

1
2 Town of North Hempstead

3 Board of Zoning Appeal

4 PUBLIC HEARINGS

5 Wednesday, July 15, 2026

6 10:00 a.m.

7
8
9 BOARD MEMBERS PRESENT:

10 David Mammina, AIA, Chairman

11 Leslie Francis, Esq., Vice Chairman

12 Patricia A. Goodsell, Esq., Member

13 Jay Hernandez, Member

14
15 ALSO PRESENT:

16 Debra Algios, Deputy Town Attorney

17 Virginia Wagner, Secretary

18 Steven Perrotta, Planner

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(Please note, Member Donatelli is not present.)

CHAIRMAN MAMMINA: Just a bit of an apology for getting started a little bit later. We do have a long calendar, which is fine, so we'd like to try to move it along for everybody's benefit.

What I like to do first is just do a little bit of a talk about the way we conduct business here, for a couple of reasons. First of all, you may have never been to a zoning board before, and if you haven't, then we just ask you to just relax. I do not think we're a hostile Board. I've been an architect for 50 years. I've appeared before many boards, and so just pretend you're talking across your kitchen table to us, and I know that that's difficult, but we will encourage you to do that.

What we will do is, as each case is called, we will ask the applicant to identify themselves simply by standing up, coming up to the podium, and I will then ask if there is anyone in the room who has an interest in the application. You may love it, you may hate it, but we just ask for a show of hands so that we know that people want to speak. If it's a good amount of people, then our secretary will pass around a pad so that people can write their name and address on it, and -- you don't necessarily have to speak. You can just write that you're for it or against it. It carries the same -- it carries the same weight, but we do certainly want to give neighbors, interested parties, the ability to talk about what their opinion is because there is a record that's being taken.

This is a quasi-judicial hearing. We want to make sure we get everything on the record that would be considered because it's all

1 listened to by the Board, and it's all part of our deliberation. What
 2 I will say is that, you know, based upon what is called the sunshine
 3 law, full deliberation that we do is done in full. So, whether we
 4 decide a case today, or we don't decide a case today, if we don't
 5 decide a case, you know, we will deliberate. Now, you needn't be
 6 here. We're on Zoom now. You can opt to come here if you would like
 7 to, but you'd be able to see everything that the Board has to say,
 8 and we give them an opinion back and forth and discussion about the
 9 hearing, and what was presented. So, you know, it's all, I'll say,
 10 on the up and up, and that is required by law, and we are very happy
 11 to do that, and we look forward to that.

12 As each person comes up, you'll give your name and address to
 13 our court reporter, and the same is true for anyone who comes up,
 14 other than the applicant, because that's all part of the record of
 15 who spoke, and we'll ask just that you do that slowly because she's
 16 amazing, but you know, she's typing down, whatever that machine is
 17 that they use, everything that is said. We also ask the same thing
 18 for applicants and for people who wish to speak, just not to be so
 19 fast in what you say for the same reason. Also, many times people
 20 read. We just ask that we kind of slow that down, and that's also
 21 good for the Board, so that we can fully take in.

22 What we will do is, as the applicant puts their application onto
 23 the record, then the Board will ask whatever questions it feels are
 24 germane to the application. Applicant has the opportunity to answer
 25 those. Then, if there is anyone else who wishes to speak, they then
 26 get to come up, one at a time, and give their name and address, and

1 they can put their information onto the record, so that there's a
 2 complete record of everything that happens today. If we get a
 3 husband and wife, partner and partner, whatever it might be, you can
 4 come up together. You'll give your name and address separately, and
 5 each person will have the opportunity to speak, or you can just say,
 6 I agree with exactly what was said. You don't have to come forward
 7 if you want to because your name will be on the record that you were
 8 here, and you were for it or against it. We do give a three-minute
 9 limit on that.

10 What I like to say is we don't chop anybody's head off at three
 11 minutes and one second, but we ask for not a lot of repetition, because
 12 if something's on the record multiple times, it doesn't make it any
 13 stronger, and that's just case law, so. You may certainly have the
 14 opportunity to just come on up, give your name and address, and say
 15 I agree with everything that everybody else says, and that's fine
 16 too because then you're personally on that record, you know, and not
 17 that you're not if you just sign in that you're in support or
 18 opposition, but you may want to reinforce that, and that's good. So,
 19 we would encourage that as well.

20 Just a few other things today. We have a full house today, which
 21 is always great. I'll say unfortunately for the people who are at
 22 the back of the calendar, you know, they may be here as long as we're
 23 here, which on days like today, you know, we can never predict that,
 24 but. What we ask is that we keep crosstalk to zero because again,
 25 the Board is trying to listen, and that's courtesy to everybody.
 26 Also, again, our very capable stenographer is writing everything

1 down. So, crosstalk by people is very difficult as I'm sure you can
2 imagine. We ask that if anybody is coming as well who's not here
3 now that you please ask them for the same thing.

