obviously, that's subject to your approval.

22 CHAIRMAN MAMMINA: We always try to accommodate anyone
23 who has a date that they're requesting. An adjournment is
24 typically a fine. I don't know if any other Board Member has
25 any issue with that. I don't.

26 VICE CHAIRMAN FRANCIS: I would only say to the extent

1 you have any exhibits, please get them to us as early as
2 possible.

3 MR. GOMOKA: Absolutely.

4 CHAIRMAN MAMMINA: I mean, that's helpful for us, but
5 also, then for you.

6 MR. GOMOKA: That's the purpose of the adjournment, Mr.
7 Chairman.

8 CHAIRMAN MAMMINA: Okay.

9 MEMBER DONATELLI: Do you want a motion?

10 SECRETARY WAGNER: Sure.

11 CHAIRMAN MAMMINA: Do we have a motion regarding the
12 adjournment?

13 MEMBER DONATELLI: I make a motion that we grant an
14 adjournment to November 19.

15 CHAIRMAN MAMMINA: Member Donatelli makes the motion.
16 Do we have a second?

17 MEMBER GOODSSELL: Second.

18 CHAIRMAN MAMMINA: Seconded by Member Goodsell. Please
19 poll the Board.

20 SECRETARY WAGNER: Member Hernandez?

21 MEMBER HERNANDEZ: Aye.

22 SECRETARY WAGNER: Member Goodsell?

23 MEMBER GOODSSELL: Aye.

24 SECRETARY WAGNER: Member Donatelli?

25 MEMBER DONATELLI: Aye.

26 SECRETARY WAGNER: Vice Chairman Francis?

1 VICE CHAIRMAN FRANCIS: Aye.

2 SECRETARY WAGNER: Chairman Mammina?

3 CHAIRMAN MAMMINA: Aye. So that would move it to
4 November 19th.

5 MR. GOMOKA: Thank you.

6 CHAIRMAN MAMMINA: Thank you
7

8 SECRETARY WAGNER: First appeal, Appeal #21747, George
9 Lazar, 3 Kingston Street, New Hyde Park; Section 8, Block 345,
10 Lot 18; Zoned: Residence-C.

11 Variance 70-49.C to construct additions that would make
12 the home too big.

13 CHAIRMAN MAMMINA: You heard Appeal #21747, George
14 Lazar.

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

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

18 SECRETARY WAGNER: Are you the applicant?

19 A. He's with me.

20 CHAIRMAN MAMMINA: If at any point, you feel that you
21 would like to come and speak, you may. I don't think you'll be
22 speaking in opposition to your case, so you know, you certainly
23 may do that. You come on up, and we'll put your name on the
24 record in the same way. Please feel free to do that.

25 MR. MILCETIC: Good morning. Robert Milcetic with
26 Milcetic Architecture, 47 Jerome Avenue, Hicksville, New York

1 11801.

2 CHAIRMAN MAMMINA: Good morning.

3 MR. MILCETIC: Good morning, Mr. Chairman, Members of
4 the Board. I am here from Milcetic Architecture, representing
5 the owner, George Lazar, and here also is his son, Allen, of 3
6 Kingston Street, New Hyde Park, Zoned Residence C.

7 We are here today seeking a variance from 7049
8 subsection C, the gross floor area, on a lot shall not exceed
9 2000 square feet. We're currently seeking to enlarge the
10 second-floor master bedroom approximately 68 square feet over
11 the existing attached garage footprint, which will bring our
12 total gross square footage to 2867.46 square feet.
13 Approximately 68 square feet over the 2,800, and 45 percent of
14 the lot area.

15 This was a design decision to increase the quality of
16 life of the owner and his family. His son's wife, who lives
17 with them, is handicapped and utilizes a wheelchair and walker
18 for mobility, and this would benefit greatly from the
19 additional square footage allocated within the primary bedroom.
20 Thank you.

21 VICE CHAIRMAN FRANCIS: If she's in a wheelchair and a
22 walker, how is she getting up to the second floor?

23 MR. MILCETIC: So, the entire house is designed to have
24 mobility, and eventually, there's a possibility to have a lift
25 up the staircase, but she is able to be mobile as well.

26 VICE CHAIRMAN FRANCIS: That's not part of this

1 application.

2 MR. MILCETIC: No, sir. No. This is just -- it's
3 future proofing, but she's still able to make stairs, yes.

4 I can let him speak for his wife, if you'd like to.

5 VICE CHAIRMAN FRANCIS: He can.

6 CHAIRMAN MAMMINA: Come on up.

7 VICE CHAIRMAN FRANCIS: Just give your name and
8 address.

9 SECRETARY WAGNER: Name and address.

10 MR. GEORGE: Allen George. My address is 13 Kingston
11 Street, New Hyde Park.

12 MEMBER GOODSSELL: Tell us about -- is it your wife
13 that's disabled and uses a wheelchair?

14 MR. GEORGE: Yes, my wife is recently -- she was
15 disabled. She requires a wheelchair for mobility, but she is
16 able to walk short distances. So, we were hoping for the extra
17 space in case in the future, you know, we would like to put a
18 hospital bed in the room. So just for future proofing.

19 VICE CHAIRMAN FRANCIS: So, this is a permanent
20 disability? It's not a temporary?

21 MR. GEORGE: It's not temporary.

22 CHAIRMAN MAMMINA: If we can ask, what's the nature of
23 it? You don't have to answer that.

24 MR. GEORGE: She was diagnosed with cancer. She has
25 brain cancer. So, because of that, she lost left -- mobility
26 on the left side.

1 MEMBER HERNANDEZ: She can walk under the
2 stairs?

3 MR. GEORGE: A few stairs at a time. 'Cause she's
4 undergoing therapy right now, so she is getting better, but you
5 know, in the future, in case it gets worse, we could use the
6 extra space.

7 CHAIRMAN MAMMINA: I'm another architect on the Board,
8 and I don't want say, you know, we give out floor area variance
9 like drops of blood, but on some level, you know, I do. I've
10 been on the Board for a really long time, and was involved in
11 all of the floor area ratio things. Not to the same thing, but
12 the bulk of my practice was in New York City for many years,
13 where various familiar areas, and it is looked at extremely,
14 extremely carefully, and the process to get it waived is
15 herculean.

16 When I look at it, the question is, are there
17 alternatives, and that's the legal question is, are there
18 alternatives?

19 Now, I look at it, though, from two perspectives. That
20 bulk, while it may seem innocuous to you as the applicant, I
21 mean, when I look at the house now, that extra piece over the
22 garage truly extends the bulk of that house, and I ask the
23 question -- because I also have a wife in a very similar
24 situation. Why can't that wall just become straight, and the
25 bed moves into that area? I mean, you got a master bedroom
26 here. I don't -- 14 -- I don't see the second dimension. I'm

1 gonna guess it's 21.

2 MEMBER GOODSELL: Maybe 14, 15.

3 MR. MILCETIC: It's about 250 square feet.

4 CHAIRMAN MAMMINA: I don't want the square feet. I
5 want how long is that --

6 MEMBER HERNANDEZ: The bed's got to be 7-feet.

7 CHAIRMAN MAMMINA: Right, the bed is gonna be 7-feet.

8 MEMBER HERNANDEZ: It's got to be -- the space, it's
9 got to be at least 7-feet deep.

10 CHAIRMAN MAMMINA: You've got 14 -- you got 15 feet of
11 width, which gives you plenty of room to circulate around that
12 bed. You basically created this niche, which I could argue
13 makes it more difficult for a handicap person, you know, to
14 operate. You're talking about -- because handicapped
15 accessibility is something that I live and die by, you know.
16 Having to defend in a negative way at the State level,
17 handicapped accessibility, but I won, but that was a really,
18 really tense time for me, you know. So.

19 I guess that's the question, why would that 14 by 15
20 not be inadequate? How would that prevent anything? I'm not
21 picking at the master bedroom bath. People love that bath, and
22 we've had those kinds of things. When I look in the bathroom,
23 specifically, the bath. It's not handicapped accessible.

24 MR. MILCETIC: Correct.

25 CHAIRMAN MAMMINA: Has none of the handicapped
26 accessibility requirements. I don't even know if you have a

1 5-foot turning radius --

2 MR. MILCETIC: Correct.

3 CHAIRMAN MAMMINA: -- in there.

4 MR. MILCETIC: Yes.

5 CHAIRMAN MAMMINA: I'm just looking at it, and I'm
6 saying, we are absolutely sympathetic, and on many ways, we've
7 suggested areas where things can be moved around in order to
8 make accessibility. The question becomes, why must you have
9 this variance, and that's one tests that you have to be able to
10 answer.

11 MR. MILCETIC: So, this is an Amendment-01. The
12 original application was filed already with the below 2800 per
13 square feet, and it's currently under construction as well.
14 Once that application was approved, this is something that the
15 family discussed together that this was an opportunity to
16 obviously, their final dream home and their final home that
17 they want to live in for the rest of their lives to have the
18 opportunity to have a large bedroom where they can spend and
19 have an additional -- better quality of life and space within
20 the master bedroom. Again --

21 CHAIRMAN MAMMINA: I will say what one of our Board
22 Members, who now is a judge, used to say, sometimes, it's time
23 to move. Now, I know that you're saying you're doing that work
24 now, but this as substantial house, and wonderful. I mean,
25 that's terrific, but a perception of quality of life is not one
26 of the tests that you have to meet. So, the question comes

1 back to, why can't you move that bedroom -- that bed up?
2 You would have a 5-foot turning radius. You'd have the room
3 for maybe to assist somebody. I'm not saying it's the same
4 thing, but it's just -- my wife lived in the living room for
5 two years. She's now just able to go one step at a time up to
6 the second floor, that's why a lot of houses now, especially in
7 the senior communities, are built as one level. So that's
8 a -- it's a specific question.

9 MR. MILCETIC: Again, it's ultimately the desire to
10 future-proof, have an accessory, have equipment, have storage
11 for a wheelchair, and have space for the possibility that a
12 hospital bed may be required, so these are again, future-
13 proofing items.

14 CHAIRMAN MAMMINA: Just one more thing.

15 MR. MILCETIC: Yes.

16 CHAIRMAN MAMMINA: What did you mention that you don't
17 have if you move that in?

18 MR. MILCETIC: There still leaves adequate space around
19 the bedroom with the wall pushed in. That's correct. I could
20 agree with you, but again, this came as a decision with the
21 family to achieve additional square footage for the space, but
22 yes, I agree with you, you're able to have the bedroom as
23 currently as part of the original submission.

24 MEMBER GOODSSELL: I also have a design question for
25 you.

26 MR. MILCETIC: Yes.

1 MEMBER GOODSSELL: The plans that we are looking at,
2 five and a half baths, including a full bath with a shower in
3 the basement.

4 MR. MILCETIC: Correct.

5 MEMBER GOODSSELL: Now, why do we need five and a half
6 baths for people who are there living in the house?

7 MR. MILCETIC: They would like to.

8 MR. GEORGE: Umm --

9 MEMBER HERNANDEZ: What the Chairman is trying to say
10 is that you certainly have alternatives to make that room
11 larger within the existing house that I'm assuming was accepted
12 by the Building Department as-of-right because it conforms with
13 the gross floor area.

14 MR. MILCETIC: Correct, yeah.

15 MEMBER HERNANDEZ: You have on the second floor right
16 next to the bedroom an open-to-below-area.

17 MR. MILCETIC: That's correct.

18 MEMBER HERNANDEZ: Which is 15-feet by 8-feet. If that
19 was not open-to-below, which is a grand entrance from
20 underneath of course, but that wasn't open-to-below like most
21 homes in this area are, that could be the additional feet that
22 you need of 140 square feet that could be incorporated into
23 that giant master bedroom that for the future, God willing she
24 won't need all of it, but if she does need it, you want to be
25 able to have.

26 So, you have an option of where to do it without having

1 a variance, and as the Chairman said, our job here is, if
2 there are other options, to provide the minimum possible
3 variance or none at all, if there are other options. So, you
4 do have options to consider.

5 MR. MILCETIC: Understood.

6 CHAIRMAN MAMMINA: Also, there are five tests of law
7 regarding an area variance. Could you put those on the record,
8 please?

9 MR. PERROTTA: There's a list of the factors in the
10 podium there.

11 CHAIRMAN MAMMINA: There's a little card there if
12 you're not familiar.

13 MR. MILCETIC: Would you like me to read this?

14 MEMBER HERNANDEZ: Please.

15 VICE CHAIRMAN FRANCIS: And answer them.

16 MR. PERROTTA: Apply it to your application.

17 MR. MILCETIC: Understood.

18 So, Five Factors of area variance. Request an area
19 that has permission to build an otherwise restricted portion of
20 the property, such as an acquired front, side, or rear yards,
21 or above the required building height or excessive of the lot
22 coverage regulations. The State law requires that to show that
23 the benefit the applicant stands to receive from the variance
24 will outweigh any burden to health, safety, and welfare that
25 may be suffered by the community. State law requires the BZA
26 to take the following factors in considering and making this

1 determination.

2 CHAIRMAN MAMMINA: If you can slow down a little bit.
3 That would be great.

4 MR. MILCETIC: I'm sorry.

5 CHAIRMAN MAMMINA: We want to be able to digest your
6 perspective.

7 MR. MILCETIC: No problem.

8 CHAIRMAN MAMMINA: That only works in your favor.

9 MR. MILCETIC: Understood.

10 Whether an undesirable change will be produced in the
11 character of the neighborhood or detriment to nearby properties
12 will be created by granting of the area variance?

13 So again, I don't presume -- I don't perceive that as
14 a -- sorry, would you like me to answer each question?

15 MEMBER HERNANDEZ: Yes.

16 CHAIRMAN MAMMINA: Answer them one at a time. First
17 one, second one.

18 MR. MILCETIC: Sure.

19 I don't perceive it as character of the existing nature
20 of all the buildings within the area being detrimental to what
21 the 68 square foot would do to the second floor. Yet, the
22 front elevation does grow in bulk, but it's all within the
23 existing footprint of the building.

24 CHAIRMAN MAMMINA: The first floor.

25 MR. MILCETIC: Correct.

26 CHAIRMAN MAMMINA: You have any photos or other

1 approved plans that you can show regarding that?
2 And/or any variance that have been produced by or have been
3 approved by the Board that would support what your contention
4 is?

5 MR. MILCETIC: No, sir.

6 CHAIRMAN MAMMINA: Okay, we'll go to Number 2.

7 MR. MILCETIC: Whether the benefit sought by the
8 applicant can be achieved by some method feasible for the
9 applicant to pursue other than an area variance?
10 Which I think we've determined there are alternative
11 methods to be able to achieve the desired open square footage.

12 Whether the requested area variance is
13 substantial?

14 In my nature, I don't believe that 68-square
15 feet is a substantial variance, but again, that's my
16 perception --

17 CHAIRMAN MAMMINA: Have you appeared before this Board?

18 MR. MILCETIC: Not for the Town of North Hempstead.

19 CHAIRMAN MAMMINA: We look very carefully at area
20 variance. Just understanding. Look, you create a beautiful
21 house here. That once we give that to you --

22 MR. MILCETIC: Snowball effect.

23 CHAIRMAN MAMMINA: -- anybody else who comes in --

24 MR. MILCETIC: Understood.

25 CHAIRMAN MAMMINA: -- what got to give it to them, if
26 they can present similar circumstances, not similar opinions,

1 similar circumstances to this.

2 MR. MILCETIC: Understood.

3 Number 4, whether the proposed variance will have an
4 adverse effect or impact on the physical or environmental
5 conditions in the neighborhood or district?

6 Again, we do not believe this would have any --

7 CHAIRMAN MAMMINA: Comes back to photos --

8 MR. MILCETIC: Correct.

9 CHAIRMAN MAMMINA: -- and things that would produce
10 evidence that, again, it's, this kind of exists and/or we got
11 this house here or this house there. I'll say frequently, in
12 older neighborhoods, there are houses, either classic or newer
13 ones that were built prior to the zoning, and did not have that
14 requirement, but the object of the Town Board is to say, wait a
15 minute, we want to rein that in to some effect.

16 MR. MILCETIC: Understood.

17 Number 5, whether the alleged difficulty is
18 self-created, which consideration shall be relevant to the
19 decision of the Board of Appeals, but shall not necessarily
20 preclude the granting area variance?

21 CHAIRMAN MAMMINA: So, what's Number 5?

22 MR. MILCETIC: So, yes, it was a design decision that
23 was made. Yes, I do believe there's alternatives that can be
24 done to allow them to have the square footage, but again, this
25 is a design decision that was made in order to increase that
26 square footage that was available over the existing garage and

1 lot.

2 CHAIRMAN MAMMINA: Again, just for my own perspective
3 as an architect, and I struggle with things like this, and
4 especially in New York City, where if you're doing a project in
5 Manhattan, every square feet that they can gain, could be worth
6 thousands of dollars. I try to be super creative in how I do
7 it, and sometimes I could be successful. Other times, I can't.
8 I have to tell that to the owner, and I tell them your ability
9 is to go to Sands and Appeals. Board of Sands and Appeals is a
10 very rough go there, and I'm not gonna opine if they would
11 approve something like this or not.

12 I don't think I look at this rigidly. I look at it
13 fairly doing the balancing test that we're required to do
14 within it, so. I mean, it's obviously self-created, and
15 obviously, has a relatively simple solution that -- and I
16 realize it's opinion, you know, that I don't think compromises
17 in any way that fantastic master bedroom that you have there.
18 It is beautiful, but that is an option, so it self-created, and
19 we've pointed to other options in terms of the open space. The
20 open space is certainly that -- people love the open space, so.
21 We're not looking at it based on what the design is.

22 MR. MILCETIC: Understood.

23 CHAIRMAN MAMMINA: So, I think that your client should
24 have the opportunity to speak as well, 'cause he had come up.
25 Unless he changed his mind.

26 MEMBER GOODSSELL: We'd like to hear from you.

1 MR. GEORGE: Yeah, so like I previously
2 mentioned, you know, we are a big family. We have -- my wife
3 has a big -- wife's mother has a lot of siblings here, and
4 sometimes they come over to take care of my wife if needed. I
5 also do have a toddler, so we have family members staying with
6 us to help take care of her. So, with that in consideration,
7 that was why we were asking for a larger master bedroom in case
8 somebody wants to stay with her overnight, or you know,
9 with -- since my son is in house. Also, if she needs care down
10 the line. We don't know what that situation will be.

11 MEMBER GOODSSELL: Your plans do show an en-suite bath
12 on the first floor, which she would be able to use, would she
13 not? If she could not climb stairs. If she was disabled.

14 MR. GEORGE: Right, but my parents are elderly. The
15 first floor, we were considering for my parents.

16 MEMBER GOODSSELL: Okay, so that's the bedroom on the
17 first floor with the full bath.

18 MR. GEORGE: Yes.

19 MEMBER GOODSSELL: I started to ask you before. There's
20 a full bath in the basement. Why is there a full basement in
21 the basement?

22 MR. GEORGE: So, our --

23 MEMBER GOODSSELL: With a shower.

24 MR. GEORGE: -- understanding was, you know, like I
25 said, if we have family members coming over. We wouldn't know
26 how many family members would come. We have two or three

1 families at one time.

2 MEMBER GOODSSELL: The plans clearly show there is no
3 sleeping in the basement.

4 MR. GEORGE: Right.

5 MEMBER GOODSSELL: No sleeping space that's allowed in
6 the basement, and the plans have a full bath. Now, it's not
7 gonna save any square footage, if we deny the bathroom in the
8 basement because it's contained within the house, so it doesn't
9 do any good as far as the square footage goes. But my question
10 was more of one of curiosity, and also to reinforce that there
11 is no sleeping in the basement, so I'm not sure who's going to
12 be using the full bath in the basement.

13 MR. MILCETIC: It's correct. It's just -- it's my
14 understanding in speaking with family that it just gives the
15 opportunity to have an additional in the basement. Again, pure
16 out of convenience when they do have folks coming over or if
17 someone's staying. It's not --

18 MEMBER GOODSSELL: Five and a half baths in these plans.

19 MR. MILCETIC: Understood. But again, it's -- the
20 variance here is for the additional 68 square feet --

21 MEMBER GOODSSELL: It is.

22 MR. MILCETIC: -- not for the five bathrooms that was
23 approved.

24 MEMBER GOODSSELL: I agree. I was just curious as to
25 why that was necessary.

26 CHAIRMAN MAMMINA: I hate to put it this way, and

1 certainly, our job is not to say no. Our job is to
2 accommodate as best that we can.

3 Up on that second floor, it just shows something called
4 living space. I'm not -- I used to say, and I kind of got over
5 it myself is, give my red pencil. I'll mark this up and show
6 how. I'll get you exactly what you want.

7 MR. MILCETIC: I know all about it.

8 CHAIRMAN MAMMINA: And I probably could, so what.
9 That's not really where we're coming from, but it does
10 demonstrate, and I appreciate your candor that it can be done.

11 MR. MILCETIC: Of course.

12 CHAIRMAN MAMMINA: Look, we all pay a ton of taxes. We
13 want people to basically have what they would like within the
14 boundaries of what the code permits. In here, we don't create
15 the code. Town Board creates the code. Basically, by creating
16 the code, Town Board says, this is what we like. Of course,
17 there are exceptions. That's what we're here for.

18 MEMBER GOODSSELL: I feel as nice as the house is going
19 to be, unless the applicant can show us there are other houses
20 in the area where variances have been granted for GFA, that
21 this, in fact, would be the biggest house in the neighborhood,
22 which is something that the Town Board is looking to avoid.

23 MR. MILCETIC: I understand.

24 MEMBER GOODSSELL: Since it can be built, and the plans
25 originally were submitted within the confines of the
26 requirement, I am not satisfied that your client has

1 demonstrated the necessity of this particular overage of
2 GFA.

3 MR. MILCETIC: Understood, thank you.

4 MEMBER HERNANDEZ: And there is an alternative, which
5 is to go over the so-called open space, open-to-below space on
6 the other side that will give you exactly the same square
7 footage without having to go over GFA.

8 MR. MILCETIC: Understood. Yeah, of course. There's
9 always that design decisions that we make as architects that
10 try to --

11 MEMBER HERNANDEZ: Design decision.

12 MR. MILCETIC: Of course, yes, so. But understood.

13 VICE CHAIRMAN FRANCIS: We certainly would give you an
14 opportunity if you wanted to revise your plans and submit.

15 MR. MILCETIC: Well, then I wouldn't need a variance.

16 VICE CHAIRMAN FRANCIS: You wouldn't need a variance.
17 That's true.

18 MEMBER GOODSELL: You're entitled to submit, and your
19 client is entitled to our decision, but I think you can see
20 which direction we're going in. If you'd like to speak to him
21 and tell us whether or not there's some modification that you'd
22 like to make, which might still need a variance, you can do
23 that.

24 MEMBER HERNANDEZ: Or withdraw.

25 CHAIRMAN MAMMINA: Yes, he has the right to withdraw as
26 well so it doesn't -- I don't want to use the word prejudice

1 'cause the Board's not prejudice, but it gives the
2 opportunity to do something else that might need our action or
3 may not.

4 MR. MILCETIC: Understood. It's something we'll
5 discuss with our clients, and see what the proper way forward
6 with this is.

7 MEMBER GOODSSELL: If you do want to submit it,
8 Mr. Chairman, I'm going to suggest if the applicant wishes to
9 move forward that we reserve a decision.

10 SECRETARY WAGNER: Then we would have to continue.

11 TOWN ATTORNEY ALGIOS: You would have to continue.

12 MEMBER GOODSSELL: Oh, continue.

13 VICE CHAIRMAN FRANCIS: Before we even do that, if you
14 want to take time this morning to discuss with your client, we
15 can second call and bring you back.

16 MR. MILCETIC: I believe so, if that's okay?

17 CHAIRMAN MAMMINA: Nothing lost in that at all. When
18 you're ready, you can just come in, and let Virginia know, then
19 you have a second turn. That's okay.

20 MR. MILCETIC: Excellent.

21 MEMBER DONATELLI: You can go outside and discuss it in
22 the hallway.

23 MR. MILCETIC: Of course. Thank you. Appreciate the
24 time.

25 CHAIRMAN MAMMINA: It's a lovely house.

26 SECRETARY WAGNER: You said you're gonna do a second

1 call?

2 CHAIRMAN MAMMINA: Second call.

3

4

5 SECRETARY WAGNER: Appeal #21749, Ralph & Phyllis
6 Milliken; 11 Elm Street, Greenvale; Section 20, Block J6, Lot
7 108; Zoned: Residence-C.

8 Variances from 70-47.A, 70-49.B, 70-51.A, 70-100.2(K),
9 70-100.2(A)(2) and 70-210.1 to subdivide a residential lot into
10 2 lots that are too small, diminishing the lot area of an
11 existing dwelling, and maintenance of the existing dwelling
12 that is now too big on a lesser lot located too close to the
13 side property line, and with a generator relocated too far from
14 the dwelling, and the legalization of fencing in the front
15 yard.