4 VICE CHAIRMAN FRANCIS: Phones.

5 CHAIRMAN MAMMINA: Phones. Thank you. I got embarrassed last
6 time. My phone is still on. We just ask that you turn them off,
7 have them completely on silent, or whatever -- whatever it might have
8 to be, so that it's not disturbing anybody else who's up here on the
9 podium.

10 At any time, if you have to make a call or take a call, that's
11 absolutely fine, and you can walk outside into the lobby and take
12 care of that. Kind of a corny way, I like to say -- okay, here we
13 go. As I'm turning my phone off, Siri's telling me that she doesn't
14 understand. So, you know, when Stairway to Heaven starts to play,
15 walking out, it's distracting, it's embarrassing, and again, you can
16 just make your way across. If you have to come up to the front and
17 go that way, that's okay, we understand. You just want to stretch
18 your legs, and you can certainly do that as well.

19 We try to keep it friendly, and we try to keep it, you know,
20 as simple as we possibly can.

21 I think I hit everything. Did I do a good job?

22 VICE CHAIRMAN FRANCIS: Yes.

23 CHAIRMAN MAMMINA: Okay, I did a good job.

24 VICE CHAIRMAN FRANCIS: Yes.

25 CHAIRMAN MAMMINA: We do the Residential Calendar first and,
26 we then, Commercial Calendar after, and I see we have a young lady

1 here today, and we always used to joke that if she came in, you know,
2 with a child, you would get to go first, and then you could rent your
3 child if you would like to. But we understand, you know, we all have
4 families. I just left my youngest grandson, who was sick and did
5 not want to leave, but only because he was taking his computer with
6 him, so he couldn't watch any of these YouTube things about car
7 crashes and trucks and all of that kind of stuff.

8 I will say one other thing. That I think in the wisdom of our
9 Town Board, everybody that's here is from an unincorporated part of
10 the town, which basically means we don't have a mayor. We don't have
11 other trustees. We have the Town Board, and I personally have
12 appeared before zoning boards, where people are not from the
13 unincorporated areas, and to me, that didn't have the same level of
14 equity because they had a mayor that they could go to. They had a
15 trustee that they could go to, who might know another trustee, and
16 I'm not saying that any of that ever went on or not, but you know,
17 I think that our Town Board should be applauded for keeping that in
18 mind. We have familiarity with neighborhoods. We all live in
19 different neighborhoods. So, you know, we understand. Sometimes,
20 by a street, house by house, neighborhood, we go to see them, or we
21 get very, very careful drawings of things.

22 So, enough said. So, with that said, do we have any amendments
23 to today's calendar?

24 SECRETARY WAGNER: Yes, we have an adjournment of Appeal
25 #21840, Susu Gao; 16 Broadway, Great Neck; Section 2, Block 47, Lot
26 126; Zoned: Residence B.

1 Variance 70-40.C to construct additions that would be too close
2 to the street (primary and secondary front yards).

3 That's adjourned to September 2nd. I know there were some
4 people that called in or wrote in about that property, so if you're
5 here for 16 Broadway in Great Neck, that will be heard on September
6 2nd.

7 CHAIRMAN MAMMINA: So, regrettably, I know some people take off
8 work or arrange for babysitters and all of that. I mean, that's a
9 phone call that we could get yesterday, which is kind of what happened
10 on this one. So yes, if that is the case, and you're here for that,
11 we're not going to be hearing that until September.

12 So with that said, please call the first case.

13 SECRETARY WAGNER: We do have a long calendar today, so if
14 there's anybody here for the commercial appeals, you probably won't
15 be heard until around noon. I don't know if you want to sit around
16 in the hearing room, or if you want to wait in the hallway and get
17 a cup of coffee, but that's probably -- we won't get to that until
18 after the residential appeals. I can't give you an exact time, so
19 just be observant, but probably not until 12:00 at the earliest.

20 CHAIRMAN MAMMINA: And I will say apologies on the adjournment.

21 SECRETARY WAGNER: Look at your phones to see the live stream
22 just so you know.

23 CHAIRMAN MAMMINA: And I will say apologies on the adjournment.
24 That is someone that is -- everyone is entitled to do that, and unless
25 there's a very strong reason, you can only adjourn one time.

1 R E S I D E N T I A L C A L E N D A R

2 SECRETARY WAGNER: Appeal #21839, Ezra Sternstein; 124 Old Mill
3 Road, Great Neck; Section 2, Block 45, Lot 22; Zoned: Residence A.
4 Variance from 70-29.C to construct additions that will make a
5 home too big.

6 CHAIRMAN MAMMINA: You've heard Appeal #21839, Ezra
7 Sternstein. Is there anyone in the room interested in the
8 application other than the applicant?

9 (No response given.)

10 CHAIRMAN MAMMINA: Seeing no one. So, please give your name
11 and address.

12 MR. STERNSTEIN: Good morning. Thank you to the Board for your
13 consideration of this appeal. My name is Ezra Sternstein, and I am
14 the owner at 124 Old Mill Road in Great Neck, the subject property.
15 I aim to be brief.