16 CHAIRMAN MAMMINA: You've heard Appeal #21749, Ralph &
17 Phyllis Milliken. Is there anyone in the room who wishes to
18 speak regarding the application other than the applicant?

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

20 MS. DEEGAN DICKSON: Hello, good morning. Kathleen
21 Deegan Dickson. Partner in the law firm Forchelli, Deegan,
22 Terrana, LLP, 333 Earle Ovington Boulevard, Uniondale, New
23 York. Here on behalf the applicants, Ralph and Phyllis
24 Milliken.

25 CHAIRMAN MAMMINA: Good morning.

1 MS. DEEGAN DICKSON: Good morning. It's nice to
2 be here in the morning instead in the afternoon.

3 CHAIRMAN MAMMINA: Right.

4 MS. DEEGAN DICKSON: Ralph and Phyllis are the owners
5 of 11 Elm Street in Greenvale. This is -- if you're familiar
6 with the neighborhood in Greenvale, this is probably one of the
7 oldest streets in Greenvale. It's a very old established
8 neighborhood. The Milliken's house was built in the 1920s, and
9 it's the house Mr. Milliken grew up in. He purchased it from
10 his grandfather's estate in 1979, but he grew up in the house
11 since he was born in the 1940s.

12 VICE CHAIRMAN FRANCIS: I was hoping she didn't say
13 1920.

14 MS. DEEGAN DICKSON: It was always the family's
15 intention when they bought this house, when it was built. The
16 character of the neighborhood, you can see the radius map. The
17 structure in the neighborhood, it's a very narrow street on Elm
18 Street. It has 90-by-50 tax lots all throughout. Pretty much
19 every single tax lot has a house built on it. The ones that
20 don't are either a two-family home, or I think there's one down
21 at the beginning of the street that has a single-family home in
22 the middle of the house in the middle of the lot that is not
23 built, but every other house in the neighborhood is on a
24 50-by-90-foot lot, which is a little bit different from the
25 rest of the neighborhood. The neighborhood to the north, and
26 also to the south is different by 100-foot lots. For whatever

1 reason, this narrow street was cut through and took
2 10-feet from each of the -- it appears -- I don't have all the
3 facts, but it appears that when the road was constructed that
4 it took 10-feet from the grid for each of these lots. So, all
5 the lots in this neighborhood are 90-by-50. All of the tax
6 lots.

7 The Millikens added a rear addition to their house in
8 1990. I think you're aware of the FAR restrictions for -- in
9 the code came into place in 1999, so it was prior to the FAR
10 restrictions in the code. There is no other construction that
11 has taken place since 1990, and there's no proposal to change
12 the house itself. The house also has a detached garage in the
13 back, and I'll talk about that in a moment.

14 So, the proposal is to subdivide the property into the
15 house with the lot, and then to allow a second building lot
16 for -- to the tax lot to the east. The intention was to create
17 two 50-by-90-foot lots identical to every other lot in the
18 neighborhood. The issue that we have, and one of the reasons
19 why we're here for a side yard setback variance, is that the
20 house that exists, that was built in 1920, if we draw the lot
21 line, the new lot line, right on the tax lot line, that leaves
22 a 1.6-foot side yard for the existing 100-year-old dwelling.
23 That creates two problems. It gives us a larger variance to
24 come and ask for, but it also creates an issue with the state
25 fire code.

26 We were required to go to the New York State Board of

1 Review to get some relief to allow what we're proposing is a
2 3-foot side yard to allow the existing dwelling to be located
3 3-feet from the proposed new lot line on the east side. That
4 does two things. It reduces the lot size of one of the lots
5 and increases the lot size of the existing lot, and it also
6 leaves us with a 3-foot side yard setback for the existing
7 house if we were to subdivide along the line that we're
8 proposing now.

9 I do want to mention that the houses both to the east
10 and to the west of the Milliken's house, the properties, were
11 both subdivided similarly, not with the setback variances.
12 Those are 90-by-50 lots, but they -- one was subdivided in
13 1985, and one was divided in 2005. The one to the east in 1985
14 actually is a two-family house that was an existing, and then a
15 new single-family lot, so those were developed 20 years and 40
16 years prior to. Pretty much every other house on the block has
17 existed since prior to that.

18 I've included -- you have an exhibit packet from us.
19 Exhibit 7 has the prior variances for these two adjacent lots,
20 and then also for two other lots that were granted much
21 earlier, but it -- but there is an acknowledgment about -- in
22 those decisions about the character of the neighborhood. The
23 fact that these are all substandard lots, and that is a
24 historical fact that it's not something that's been created by
25 further subdivisions. This is just the way that the
26 neighborhood has existed.

1 So, as mentioned, we went to the New York
2 State Board of Review to obtain permission to locate
3 the house 3-feet from the new property line,
4 proposed property line, and the Board granted it,
5 and imposed a few conditions, including one that any
6 new dwelling built on the easterly lot be setback at
7 least 7-feet from the westerly property line. So,
8 there would be a separation between buildings and
9 minimum separation of 10-feet. It also imposed some
10 requirements regarding fireproof construction of the
11 new dwelling, and also the installation
12 of -- hardiplank-type fireproof construction on the
13 easterly wall of the existing house. That decision
14 is also in your exhibit package as Exhibit 2, and
15 you can see those conditions.

16 So, as I mentioned, because of this fire
17 code compliance, it resulted in --

18 VICE CHAIRMAN FRANCIS: One second, please.

19 MS. DEEGAN DICKSON: Sure.

20 VICE CHAIRMAN FRANCIS: I don't see the exhibits.

21 MEMBER HERNANDEZ: We're trying to find the exhibits.

22 SECRETARY WAGNER: I just sent them to you. They were
23 sent to us late yesterday afternoon. I just emailed them to
24 you.

25 VICE CHAIRMAN FRANCIS: Oh, email.

26 MS. DEEGAN DICKSON: I apologize. We were waiting for

1 the -- you'll notice there's a number of neighbor
2 consents in there. We needed to gather them all together, so
3 we ended up sending the exhibit package a little late in the
4 day.

5 VICE CHAIRMAN FRANCIS: I don't think I'm going to be
6 able to do -- reading the exhibits justice this morning, so. I
7 would just ask again, please, please, please, try to get those
8 exhibits as early as possible.

9 MS. DEEGAN DICKSON: Yes, we will. I'll be mindful of
10 that. Again, I apologize for that.

11 So, the Exhibit 2 has State Board Review decision.
12 It's fairly short, but the long and short of it is that they
13 want the 10-foot fire separation or 10-foot separation between
14 the existing building and any new building, and fireproof
15 construction of the new building, and fireproof cladding on the
16 east side of the existing dwelling once a new building was
17 built.

18 CHAIRMAN MAMMINA: So, they want a 5-foot separation?

19 MS. DEEGAN DICKSON: No, 10-feet between buildings.
20 So, it would be 3-feet on the one property side, and 7-feet on
21 the other.

22 MEMBER DONATELLI: So, they're putting a condition?

23 MS. DEEGAN DICKSON: That's a condition that was
24 imposed by the State Board of Review.

25 CHAIRMAN MAMMINA: That's very normal. Very normal in
26 there, and I saw about fireproofing of the wall and things is

1 also part --

2 MS. DEEGAN DICKSON: Right.

3 CHAIRMAN MAMMINA: -- of that decision.

4 MS. DEEGAN DICKSON: So, we -- an alternative would
5 have been to move the lot line a little bit farther to the
6 east, therefore, by diminishing the new lot more to have 5-feet
7 and 5-feet on the setback. The minimum side yard setback is
8 5-feet with an aggregate of 12. We consented -- and I'll show
9 you. Actually, this one doesn't -- in your package, you have
10 the plot plan for Lot B, which is the one on the east.

11 CHAIRMAN MAMMINA: Yes, that's the one we're looking
12 at, but it doesn't show anything on the -- it just shows the
13 plot plan. It doesn't show a structure.

14 MS. DEEGAN DICKSON: There's no structure, but there is
15 a building envelope added, and I'll put this up.

16 CHAIRMAN MAMMINA: Let me see if I have that. Maybe I
17 missed it.

18 MS. DEEGAN DICKSON: So, this is the plot plan
19 for -- here's the existing.

20 CHAIRMAN MAMMINA: Yeah, that's the existing, and then
21 the one to the right.

22 MS. DEEGAN DICKSON: This is the existing here. This
23 is the plot plan for the proposed new lot. We're showing a
24 building envelope that's setback 7.1-feet on the west side and
25 then minimum of 5-feet in the east side. So that complies with
26 the aggregate setbacks. This lot, Lot B, will comply

1 completely with the setbacks. We would expect that the
2 Building Department will enforce the condition of the State
3 Board of Review, and we would accept that as a condition --

4 CHAIRMAN MAMMINA: Which they will.

5 MS. DEEGAN DICKSON: What's that?

6 CHAIRMAN MAMMINA: In my experience, they will.

7 MS. DEEGAN DICKSON: Yes, I expect that they would.

8 So, the result of this additional setback for the --

9 MEMBER HERNANDEZ: We just don't have the one that
10 shows the envelope. That's what it is.

11 MS. DEEGAN DICKSON: It should be part of the
12 submission documents that went in with the application. If you
13 don't, I apologize, and we'll --

14 MEMBER DONATELLI: What exhibit is it?

15 MS. DEEGAN DICKSON: I'm sorry?

16 MEMBER DONATELLI: What exhibit?

17 MS. DEEGAN DICKSON: In the exhibit packet -- it's not
18 in the exhibit packet. It's part of the actual application
19 that was submitted to this Board.

20 CHAIRMAN MAMMINA: I don't have anything that shows the
21 footprint. That's okay. We understand now.

22 MS. DEEGAN DICKSON: Okay.

23 SECRETARY WAGNER: I don't recall seeing the one with
24 the envelope in the submission.

25 MS. DEEGAN DICKSON: Okay. So, we'll make sure that
26 you have that for the file because that's --

1 CHAIRMAN MAMMINA: That can certainly be
2 submitted.

3 MS. DEEGAN DICKSON: So, I just put the plot plan for
4 the existing dwelling on the bottom, and the top is the
5 proposed plot plan for the -- for Parcel B.

6 CHAIRMAN MAMMINA: That'll be the boundaries, and then
7 they'll put whatever house they want.

8 MS. DEEGAN DICKSON: Right, within the building
9 envelope. But that would be subject to FAR restrictions, lot
10 coverage restrictions, all the other code restrictions;
11 otherwise, we would be back here for another variance if the
12 builder decides that they're going to be build something that
13 doesn't comply.

14 The result of this additional setback, making it go
15 from 1.6 to 3-feet, resulted in a proposed frontage for the
16 existing house being 51.6 feet, as opposed to 50. For the
17 newly created lot having a frontage of 48.4-feet, instead of
18 having two equal 50-foot widths. The existing house, as I
19 mentioned, also exceeds the aggregate setback. So, even with
20 the 3-feet, if we get relief for the 3-feet on the easterly
21 property line, the westerly property has a little more than
22 16-feet from there to the property line. So, the aggregate
23 will still be satisfied. It's going to just be that one
24 easterly side yard, and the newly created lot would comply
25 completely with both the aggregate and the individual side yard
26 setbacks.

1 So, while the proposed lots at 46 -- I'm sorry, 48.4
2 and 51.6 or the 48.4, will not comply with the code. The two
3 lots when they average out will comply with the street frontage
4 requirement to the code. There's no way that these can comply
5 with the lot area requirements of the code only because the lot
6 itself is -- the -- it would be instead of 5,000 square feet,
7 there's not a lot on the street that has 5,000 square feet.
8 All of them, as I mentioned, are 90-by-50. So, the resulting
9 lots would be 4,644 square feet for the existing house, and
10 4,356 for the proposed lot. So, they average out to 4,550.
11 It's shy of what the code requires, but I think the established
12 pattern of development of the neighborhood supports that.

13 The existing house was built and expanded well before
14 the FAR restrictions were included in the code, and also before
15 detached garages were included in floor area. Both the house
16 and garage are proposed to remain on the subdivided lot, and
17 they're not proposed to be expanded or modified in any way.
18 The total gross floor area of the house and the garage is 2,671
19 square feet. That results in an FAR of 57.3 percent. Section
20 70-49A permits a gross floor area of up to 50 percent of the
21 lot area.

22 I want to mention that for the existing house lot the
23 maximum to meet the 50 percent FAR would be 2,322 square feet,
24 and we're proposing to remain -- keep the 2,671 square feet.
25 So, there's an exceedance of 349 square feet. Of these 349
26 square feet, 325.3 of it is the existing detached garage. If

1 the detached garage was 299 square feet, a mere 26 feet
2 smaller, it wouldn't count at all toward FAR. So, that's
3 another sort of anomaly, but it's a historical fact that we
4 have to live with, but it's something that impacts the existing
5 dwelling that is not a self-created situation. That's
6 something that if there was a way to eliminate 25 square feet
7 from the garage, and have it still be functional, we would
8 only -- we would still need a small FAR variance, but it would
9 be for 23 square feet, as opposed to the 349 square feet, which
10 is a, you know, an exceedance of about 1 percent of the
11 permitted FAR.

12 There's no way that we can achieve this two-lot
13 subdivision without the requested relief. It's -- the two-lot
14 subdivision is really just to allow the Millikens the same use
15 of their property as all of their neighbors.

16 On the flip side of this, I have the tax map with the
17 radium. Every single house on Elm, with the exception of two
18 are nonconforming as to lot area, and none of them have -- none
19 of them have a lot area of 5,000 square feet.

20 MEMBER GOODSSELL: What are the properties that you
21 highlighted in yellow?

22 MS. DEEGAN DICKSON: So, the highlights in yellow are
23 the neighbors who have signed consent letters, and those are
24 included in your exhibit package as Exhibit 7, I think, or
25 Exhibit 8, I'm sorry. There's one additional person who
26 knocked on their door last night, after we had submitted it,

1 who said, I'm sorry, I was on vacation. I didn't have a
2 chance to sign it, but -- and Mr. and Mrs. Milliken are here.
3 They would like to address the Board in a few minutes, but
4 they'll tell you that everybody that they spoke to was willing
5 to sign a consent. There was nobody who said that they had an
6 issue with. The people they don't have consents from are
7 people they couldn't get in touch with.

8 So, the applicant's property is on the north side of
9 the Elm Street. The north side consists of 13 residential
10 lots. Every other lot on that -- on that north side of the
11 street is approved with a one or two-family home on a lot that
12 is 50-feet wide by 90-feet, with a lot area of 4,500 square
13 feet. So, there's nothing, not a single lot that has 5,000.
14 On the south side of Elm Street, there are also 13 homes. All
15 except two are non-conforming. Five homes have a lot area of
16 4,550 square feet. Two have a lot area of 4600 square feet,
17 and three homes have a lot area of 4,650 square feet, and one
18 that's on a 9,000 square foot lot is a non-conforming multiple
19 residents according to the Nassau County Department of
20 Assessment.

21 The lot where the existing homes will be the largest
22 house -- the largest lot on the north side by 144-feet, but on
23 the flip side, the newly created lot will be reduced by
24 144-feet. So, I'd like you to look at it as sort of an average
25 that can be -- that can be perceived by limiting the location
26 and size of construction on the new lot. To make sure that any

1 deficiencies that are created, can be then addressed by
2 restricting where the building envelope is, and by keeping the
3 FAR reduced proportionately to the lot size.

4 MEMBER DONATELLI: Are there plans currently for any
5 development? Any potential development on that vacant lot?

6 MS. DEEGAN DICKSON: No, there are no plans yet. The
7 Millikan's are -- as I mentioned, they've lived in the house
8 for all of his life, and Mrs. Millikan, since they've been
9 married. They're both retired. They are looking to remain in
10 their home, and they'd like to leave it to their children. The
11 only way that they're going to be able to stay in their homes
12 is to sell off this lot, and get the income from that. Again,
13 that's sort of the way the neighborhood was developed. Any of
14 the houses that were built on half of the lot -- and I see this
15 in a lot of older communities where the -- they were developed
16 before zoning. You put a house on one half and you plan when
17 your child grows up to go and build their house next door.
18 Zoning kind of caught up, and a lot of municipalities have
19 codes that makes specific exceptions for that. That say hey,
20 if you kept one half your lot, and it's been in common
21 ownership since the house was built -- the City of Glen Cove,
22 for instance, has that as a specific exception in their code.
23 It recognizes this historic pattern of development in some of
24 these older neighbors.

25 TOWN ATTORNEY ALGIOS: So, Kathleen, the minimum lot
26 width this block is 40?

1 MS. DEEGAN DICKSON: The minimum permitted lot
2 width?

3 TOWN ATTORNEY ALGIOS: Yes.

4 MS. DEEGAN DICKSON: Yes, it's 40.

5 TOWN ATTORNEY ALGIOS: What is the average?

6 MS. DEEGAN DICKSON: The average is 50.

7 TOWN ATTORNEY ALGIOS: The average is 50?

8 MS. DEEGAN DICKSON: Yes. 'Cause every single lot is
9 50 square feet with the exception of those two that are 100,
10 and one of the ones that's 100 is not a single-family home, so
11 that's -- that doesn't count, and then the other one is -- you
12 drop off the largest and the smallest.

13 TOWN ATTORNEY ALGIOS: Right.

14 MS. DEEGAN DICKSON: So, it complies with the average
15 lot width in the neighborhood.

16 TOWN ATTORNEY ALGIOS: But I thought one is under 50,
17 right? So that wouldn't--

18 SECRETARY WAGNER: One of the proposed lots is.

19 MS. DEEGAN DICKSON: The proposed lot is 48.6, so that
20 one would be less than the 50, yes.

21 TOWN ATTORNEY ALGIOS: I'm just asking because I don't
22 see that cited. I don't know if that was an oversight.

23 MS. DEEGAN DICKSON: They did not cite it.

24 TOWN ATTORNEY ALGIOS: I just don't want you to have a
25 problem after the hearing.

26 MS. DEEGAN DICKSON: So, the Notice of Disapproval was

1 issued after the Board of Review decision, where we
2 shifted the lot line. So that must have been an oversight of
3 the Building Department.

4 TOWN ATTORNEY ALGIOS: Ginny is going to check with
5 Glen.

6 MEMBER GOODSELL: Could you address the other issues
7 for the other variances; the 3-foot fence, the white fence, and
8 the generator?

9 MS. DEEGAN DICKSON: Yes. So, the generator
10 presently -- there's an existing generator servicing the house,
11 the existing house. So, the existing generator for the house
12 is over here. The new lot line would cut right through, so it
13 needs to be relocated.

14 VICE CHAIRMAN FRANCIS: Oh, yeah.

15 CHAIRMAN MAMMINA: You can see. It cuts through.

16 VICE CHAIRMAN FRANCIS: I didn't see that.

17 CHAIRMAN MAMMINA: The steps as well.

18 MS. DEEGAN DICKSON: So, the alternatives for
19 relocating, would be putting it here on the west side of the
20 house, where there's like clear space directly to the neighbor
21 over here, or put it in the rear of the house, which is where
22 it's proposed. The code requires a generator to be no more
23 than 5-feet from the house. The idea is that you don't take
24 your generator and stick it all the way back in the corner and
25 be obnoxious to your neighbor. The issue that we, though, is
26 that you have a deck, an existing deck that's about 5-feet

1 wide, and the generator can't be installed underneath the
2 deck for clearance reasons and required code reasons. So, they
3 proposed to install it near their air-conditioning units
4 directly abutting the back of the deck. So, the variance is to
5 have a more than 5-feet from the house, not too close to the
6 property line. You'll still be at least 25-feet from the rear
7 property line, so you don't have an impact on the neighbors
8 here. It's not going to have impact on the neighbors here, and
9 then -- we would leave it here because it's going to
10 be -- whoever's buying the new lot, would just have a take it
11 subject to that, but the line runs right through the generator.

12 CHAIRMAN MAMMINA: And those steps that are going down
13 onto the adjacent property will just be removed?

14 MS. DEEGAN DICKSON: Those are going to be removed and
15 relocated also to the back, yes.

16 MEMBER GOODSELL: Then generator would then go where
17 the air-conditioning units are?

18 MS. DEEGAN DICKSON: Yes.

19 MEMBER GOODSELL: So instead of being on the side where
20 it would be close to the proposed dwelling, or actually moving
21 away from a proposed dwelling by -- and by keeping it at least
22 25-feet from the rear property line?

23 MS. DEEGAN DICKSON: Correct, yes.

24 MEMBER GOODSELL: So, it's technically a noncompliant
25 location, but a logical location.

26 MS. DEEGAN DICKSON: Exactly. And really, you know,

1 unless they were to put it -- a compliant location
2 would also be on the east side -- I'm sorry, the west side of
3 the house in the driveway, but it would have to be 5-feet. It
4 has to have separation. It has been here. Some of the access
5 on the driveway, the garage, but then also, from here. This is
6 a tight neighborhood. Everybody's houses are pretty close to
7 one another. Just to try and be conscious of the fact that a
8 generator starts up once a week, and you know, in the event of
9 a power outage, it'll be running, and they can be a little
10 noisy, so they didn't want to put it right next to their
11 adjacent neighbor on the west side.

12 CHAIRMAN MAMMINA: It isn't a driveway, then, as a
13 piece of equipment that's sticking out.

14 MS. DEEGAN DICKSON: Exactly.

15 CHAIRMAN MAMMINA: It's usually connected to a gas
16 line, so I would say, if this were in a commercial building,
17 the utility company would require that there'll be bollards
18 around it as well making it look quite commercial and taking
19 more of the --

20 MEMBER HERNANDEZ: Space.

21 CHAIRMAN MAMMINA: More of the driveway.

22 MS. DEEGAN DICKSON: While there is technically an
23 alternative, I don't think there's a practical alternative or
24 one that really suits the character of the home or the
25 neighborhood.

26 The other variance is, there is an existing 3-foot-high

1 decorative fence in the front yard. There are some
2 photographs in the exhibit packet that show it. It's a -- and
3 the photos over the years. It's been there for a long, long
4 time. Because of the narrowness of the street, several of the
5 property owners, and not naming names at all, have low fences
6 along the front. It helps prevent people from parking on your
7 property. It helps people from, you know, cars if there's two
8 cars coming through, it kind of slows traffic down, so nobody
9 pulls onto their front yard to pull off the street. So, it's
10 really -- it's pretty. It's decorative. It's, you know, it's
11 not overly functional, but it's -- it's been there for -- well,
12 I don't know -- how long has it been there?

13 UNIDENTIFIED SPEAKER: Forever.

14 MS. DEEGAN DICKSON: It's been there for a long time.
15 We have photographs from Google -- Google Street View, going
16 back to 2008 that show it.

17 SECRETARY WAGNER: So, disapproval stands. It was
18 before the code change to the fact.

19 MS. DEEGAN DICKSON: Very good.

20 SECRETARY WAGNER: It's what we thought, but we weren't
21 sure.

22 MS. DEEGAN DICKSON: Good. Thank you.

23 (Whereupon, a discussion was held between Board
24 Members.)

25 MS. DEEGAN DICKSON: So, the discrepancy in the lot
26 size between the two lots could be mitigating by demolishing

1 the 100-year-old home, and I don't think that's good for
2 the neighbor. It's certainly is not good for Mr. and Mrs.
3 Milliken. If we did that, then we wouldn't have this
4 situation, but the -- this discrepancy really is -- can be
5 mitigated by limiting the size and location of any new home to
6 be developed on the site. The minimal difference is -- is not
7 going to be perceptible to the naked eye. It won't have any
8 real impact on the character of the community. There's no
9 other lot that could avail themselves of this relief, and turn
10 point to us, and say well, you did it for them, you have to do
11 it for us. Every other single house on the block, every
12 property is developed. With the exception of one, all the way
13 down on the corner, that's right behind the commercial uses on
14 Glen Cove Road, and that has a --

15 CHAIRMAN MAMMINA: It's got a larger lot.

16 MS. DEEGAN DICKSON: So that would be that a fully
17 conforming lot. So, there's no concern about setting any kind
18 of an undesirable precedent here.

19 We believe that the present application is the most
20 appropriate balance of variances needed to provide the least
21 amount of relief possible in order to give the Millikens the
22 objective of using their property in the same manner as their
23 neighbors, while also satisfying the building separation
24 requirement of the New York State Board of Review.

25 I know Mr. Milliken or Mrs. Milliken wanted
26 to address the Board as well, and then, you know,

1 we're happy to answer any other questions that you
2 would have.

3 CHAIRMAN MAMMINA: Sure.

4 MRS. MILLIKEN: My name is Phyllis Milliken, 11 Elm
5 Street, Greenvale, New York. Good morning, everybody.

6 VICE CHAIRMAN FRANCIS: Good morning.

7 MR. MILLIKEN: Thank you for letting me read my little
8 note. I'm very nervous, so if I get a little fumbley --

9 CHAIRMAN MAMMINA: Don't be nervous.

10 MEMBER HERNANDEZ: Don't be nervous.

11 CHAIRMAN MAMMINA: No reason.

12 MEMBER HERNANDEZ: I don't like microphones either.

13 MRS. MILLIKEN: I know.

14 We have spent our entire lives on Long Island. My
15 husband was raised in the very house that we live in today. I
16 was raised a few miles away. We grew up here, got married,
17 raised both our children, and have never lived anywhere else.
18 It's like Home Sweet Home. My son Chris holds a degree from
19 both Stony Brook and Hofstra, and my daughter Kelly resides in
20 Deer Park with her husband and young daughter. Long Island is
21 all we ever have known.

22 As you're aware, my husband and I are looking to sell
23 the adjacent lot to our house in Greenvale. We are hoping to
24 do it for a variety of reasons. Both of us have been retired
25 for more than a decade, and we are settled into retirement. We
26 found it increasingly difficult each year to keep up with the

1 high cost of living on this beautiful island. Our
2 property taxes are very high. Our home is in need of a new
3 roof and other repairs. As cancer survivors, we both have
4 medical expenses that are probably higher than the average
5 person. Sadly, last week -- well, this was -- I wrote this a
6 while ago. But sadly, six months ago, I found out that my
7 cancer had returned. I had breast cancer. It came back the
8 third time, and the sale of our lot would allow us to live more
9 comfortably in the time we have left.

10 We ask that you strongly consider ruling in our favor.
11 Doing so would mean so much to us. That would have a positive
12 impact in our lives. Once again, we are very much appreciate
13 the opportunity to be here and to share our story with you
14 today. Thank you very much for your consideration and your
15 time.

16 MEMBER HERNANDEZ: Thank you.

17 MS. DEEGAN DICKSON: We would ask that you consider
18 these requests favorably. The consent of the neighbors, I
19 think should be something that you consider seriously, as well.
20 The fact that we have submitted 17 consents, and many of them
21 from the immediately surrounding neighbors, who will be most
22 affected by this -- by the variances, that they have no
23 objection to it.

24 VICE CHAIRMAN FRANCIS: Well, as one Board Member, let
25 me go through the variances one more time.

26 MS. DEEGAN DICKSON: Yes.

1 VICE CHAIRMAN FRANCIS: As to the main
2 variance, which is the subdivision and putting of the house up.

3 MS. DEEGAN DICKSON: Right.

4 VICE CHAIRMAN FRANCIS: I really want to take my time
5 and go through your exhibit because I really have not had a
6 chance to do that.

7 As to the generator, I agree with the other Board
8 Members that generator belongs where it's going. In terms of
9 convenience and just necessity.

10 The third variance is the front yard fence. While the
11 front yard fence is very pretty, I personally like the way that
12 looks. We can't go down that road because we have a
13 prohibition against front yard fences in North Hempstead. So
14 as to that, as one Board Member, I would deny that fence.

15 MEMBER GOODSSELL: There are two or three other front
16 yard fences on the block. Does your client have any evidence
17 that they are, in fact, legally built with permit?

18 MS. DEEGAN DICKSON: We do not have any information on
19 those fences.

20 CHAIRMAN MAMMINA: Or that they existed for all of
21 time.

22 MS. DEEGAN DICKSON: Well --

23 CHAIRMAN MAMMINA: Which we've had those kinds of
24 things. Only because I know that with all good intent, the
25 testimony is that the fence been there forever. It's a PVC.

26 MS. DEEGAN DICKSON: Right.

1 CHAIRMAN MAMMINA: Right, so PVC fences are --

2 VICE CHAIRMAN FRANCIS: 60s, maybe? 70s?

3 CHAIRMAN MAMMINA: Not even, 90s.

4 VICE CHAIRMAN FRANCIS: That's true.

5 CHAIRMAN MAMMINA: Technically, if you have a
6 noncomplying fence, and you take it down, you have to put up --

7 VICE CHAIRMAN FRANCIS: In kind.

8 CHAIRMAN MAMMINA: In kind, I guess, or maybe, you lose
9 it. I don't know. The town is very fussy with fences.

10 MEMBER HERNANDEZ: You can repair.

11 MS. DEEGAN DICKSON: No, we understand that.

12 MEMBER GOODSSELL: I just tried to Google when the front
13 yard fence rule went into effect, and there's been
14 modifications to the fence law that we've had many times, so I
15 just -- well, does your client have any photographic evidence
16 or any evidence, an old survey that shows that the fence was
17 there, let's say, prior to the year 2004, 2005?

18 MS. DEEGAN DICKSON: So, the photographs that we've
19 submitted to you show them going back to 2008. I don't know
20 if -- I don't have a survey, an older survey. I might have an
21 older survey. Hold on.

22 (Whereupon, a discussion was held between Board
23 Members.)

24 CHAIRMAN MAMMINA: I think, not sounding like a wise
25 guy, is that the types of things that have been submitted are
26 the pictures from communion of the cute little girl with the 57

1 Chevy that's off to the side.

2 SECRETARY WAGNER: How many exhibits were in the
3 packet?

4 MS. DEEGAN DICKSON: There were eight exhibits.

5 SECRETARY WAGNER: This will be Exhibit 9. This is a
6 photo of -- 2001 photo of the fence on the house.

7 CHAIRMAN MAMMINA: I'll say, I'm certain that that's
8 post-ordinance.

9 VICE CHAIRMAN FRANCIS: Yeah.

10 CHAIRMAN MAMMINA: Those are all post-ordinance. Which
11 means everybody got a bunch of illegal fences.

12 VICE CHAIRMAN FRANCIS: Right.

13 CHAIRMAN MAMMINA: And you know I'm not being a wise
14 guy.

15 MS. DEEGAN DICKSON: No, I understand.

16 CHAIRMAN MAMMINA: Just pointing out.

17 MS. DEEGAN DICKSON: I understand it, and I know how
18 sensitive the town is about front yard fences. I do think that
19 this is, a little bit of a different scenario because the
20 roadway is so narrow, and there does need to be a little bit of
21 protection. There's no curbs along the street. I think the
22 Millikan's have a low curb that they installed themselves, but
23 there's no curb along there. So, it is protective of their
24 property.

25 Ms. Milliken informs me that her father-in-law had a
26 chain link fence along the property line forever. I don't know

1 if we have photographs. I'm sure that -- do you have any
2 pictures of the front from when your kids were little?

3 MR. MILLIKEN: I will search.

4 MS. DEEGAN DICKSON: But being mindful --

5 CHAIRMAN MAMMINA: We've swapped chain link for chain
6 link.

7 MR. MILLIKEN: It was 4-feet high.

8 CHAIRMAN MAMMINA: Exactly those scenarios, where we
9 can see that was there. I mean, in an area, especially like
10 Newcastle, Village of Mineola, which is not part of us, those
11 chain link fences were put up as a matter of course, not on
12 every single house, and I can only say that from having grown
13 up in Mineola, and hoped many of those fences as we used to
14 say. But once it comes down, it's down.

15 MR. MILLIKEN: I'll take it down.

16 MS. DEEGAN DICKSON: If you deny it, they'll have to
17 take it down.

18 CHAIRMAN MAMMINA: I think the applicant is saying that
19 they would take it down.

20 MR. MILLIKEN: I'll do whatever you say.

21 SECRETARY WAGNER: Is that a withdrawal, or do you want
22 to have an opportunity to submit more evidence that it was
23 there?

24 MS. DEEGAN DICKSON: Well, I guess my question is, are
25 you proposed to make a decision this afternoon?

26 VICE CHAIRMAN FRANCIS: It couldn't have been there

1 'cause it's PVC, so we know it doesn't -- historically, it
2 couldn't have been there.

3 MS. DEEGAN DICKSON: You said, Member Goodsell, that
4 2004 was the --

5 MEMBER GOODSSELL: Well, that's what I see the major
6 revisions to the fence.

7 CHAIRMAN MAMMINA: No, the ordinance is before that.

8 SECRETARY WAGNER: I think it was '96.

9 CHAIRMAN MAMMINA: '96.

10 VICE CHAIRMAN FRANCIS: The ordinance goes way back
11 before that.

12 MEMBER GOODSSELL: I can't see anything.

13 MS. DEEGAN DICKSON: I prefer not to withdraw it. I'd
14 prefer to have an opportunity to submit some evidence, but I
15 don't want to hold up any decision on the balance of the
16 application.

17 MEMBER GOODSSELL: We've already indicated that we want
18 to take a look at all the exhibits you submitted.

19 MS. DEEGAN DICKSON: Okay.

20 MEMBER GOODSSELL: So, we're either going to continue or
21 reserve today anyway because -- I appreciate the fact all the
22 work you put into the presentation, and I'm not going to look
23 for 30 seconds.

24 MS. DEEGAN DICKSON: No, I appreciate that.

25 MEMBER HERNANDEZ: I would like to make one comment.
26 Only as one member. Is that, if I would look favorably on

1 allowing that substandard lot next door, I would not look
2 at it kindly if the person coming to build on that lot would be
3 coming looking for variances because -- not because the lot is
4 substandard because we approved that or because they want to
5 make a bigger house or they want to encroach because I would
6 not look favorably on that.

7 VICE CHAIRMAN FRANCIS: Nor would I.

8 MEMBER DONATELLI: I would just add as one Board Member
9 that any -- as one Board Member, if the New York State Board of
10 Review has imposed a condition that there'd be 10-foot
11 separation, that any approval by this Board that I would
12 support would have to be subject to condition set forth by the
13 New York State Board of Review.

14 VICE CHAIRMAN FRANCIS: Absolutely.

15 MEMBER HERNANDEZ: Absolutely.

16 MEMBER DONATELLI: Which I understand that the
17 applicant would except.

18 MS. DEEGAN DICKSON: Yes, we would expect that, yes.

19 MEMBER HERNANDEZ: If they sell the lot to someone
20 else.

21 MEMBER DONATELLI: But if it's a condition of --

22 MEMBER HERNANDEZ: The applicant is accepting it.

23 MEMBER DONATELLI: -- of approval, then we can
24 condition our approval upon that.

25 MEMBER HERNANDEZ: Absolutely.

26 CHAIRMAN MAMMINA: And I think the street is definitely

1 a mixed bag of things that comply.

2 MS. DEEGAN DICKSON: It sure is.

3 CHAIRMAN MAMMINA: Houses that are probably 6-feet
4 apart from each other. But you know, while every case stands
5 on its own, I think that having the 10-feet, as you drive down
6 that block is going to say, okay, that house complies with the
7 ordinance visually. Set of unique circumstances here, and you
8 know, I see that as being a major part of the application, and
9 then compliance with what the State has said.

10 MS. DEEGAN DICKSON: I think your counsel will tell you
11 that if you impose it as a condition for this subdivision, it
12 makes it that much more difficult for anybody to come in and
13 ask for that variance down the road because that would affect
14 the overall, you know, the existing house and that. So, we're
15 fine with that being a condition of your approval that the
16 minimum setback on that -- on the west side of any newly
17 created lot be 7-feet, or that no house be closer than 10-feet,
18 or however you want it to impose it, or that it's be compliant
19 with the Board of Reviews conditions. We expect that to be a
20 condition of any approval. We're happy to accept that.

21 MEMBER GOODSELL: Did we decide that the
22 building -- the diagram showing the building envelope on the
23 vacant lot, is going to be submitted to us?

24 MS. DEEGAN DICKSON: If you don't have it, we
25 will -- we'll get it to you. That should've been part of the
26 original application.

1 MEMBER GOODSSELL: I'm looking for it. I don't see
2 it.

3 SECRETARY WAGNER: I don't see it.

4 MEMBER GOODSSELL: I got surveys.

5 MEMBER HERNANDEZ: Just resubmit it, just in case.

6 MS. DEEGAN DICKSON: We will. I'll resubmit it just in
7 case. Just so you know, we've been at this for a long time
8 because there were -- what we thought was going to be a nice
9 simple two lot subdivision turned into a lot more. It took us
10 almost a year to get through the whole Board of Review process.
11 So, the plans changed, and different things have gone into the
12 Building Department, so something was inadvertently left out of
13 the package. I apologize. We'll get that to you.

14 MEMBER HERNANDEZ: No problem.

15 MEMBER DONATELLI: I think it's appropriate to
16 continue.

17 CHAIRMAN MAMMINA: Yes. We will continue this.

18 MEMBER GOODSSELL: We don't have to continue for a very
19 long period of time?

20 CHAIRMAN MAMMINA: No.

21 SECRETARY WAGNER: We have a hearing in a couple of
22 weeks.

23 MS. DEEGAN DICKSON: We'll get the information in the
24 next couple of days and then --

25 VICE CHAIRMAN FRANCIS: Yeah.

26 CHAIRMAN MAMMINA: And then we can finish up.

1 MS. DEEGAN DICKSON: Good.

2 CHAIRMAN MAMMINA: Okay.

3 MS. DEEGAN DICKSON: Thank you very much.

4 CHAIRMAN MAMMINA: Thank you.

5 MS. DEEGAN DICKSON: Appreciate your time.

6

7

8 SECRETARY WAGNER: So, second call on Appeal #21747,
9 George Lazar; 3 Kingston Street, New Hyde Park; Section 8,
10 Block 345, Lot 18; Zoned: Residence-C.

11 Variance 70-49.C to construct additions that would make
12 the home too big.

13 CHAIRMAN MAMMINA: Do I recall it?

14 SECRETARY WAGNER: I don't think you need to do that.

15 CHAIRMAN MAMMINA: I don't think so.

16 MR. MILCETIC: Good morning, again. We're looking to
17 withdraw the application. We're gonna stick with the already
18 approved drawings.

19 SECRETARY WAGNER: Are you withdrawing entirely?

20 MR. MILCETIC: Withdrawing the variance entirely.

21 CHAIRMAN MAMMINA: Okay.

22 MR. MILCETIC: Thank you very much for your time.

23 VICE CHAIRMAN FRANCIS: Thank you so much.

24 CHAIRMAN MAMMINA: We appreciate it, and it's very
25 nicely done.

1 MR. MILCETIC: Thank you.

2 CHAIRMAN MAMMINA: That I will say.

3 MR. MILCETIC: Got to start somewhere.

4 CHAIRMAN MAMMINA: That is right.

5

6 C O M M E R C I A L C A L E N D A R

7 SECRETARY WAGNER: Appeal #21750, Plymouth Realty, LLC;
8 495 Great Neck Road, Great Neck; Section 2, Block 51, Lot 209;
9 Zoned: Business-A.

10 Appeal for determination or in the alternative a
11 modification of a Conditional Use approval (issued under Appeal
12 #17687) for construction of a new meat department work area in
13 the cellar of an existing supermarket (a conditional use).

14 CHAIRMAN MAMMINA: You heard Appeal #21750, Plymouth
15 Realty, LLC. Is there anyone in the room interested the
16 application other than the applicant?

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

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

20 Good morning, Mr. Chairman, Members of the Board,
21 staff.

22 CHAIRMAN MAMMINA: Is it morning still?

23 MR. MIGATZ: Still morning.

24 I appear before you representing Plymouth Realty
25 Company, which is the owner of the shopping center. The

1 tenant, H Mark Great Neck, Inc., is the operator of the
2 supermarket. Mr. Yang is here with me this morning,
3 representing H Mart Great Neck, Inc.

4 The Board is familiar with the shopping center. It's
5 been before you several times. The supermarket is really the
6 anchor tenant at 495 Great Neck Road.

7 The supermarket was constructed pursuant to a
8 conditional use permit granted March 2, 2005, and that has been
9 submitted as Exhibit 1, and that decision this Board reads,
10 "Conversion of the existing commercial building to a
11 supermarket."

12 The application before you seeks a modification. Let
13 me rephrase that. It has been determined by the Building
14 Department and Zoning Board staff that a modification of the
15 commercial use permit is required in order to relocate an
16 existing meat prep area from the first floor to the cellar.
17 The meat prep area consists of -- I'm sure you've seen these in
18 supermarket, work tables, slicers, knives, sink, and
19 refrigeration to prepare meat. That has been done ever since
20 2005, 20 years ago on the first floor. They now want to use
21 that first-floor space for additional display coolers for food
22 and relocate the meat prep area in the cellar.

23 The Notice of Disapproval states, and I quote, "An
24 expansion of the existing conditional use associated with BZA
25 Appeal 17687. The Building Department has determined that to
26 relocate an existing meat prep area in an existing supermarket

1 is an expansion of the existing conditional use
2 permit."

3 Now, I'm sure no surprise to you, I took a -- I filed a
4 determination of that ruling by the Building Department. There
5 are legal rules of statutory construction that is relevant
6 here. To quote a recent decision of the Court of Appeals of
7 this State. "We decline to read the statute in a manner that
8 would produce such an objectionable, unreasonable, or absurd
9 consequence." That was referring to some other statute.

10 I respectfully submit to you that to read the
11 conditional use permit that permits a supermarket to require to
12 it be modified to relocate a meat prep area is objectionable,
13 unreasonable, and absurd, and it cannot stand; otherwise, every
14 supermarket would come before your Board; make me a lot of
15 money; make Kathleen Dickson a lot of money, to relocate
16 different areas in their supermarket.

17 Now, I submitted an email exchange that I had with your
18 staff and with the Planning Commissioner, and I'll summarize
19 that, but when I filed the application, I was told by your
20 staff that I had to produce a trip generation analysis to
21 determine if relocating the meat department would create 100 or
22 more trips, in which case a traffic analysis a required.

23 SECRETARY WAGNER: Not a traffic analysis. A trip
24 generation estimate.

25 VICE CHAIRMAN FRANCIS: A trip generation by who?

26 MR. MIGATZ: Well, then, I was told I can go to the ITE

1 Manual and find without difficulty a trip generation of
2 projection for relocating a meat prep area from one area to
3 another area.

4 VICE CHAIRMAN FRANCIS: This is trip generation by
5 employees going from the meat area --

6 SECRETARY WAGNER: No, vehicles.

7 CHAIRMAN MAMMINA: Vehicles coming to the site.

8 VICE CHAIRMAN FRANCIS: Oh, God.

9 MR. MIGATZ: This from your staff. Now, I spent hours
10 and hours looking through the ITE Manual, and I could not find
11 any guidance on trip generation by relocating a meat prep area.
12 I was told by staff I can appeal to the Planning Commissioner,
13 which I did. The Planning Commissioner replied, "In this case,
14 since it's only relocation of counter with the same use, it's
15 not a new use or change of use or an expansion of use. Traffic
16 generation number are not needed."

17 Now, the Building Department says it's an expansion of
18 the use. The Planning Commissioner says it's not. Now,
19 technically, I guess, you could overrule the Planning
20 Commissioner, but I don't think that will stand up in court,
21 with all due respect.

22 MEMBER HERNANDEZ: Can I ask you a question before we
23 get into these debates, so I understand what you're trying to
24 do.

25 On the ground floor, the main floor of the supermarket,
26 there's a meat processing area, where they do their packaging

1 and that kind of stuff.

2 MR. MIGATZ: No, the meat -- yeah, the meat prep area.

3 MEMBER HERNANDEZ: Yeah, where they cut up and package
4 and everything else, right.

5 How many square feet is that?

6 MR. MIGATZ: It is -- I was told it was roughly half
7 the size of what's proposed in the cellar.

8 MEMBER HERNANDEZ: But that wasn't my question. My
9 question is, what is the square feet?

10 MR. MIGATZ: Well, it --

11 MEMBER HERNANDEZ: As it relates to the storefront.

12 MR. MIGATZ: It's half of 740, so it's about 370.

13 MEMBER HERNANDEZ: About 370, fine. If you're moving
14 that and creating 200, 250, 300, whatever in the -- I guess,
15 what used to be storage.

16 MR. MIGATZ: Correct.

17 MEMBER HERNANDEZ: Where you keep your paper goods or
18 your excess product. You are expanding the footprint of your
19 supermarket.

20 MR. MIGATZ: No, I'm not.

21 MEMBER HERNANDEZ: Well, you are because right now you
22 are adding 370 square feet of space that was not accessible to
23 clients for shelving and for other products to get. So, you're
24 making you store bigger by taking out of the store an area that
25 wasn't accessible to customers.

26 MR. MIGATZ: Mr. Hernandez, if I was putting an

1 addition onto the supermarket for a new department, I
2 would have to come back and modify the conditional use permit.

3 Supermarkets -- and I do go into them occasionally, you
4 know, and they move the beer department all the time on me. I
5 can't find it.

6 MEMBER HERNANDEZ: Absolutely.

7 MR. MIGATZ: One time it was here, and now, it's there.
8 I mean, supermarkets relocate -- they change their floor plan
9 all the time.

10 MEMBER HERNANDEZ: I do not disagree with it. I'm just
11 explaining my perspective of it. If you have an area, if you
12 move the beer from Aisle 12 to Aisle 9, you created -- you
13 moved -- you used up space on Aisle 9 that you're now putting
14 up on Aisle 12. But if you remove a processing area, not a
15 retail area, but a processing area out of that floor, any place
16 else; I don't care whether you put it in the basement, on the
17 roof, in a truck in the back. The moment you move it out of
18 that supermarket; you're effectively increasing the shelving
19 space in the supermarket. So, it is not unreasonable to say
20 that there is more square footage for the client to shop, and
21 it could -- I'm not saying it will, but it could generate more
22 traffic, so it's not an unreasonable request that you should
23 come here and say you are making your customers side of the
24 footprint bigger.

25 MR. MIGATZ: It's absurd. I'm sorry, it's absurd, and
26 the Planning Commissioner says it's not an expansion.

1 Technically, she's your boss. You work under her, you
2 know. So, the Building Department says it's an expansion. The
3 Planning Commissioner says it's not an expansion of use. It's
4 not an expansion of use. Supermarkets change floor plan all
5 the time. They can have a storage in one part of the first
6 floor and now, they put a cooler there. That happens all the
7 time.

8 MEMBER HERNANDEZ: Storage and a cooler, is still
9 storage.

10 MR. MIGATZ: If you're going to uphold the Building
11 Department on this, my client would have to take an Article 78
12 'cause now every time they want rearrange something, they have
13 to come back to you, and this would affect every supermarket in
14 North Hempstead. It's unreasonable, objectionable, and with
15 all due respect, absurd to have them do that. If they were
16 adding something that was unheard of in a supermarket; you can
17 save that for some other day. This is a meat prep area.
18 Existing. They want to make a larger prep area. They put it
19 in the basement. It's -- the conditional use is for a
20 supermarket. That's what your 2005 decision reads. "To
21 conversion a retail space to a supermarket."

22 MEMBER GOODSSELL: Mr. Migatz, the supermarket is on the
23 first floor; is that correct? That's the customer area?

24 MEMBER HERNANDEZ: Ground floor.

25 MEMBER GOODSSELL: The first floor. The ground floor.

26 MR. MIGATZ: Well, supermarkets have basements and all.

1 MEMBER GOODSELL: Are there customers in the
2 basement?

3 MR. MIGATZ: No.

4 MEMBER GOODSELL: What is the basement being used for
5 now?

6 MR. MIGATZ: There's storage, coolers, and so forth.

7 MEMBER GOODSELL: I see storage, yes. So, I happen to
8 agree with you that moving a meat prep area from a customer
9 area to a non-customer area does, in fact, expand the
10 supermarket, and the customer use of the supermarket, and
11 allows additional goods to be displayed. So, it's not an
12 unreasonable request.

13 MR. MIGATZ: It's absurd. It's not -- it's an
14 expansion of -- the NOD says expansion of a conditional use.
15 The conditional use is a supermarket. Supermarkets change.
16 It's not -- it's not a conditional use for this, this, this,
17 and that. It's for a supermarket. Supermarkets have meat prep
18 areas. You're not changing the conditional use that you
19 granted. You said a supermarket complies with all the
20 standards for a conditional use permit, and you granted the
21 supermarket a conditional use permit. If they have to come
22 back to you every time they change things around, you're
23 setting a very dangerous precedent for every supermarket in
24 this town.

25 VICE CHAIRMAN FRANCIS: I guess I see it the opposite
26 way. Whatever you do within the envelope of the supermarket,

1 does not, in my opinion, and should not create
2 additional trip generation to the supermarket. People go to
3 supermarkets because they have to go to supermarkets. It
4 doesn't matter what's being sold in the supermarket. So, I
5 don't see that -- I don't see it as an issue.

6 MR. MIGATZ: Thank you, Mr. Francis. You really made
7 my case. The conditional use standards are to determine if the
8 construction of a supermarket is going to have an adverse
9 impact on traffic, on noise, on odors, on parking. Those are
10 the standards for a conditional use permit.

11 VICE CHAIRMAN FRANCIS: Right.

12 MR. MIGATZ: Relocating a meat department isn't going
13 to affect any of those standards.

14 VICE CHAIRMAN FRANCIS: If they were putting in a bar
15 and restaurant in the middle of a supermarket, then I would
16 say, okay, that's going to increase trip generation. It's
17 going to continue to be a supermarket offering food stuff for
18 sale to the public.

19 MR. MIGATZ: Exactly.

20 VICE CHAIRMAN FRANCIS: That's basically it.

21 (Whereupon, a discussion was held between Board
22 Members.)

23 MEMBER DONATELLI: I would just add -- and not to be
24 argumentative, but I'm gonna be argumentative. I would add
25 that when we grant a conditional use permit for a supermarket,
26 it is based on the floor plans that are before us. So, that

1 when the conditional use was first granted, you say in
2 2005, it was based on whatever floor plans were submitted in
3 2005.

4 I know just recently in Port Washington, we approved a
5 food use for a coffee shop and restaurant in Port Washington,
6 and subsequent to that application, they applied to move their
7 food prep area from the first floor to the second floor, and
8 they did come back to us before that change of conditional use,
9 which we also granted.

10 So, I understand your point, but I think my overriding
11 concern is based on the plans that were approved in 2005, there
12 is a substantial change.

13 MR. MIGATZ: It's not a substantial change, and I
14 really doubt that in 2005 -- I actually was involved in that
15 application to some extent, that the Board looked at the floor
16 plan of a giant supermarket, and say, okay, you have the
17 display cooler here; you have a meat prep; you have the beer
18 here; now your beer is -- I just don't think that's -- that's
19 not realistic. It's not --

20 MEMBER DONATELLI: It predates my time on the Board, so
21 I can't say for sure one way or the other, but I think as a
22 rule, we do want the supermarket to comply to the plans that
23 were submitted at the time, and if there's a change whether
24 it's a substantial change or not, we can argue that all day,
25 but the fact is there is a change.

26 MR. MIGATZ: But the change is -- you know, if

1 they -- they certainly have the -- do they have the
2 right to put a slop sink in the cellar without coming back to
3 the Board? I would think so, right?

4 MEMBER GOODSSELL: Well, presumably, that's what the
5 meat department needs. It needs plumbing. It needs
6 electricity. It needs lighting. It needs additional storage.

7 MR. MIGATZ: And those are plumbing permits.
8 Everything else are fixtures. They're moving fixtures.
9 They're moving benches. They're moving slicers. They're
10 moving knives. The only real construction is the -- they're
11 putting in a sink.

12 MEMBER GOODSSELL: Did you say, though, that the
13 location of the meat prep department in the basement is gonna
14 be bigger than the meat prep on the first floor?

15 MR. MIGATZ: Yes.

16 MEMBER GOODSSELL: Okay.

17 MR. MIGATZ: Now, Member Goodsell, you're telling me if
18 they decide to make their fish department bigger on the first
19 floor, they got to come back to you?

20 MEMBER GOODSSELL: It's a change.

21 MR. MIGATZ: Oh, come on. That's absurd.

22 CHAIRMAN MAMMINA: I think it's -- it's not -- I've
23 been to H Mart. It's very good stores. I don't know what the
24 original plan showed. I think that the hypothetical point
25 from -- that could also be discussed would be, okay, so the
26 meat department, that whole area came out, and it moved

1 downstairs. Did that -- I'll call it a restaurant, even
2 though it's not a restaurant, and I'll put that on the record
3 as well; expand. You know, I ordered food there. I sat, and
4 I've eaten there, and it's very good. So, I think that's just
5 the question.

6 If they took their beer section, and they made it
7 larger, you know, then I'll say, okay, maybe -- that's not
8 gonna bring more people there. So, I can kind of see the two
9 sides of that, but I'd rather try to resolve this today, and
10 let everyone move on, rather than having to complicate this by
11 bringing the plan back, by talking with the Planning
12 Commissioner, and myself, and I'm not allowed to make a motion.
13 I just think I grant the conditional use approval, and I would
14 understand what you're saying, and I think without seeing the
15 circumstances that were presented where they said it was
16 absurd, then I can't make that final determination. I'd like
17 to. I would like to push this determination aside, but I don't
18 think I have enough information.

19 MR. MIGATZ: You have the opinion of the Planning
20 Commissioner.

21 CHAIRMAN MAMMINA: I understand.

22 MR. MIGATZ: If we take this to court, with all due
23 respect to your talented attorney, to argue that the Planning
24 Commissioner said there's not an expansion of use, but the
25 Zoning Board says, it's expansion -- I wouldn't want to have to
26 defend that.

1 CHAIRMAN MAMMINA: Do you think it's reasonable to
2 say, here's the first floor that was there originally, okay?
3 Now that we're taking the meat department out, this is how
4 we're re-arranging that first floor, and we're moving the meat
5 department down into the cellar. I don't see that as absurd.

6 MR. MIGATZ: How does that generate more customers?

7 CHAIRMAN MAMMINA: Because now, you're creating
8 potentially a restaurant, a mini restaurant that they have
9 inside there or something -- or some other use of that space.
10 If it's shelving then I think I'd be inclined to say, okay,
11 yeah, that doesn't change it, but we don't know.

12 MR. MIGATZ: We do know. The plans show display
13 coolers going in.

14 CHAIRMAN MAMMINA: I'm looking at -- I'm talking about
15 the first-floor plan. I'm having a -- my -- what is submitted
16 to us is very, very fuzzy, and nothing is labeled.

17 MR. MIGATZ: They are putting display coolers there.
18 They are putting seven display coolers there on the first
19 floor. That doesn't bring in more traffic. That just allows
20 them to display more food items.

21 CHAIRMAN MAMMINA: I'll criticize the architect, and I
22 hate to use that word. Things aren't labeled. I don't know
23 what's what on here.

24 MR. MIGATZ: It does say -- it says display coolers.

25 CHAIRMAN MAMMINA: I do know.

26 VICE CHAIRMAN FRANCIS: You can't see it.

1 MEMBER HERNANDEZ: Do you know what page that's on
2 because I don't see it either. We're looking at the floor
3 plans.

4 MR. MIGATZ: Let's bring back the 26-by-24 plans.

5 CHAIRMAN MAMMINA: I know -- and look, you're a very,
6 very good attorney. I know you inside and outside of the
7 Zoning Board.

8 MR. MIGATZ: My mindset is total destruction, as that
9 TV commercial says.

10 VICE CHAIRMAN FRANCIS: I love that advertisement.

11 CHAIRMAN MAMMINA: No, no, no.

12 MR. MIGATZ: And I'm taking this to the mat. This is
13 absurd.

14 CHAIRMAN MAMMINA: And I think that's okay if you want
15 then take -- if you want to take another Article 78, I mean,
16 that's fine. If the owner's willing to pay for it. I'm not
17 trying to hold it up, you know. I'm a business person. I
18 think you know that. I'll give him the opportunity even to
19 submit some other drawings. I don't see anything on here.
20 It's just basically blank.

21 (Whereupon, a discussion was held between Board
22 Members.)

23 MEMBER HERNANDEZ: What page is that?

24 MR. MIGATZ: It's on A100.

25 CHAIRMAN MAMMINA: I'm looking at A100.

26 MR. MIGATZ: Well, there's --

1 CHAIRMAN MAMMINA: You might have a different 100
2 than me.

3 MEMBER HERNANDEZ: I have a different A100 here.

4 CHAIRMAN MAMMINA: You have a different A100?

5 MEMBER HERNANDEZ: Yeah.

6 MEMBER GOODSSELL: Do we have the hardcopy of A100?

7 MR. MIGATZ: Look at the plan key notes. It has a B
8 there. I think the B goes down. I can't read without a
9 magnifying glass.

10 CHAIRMAN MAMMINA: Well, I guess, it's maybe how it
11 comes through when you transmit it, but it's very fuzzy.

12 VICE CHAIRMAN FRANCIS: It's located here on the first
13 floor.

14 CHAIRMAN MAMMINA: Again, there's no labels.

15 MR. MIGATZ: It's labeled B, and there's a plan keynote
16 down below, left-hand corner.

17 CHAIRMAN MAMMINA: Mine says -- mine shows a pipe
18 penetration detail.

19 MEMBER HERNANDEZ: B, as in boy, you said?

20 CHAIRMAN MAMMINA: On A100?

21 MR. MIGATZ: I think it says B.

22 MEMBER HERNANDEZ: I don't see anything.

23 MR. MIGATZ: Well, let me --

24 MEMBER HERNANDEZ: I see the plan key notes, one, two,
25 three.

26 CHAIRMAN MAMMINA: I would get rid of this today in a

1 way that everybody's happy with. I'm just saying -- do you
2 have hardcopies of their drawings there?

3 MR. MIGATZ: No.

4 MEMBER GOODSSELL: Do we have hard copies in our file?

5 CHAIRMAN MAMMINA: I will come down and show you what
6 I'm talking about.

7 (Whereupon, a discussion was held between Board
8 Members.)

9 MEMBER DONATELLI: Wait, wait. If you take a look -- I
10 found it. Guys, take a look at Page A1.

11 VICE CHAIRMAN FRANCIS: Oh, A1.

12 MEMBER DONATELLI: A1. That is right behind the Notice
13 of Decision in the initial decision in plans.

14 MR. MIGATZ: I just showed the Chairman where it is on
15 the plans. It just says display cooler.

16 MEMBER DONATELLI: Take a look at this.

17 (Whereupon, a discussion was held between Board
18 Members.)

19 CHAIRMAN MAMMINA: Just for the record, we're bringing
20 up all this age of computers.

21 MEMBER DONATELLI: This is Page A1, which is right
22 behind the Notice of Decision, and it is showing what had been
23 the meat counter, is now a fish counter, and the cellar -- now,
24 shows cellar plan. It's 17687 decision in plans.

25 MEMBER HERNANDEZ: Oh, 687, that's the previous
26 decision. You're looking at the old one.

1 MEMBER DONATELLI: No, no, no, that's what this is
2 defined as. This is showing the fish counter. Now, it's
3 showing as a straight.

4 (Whereupon, a discussion was held between Board
5 Members.)

6 CHAIRMAN MAMMINA: I'll say we look carefully at the
7 drawings, not in this second being critical of the architect.
8 I certainly had quirky things done on my drawings. Planning
9 Commissioner certainly looked at this the same way. I say
10 certainly, I don't know that, and I don't fully understand why
11 the Building Department would not understand that this just an
12 equipment swap of cooler boxes. This space that's in there,
13 looking at the four corners of the -- it's got a dotted line.
14 I'll call it a rectangular around it that says work area, and
15 if you look at the left-hand side, which is the cellar floor
16 plan of A100, the area is, to me, I'll say it appears rather
17 than certainly is the same size square footage as the area of
18 new display cases. So, I'll just put it into, with that said.

19 MEMBER DONATELLI: Well, it does appear that there were
20 some alterations that were made previously comparing to the
21 plans -- the earlier plans to the current plans.

22 So, the question before us now is whether or not based
23 on the interim modifications and based on the plans now,
24 whether or not a determination is appropriate, or whether we
25 should just grant the change -- the change to the conditional
26 use.

1 CHAIRMAN MAMMINA: And I will just say, just
2 supporting what is being said, only because it's evidentiary.
3 It's not conjecture. Those original drawings do show something
4 on a 45-degree angle with display cases, and it's got the fish
5 work area behind it, but -- I'll almost say, so what.

6 VICE CHAIRMAN FRANCIS: Right.

7 CHAIRMAN MAMMINA: It's still an apples-to-apples kind
8 of thing.

9 MEMBER DONATELLI: And sometimes, we can, as I
10 mentioned, sometimes, we can argue over the number of angels
11 that are on a pinhead, but after all is said and done, it's
12 difficult to make these determinations, but I think in this
13 case, I am comfortable making the determination based on how
14 the plans have evolved in reality over time over what is before
15 us today, and not speaking to the other changes. Unless any of
16 the other Board Members have any questions or comments?

17 All right, Mr. Chairman, I make a motion that we grant
18 the appeal for determination.

19 VICE CHAIRMAN FRANCIS: I'll second.

20 CHAIRMAN MAMMINA: We have a motion.

21 MEMBER HERNANDEZ: You'd rather do that than a
22 modification of the --

23 MEMBER DONATELLI: No, granting the appeal for
24 determination.

25 CHAIRMAN MAMMINA: We have a motion from Member
26 Donatelli. Seconded by Vice Chairman Francis. Please poll the

1 Board.

2 SECRETARY WAGNER: Member Goodsell?

3 MEMBER GOODSSELL: Aye.

4 SECRETARY WAGNER: Member Hernandez?

5 MEMBER HERNANDEZ: I abstain.

6 SECRETARY WAGNER: Abstain?

7 MEMBER HERNANDEZ: Yes.

8 MR. MIGATZ: No meat for you.

9 SECRETARY WAGNER: Member Donatelli?

10 MEMBER DONATELLI: Aye.

11 SECRETARY WAGNER: Vice Chairman Francis?

12 VICE CHAIRMAN FRANCIS: Aye.

13 SECRETARY WAGNER: Chairman Mammina?

14 CHAIRMAN MAMMINA: I would say for a very complicated

15 case that appears to be very, very simple on the surface.

16 Understanding also where Member Hernandez is coming from, but I
17 will vote Aye, also.

18 TOWN ATTORNEY ALGIOS: Just to be clear for your
19 record. You're granting the appeal for determination that the
20 relocation of meat department to the basement is not a
21 modification of the conditional use.

22 MR. MIGATZ: It's not an expansion.

23 TOWN ATTORNEY ALGIOS: Expansion.

24 MEMBER DONATELLI: Correct.

25 TOWN ATTORNEY ALGIOS: Okay.

26 CHAIRMAN MAMMINA: That's the key word.

1 MR. MIGATZ: Thank you.

2 CHAIRMAN MAMMINA: You're welcome. Enjoy the rest of
3 the day.

4 MEMBER HERNANDEZ: You too.

5 CHAIRMAN MAMMINA: Off the record.

6 (Whereupon, a discussion was held off the record.)
7
8

9 SECRETARY WAGNER: Appeal #21751, Döner Haus; 2419
10 Jericho Turnpike, New Hyde Park; Section 9, Block 612, Lot 51;
11 Zoned: Business-A.

12 Conditional Use 70-126(F) for interior alterations to
13 an existing commercial tenant space for a new take-out
14 restaurant, which is a conditional use.

15 CHAIRMAN MAMMINA: You heard Appeal #21751, Döner Haus.
16 Is there anyone in the room interested in the application other
17 than the applicant?

18 Seeing now one, please give your name and address.

19 MR. FAHMY: Good afternoon, ladies and gentlemen of the
20 Board. We appreciate you guys being here and hearing us out.
21 I am the franchise director for Döner Haus, which is a fast
22 casual concept that started in New York about four years ago.
23 Döner kabobs is the number one street food in Europe, and it's
24 slowly making its way into the United States. We have four
25 locations now in New York City and Queens.

1 Mr. Hamza Jalili is our franchisee, who
2 purchased the exclusive rights to opening up Döner Haus in
3 Nassau, Suffolk County, and any new locations in New York City,
4 and our first location in Long Island will be in Garden City
5 Park in the shopping center, which I know you're all familiar
6 with.

7 The current location happened to be, it used to be a
8 foot spa, which relocated to the corner of the shopping center
9 next to the liquor store and Big City Tacos or World Taco
10 Factory, and we were lucky enough to be fortunate to have a
11 relationship with the landlord. We found out the location
12 became available, so here we are.

13 I also have copies of the menu I'd like to give as an
14 exhibit.

15 SECRETARY WAGNER: This will be Exhibit 1.

16 MR. FAHMY: Yes, Exhibit 1 of the menu. Döner Haus
17 built the brand based on simplicity. Our menu is extremely.
18 The owner, the actual founder of Döner Haus is actually of
19 German descent. He now lives in the United States. The way
20 these concepts -- I don't know if anyone of you has ever been
21 to Europe, they're all takeout concepts, so you literally just
22 walk up to a window. They don't want people sitting in the
23 store. They don't want, you know, people waiting around. They
24 don't want seating. It's literally just a grab-and-go simple
25 concept. We do one thing, do it right. Your options are
26 chicken or beef. It's a very quick fast casual, low staffing.

1 We plan on creating a bunch of jobs for people in
2 the community, and we think we'll be a really good addition to
3 the shopping center because our concept doesn't really conflict
4 with anybody. It just adds an additional really good option
5 for food in the community.

6 CHAIRMAN MAMMINA: Looks to be kind of like a Chipotle
7 of a different country of origin --

8 MR. FAHMY: Exactly.

9 CHAIRMAN MAMMINA: -- and flavors.

10 MR. FAHMY: Yep.

11 CHAIRMAN MAMMINA: I'm looking at a Turkish Pride
12 Pocket.

13 MR. FAHMY: Yep.

14 CHAIRMAN MAMMINA: Based upon my Sicilian background.
15 I'm two percent Turkish.

16 MR. FAHMY: Oh, nice. Me, too. My grandfather was
17 Turkish.

18 VICE CHAIRMAN FRANCIS: Interesting.

19 CHAIRMAN MAMMINA: It's all of that is the same part of
20 the world.

21 MR. FAHMY: We're all molded from the same part of the
22 world. Thanks to the Ottoman Empire.

23 CHAIRMAN MAMMINA: I always joke that the Greeks came
24 over to Sicily, and they killed the men. They took the
25 beautiful women, and they brought them back to.

26 MR. FAHMY: Yeah, exactly.

1 MEMBER DONATELLI: So, no seating?

2 MR. FAHMY: No seating.

3 MEMBER GOODSELL: The plans are showing work stations.

4 Is that the --

5 MR. FAHMY: Just workstations.

6 MEMBER GOODSELL: Everyone in the facility has a

7 different job to get these orders in and out.

8 MR. FAHMY: Correct. We're a very efficient operation.
9 We're like a tech company that happens to sell food. So, like
10 even our big cones are pre-manufactured in our FDA facility in
11 Dallas. It gets distributed to performance foods. So, there's
12 no real prep going on in the store other than slicing tomatoes
13 and onions. So, those cones go on these machines. They shave
14 the meat, build the sandwich, wrapped, out the door.

15 CHAIRMAN MAMMINA: So, kind of like a gyro.

16 MEMBER HERNANDEZ: It's a gyro.

17 MR. FAHMY: Yeah, it's basically the Turkish version of
18 a gyro. Döner is like shawarma or gyro, but just Turkish. The
19 reason it's German is the Turkish population migrated into
20 Germany late 1800s, and kind of the Germans put their own spin
21 on it with the sauces and the cabbages to kind of fit their
22 tastes, and that's why they call it a German kabob.

23 CHAIRMAN MAMMINA: I never think of German cuisine as
24 being something that I want to seek out.

25 MR. FAHMY: Exactly. Other than a schnitzel.

26 CHAIRMAN MAMMINA: Which is basically nothing more than

1 a chicken cutlet.

2 MR. FAHMY: Which the Italians invented.

3 VICE CHAIRMAN FRANCIS: Looks good.

4 CHAIRMAN MAMMINA: Looks good.

5 MEMBER GOODSELL: I'm very familiar with this shopping
6 center. I have lived for 42 years, three or four blocks away
7 from this. I've seen many, many changes in that shopping
8 center. There have been food distribution places. There have
9 been restaurants that have stayed. There have been restaurants
10 to my dismay have gone out. It does have turn over, but it is
11 conducive to the type of food that you are proposing.

12 It sounds like you're not even going to have any
13 parking issues because that lot is pretty big, and except
14 during the holidays, and there's no parking anywhere. Your
15 grab-and-go is going to be a very appealing thing for the
16 neighborhood.

17 MR. FAHMY: That's what we're hoping.

18 MEMBER GOODSELL: Now, there's no place in the shopping
19 center to eat. There's no park. There's no tables. There's
20 nothing. So, you really are, and I'm sure you researched this
21 a grab-and-grab type of restaurant.

22 MR. FAHMY: 100 percent. Our current four locations,
23 more than 50 percent of our business is third-party delivery
24 apps. So, it's all Uber Eats, Grubhub, DoorDash.

25 VICE CHAIRMAN FRANCIS: Oh, I'm sure, yeah.

26 MR. FAHMY: It delivers very well, and that's a big

1 part of our business.

2 MEMBER GOODSSELL: And your delivery, your food
3 delivery, and the big truck delivery in the rear; is that
4 correct?

5 MR. FAHMY: Correct, yes.

6 MEMBER GOODSSELL: There's a big space back there. I
7 don't go walking back there to see where you are, but you're
8 somewhere in the middle of the shopping center.

9 MR. FAHMY: We got plenty area. There's like a private
10 driveway back there for the deliveries.

11 And again, if you look at the plans, we have a big
12 freezer space. Our meat gets delivered once a week. It holds
13 in the freezer. Produce is twice a week, so. We'll make sure
14 we don't disrupt anybody's business.

15 VICE CHAIRMAN FRANCIS: Sounds good.

16 MEMBER GOODSSELL: I would say then, if nobody else has
17 an objection, I would make a motion that we grant the
18 application with the standard restaurant conditions, which I'm
19 sure the Building Department has reviewed with you, and I wish
20 you luck.

21 MR. FAHMY: Thank you.

22 MEMBER GOODSSELL: Because there have been many changes
23 in there, but there have also been many current tastes that
24 have changed as well.

25 MR. FAHMY: Of course. The world is changing. Food is
26 very different. It's evolving.

1 VICE CHAIRMAN FRANCIS: And we need more
2 healthy options. Enough with the Burger Kings and McDonald's.

3 MR. FAHMY: I couldn't agree more.

4 VICE CHAIRMAN FRANCIS: This is what we need now.

5 MR. FAHMY: This is a very healthy option. We're
6 actually -- our meat manufacturer, it's 100 percent Halal,
7 which is a very big food trend right now, but it's also gluten-
8 free. There's no fillers. It's 100 percent beef; 100 percent
9 chicken, and we offer an option, which is like almost like a
10 vegan box -- not a vegan box, but like a gluten free box, where
11 you can take the meat over a salad with some sauce, and it's
12 like a very healthy Keto meal.

13 VICE CHAIRMAN FRANCIS: Right.

14 MEMBER GOODSELL: But can I get fries.

15 MR. FAHMY: Yeah, of course. You can always get fries.
16 You gotta get the fries.

17 VICE CHAIRMAN FRANCIS: Let's not go crazy now.

18 CHAIRMAN MAMMINA: You gotta get fries.

19 Okay, so we have a motion.

20 MEMBER GOODSELL: I make a motion.

21 CHAIRMAN MAMMINA: We have a motion. Do we have a
22 second?

23 VICE CHAIRMAN FRANCIS: I'll second it.

24 CHAIRMAN MAMMINA: Seconded by Vice Chairman Francis.
25 Please poll the Board.

26 SECRETARY WAGNER: Member Hernandez?

1 MEMBER HERNANDEZ: Aye.

2 SECRETARY WAGNER: Member Goodsell?

3 MEMBER GOODSSELL: Aye.

4 SECRETARY WAGNER: Member Donatelli?

5 MEMBER DONATELLI: Aye.

6 SECRETARY WAGNER: Vice Chairman Mammina?

7 VICE CHAIRMAN FRANCIS: Aye.

8 SECRETARY WAGNER: Chairman Mammina?

9 CHAIRMAN MAMMINA: Aye.

10 I'll just make a couple of comments now that we're
11 done. I love the doors in the front that --

12 MR. FAHMY: Yes.

13 CHAIRMAN MAMMINA: -- that open. Also, I will say
14 Mineola High School is right there. You're looking at a half a
15 century Mineola graduate. We would go over to that nasty
16 Burger King, whatever after school, and I think this serves
17 another good viable option.

18 MR. FAHMY: Hopefully, it's gonna be the first of many.
19 We have another lease signed in Wantagh, and we're working on
20 other locations, Hicksville, Farmingdale. Within the next
21 three to four years, he'd like to 15 to 20 locations on Long
22 Island.

23 CHAIRMAN MAMMINA: Sounds good. Good for you.

24 MEMBER DONATELLI: Best of luck to you.

25 MR. FAHMY: Thank you so much, guys. Have a great
26 afternoon.

1 SECRETARY WAGNER: Does somebody want to move to adopt
2 SEGRA?

3 MEMBER DONATELLI: Motion to adopt SEGRA.

4 MEMBER HERNANDEZ: Second.

5 CHAIRMAN MAMMINA: Motion by Member Donatelli. Second
6 by Member Hernandez. Please poll the Board.

7 SECRETARY WAGNER: All in favor?

8 ALL BOARD MEMBERS: Aye.

9 (Whereupon, the Proceedings concluded at 12:26 P.M.)

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C E R T I F I C A T E

STATE OF NEW YORK)

SS.:

COUNTY OF NASSAU)

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of November, 2025.

Mariesel Berrios

MARIESEL BERRIOS