16 I have prepared some handouts consisting of relevant excerpts
17 of the ads filed appeal papers, which may offer a visual aid to the
18 variance request in front of the Board.

19 May I distribute them?

20 SECRETARY WAGNER: Yes, you may. This will be Exhibit 1.

21 MR. STERNSTEIN: Thank you for that.

22 This appeal arises from a permit application for the renovation
23 of my home's first floor and basement, but the disapproval notice
24 itself concerns nothing more than the enclosure of approximately 7
25 square feet of exterior space that is recessed into my house in a
26 sort of U-shape, opening those 7 square feet into the interior, and

1 therefore adding to the square footage of the house, again, by only
2 7 square feet. Nothing else in the permit application is in
3 question.

4 My written submission explains why the principal points of
5 Section 267B favor the granting of a variance, and I'm happy to go
6 over those, but I hope to use some of this brief allotment of time
7 to give you some greater context to your decision.

8 CHAIRMAN MAMMINA: You may take as much time as you would like.
9 Back up just a little bit.

10 MR. STERNSTEIN: Of course.

11 CHAIRMAN MAMMINA: And a little musical side of my life. We
12 call that eating the microphone.

13 MR. STERNSTEIN: Of course. Thank you.

14 You see, our current options for mealtime where I -- with my
15 children and my wife are either in our formal dining room or at a
16 stone slab protruding from our kitchen countertop that seats two
17 people. We don't have a kitchen table because we don't have room
18 for a kitchen table. Our kids have somehow turned dinner into TV
19 time in the day.

20 The renovations will expand and move the kitchen, which we feel
21 will give us a more family-oriented space, but this approved work
22 is a critical part of that. It is an enormous, substantial change
23 that will have no effect on anyone other than us.

24 A variance would not extend the footprint of the house any
25 further than it already goes. It would not alter the exterior of
26 the house or its silhouette or its character in any way that ought

1 to be material or meaningful to anyone except for me and my family.

2 Instead, the variance would allow us to connect two existing
3 exterior walls that are currently separated from each other by about
4 18 inches of space at the outermost section of the wall. That 18-inch
5 gap recesses inwards by about 4.5 feet, at which point the walls
6 connect, leaving a rectangular space open to the exterior. It was
7 good for nothing except collecting debris.

8 The exterior space that will be added to the interior is
9 reflected in the shaded portion indicated on page 2 of that handout,
10 with the notation exterior nook to be added to internal square
11 footage. Just that shaded portion that has been notated with a
12 highlighted circle.

13 The effected space is on the back of the house, as you can see,
14 facing off to the side, thus ensuring that the change is almost
15 invisible to any of our neighbors or passersby.

16 Finally, today's agenda characterizes the variance request as,
17 quote, to construct conditions that will make home too big, but in
18 fact the addition will not cause the home to exceed 4,000 square feet
19 because the current existing square footage is 4,221 square feet,
20 and FOIL records from the town show that this has been the case since
21 sometime before June 1983.

22 Closing off this gap and opening its 7 square feet into the home
23 will bring the square footage of the home to about 4,228 square feet.
24 In other words, 7 square feet addition will enlarge the area -- square
25 footage area of the house by a minuscule 0.17 percent. Probably the
26 kind of expansion that these rules seek to prevent.

1 Moreover, all the space to be added is already recessed into
2 the interior of the home. It's just not actually part of the
3 interior. It is unusable, blocked-off space, and it will be made
4 usable and become part of our daily life.

5 MEMBER GOODSSELL: Can I ask you, Mr. Sternstein, was the notch
6 there when you bought the house?

7 MR. STERNSTEIN: Yes.

8 MEMBER GOODSSELL: What's the purpose of it?

9 CHAIRMAN MAMMINA: We don't really know.

10 SECRETARY WAGNER: We couldn't figure it out.

11 MEMBER HERNANDEZ: It appears in the demo plan that there is
12 a bathroom there.

13 MR. STERNSTEIN: Yes.

14 CHAIRMAN MAMMINA: Or there was a bathroom that has been knocked
15 out.

16 MR. STERNSTEIN: Yes.

17 MEMBER HERNANDEZ: I am assuming, to answer your question,
18 Patricia, that there must've been a window in the bathroom as the
19 code requires.

20 MR. STERNSTEIN: Yes.

21 MEMBER HERNANDEZ: You need fresh air.

22 MR. STERNSTEIN: Yes.

23 MEMBER HERNANDEZ: So, therefore, not just to create window
24 space, so you can get air into the bathroom.

25 MR. STERNSTEIN: That is a very good hypothesis. There is a
26 window in there. It faces directly through a brick wall that is 18

1 inches.

2 MEMBER HERNANDEZ: But it's open to the air, so, therefore, an
3 internal -- in New York City, it's called an internal window. It's
4 a shaft with a window in it, so you can get air.

5 MR. STERNSTEIN: Yes, I lived in New York City apartments that
6 had similar layouts.

7 I respectfully urge the Board to grant this variance. Thank
8 you once again to the Board for your consideration of this appeal.
9 I'm happy to answer any other questions you have.

10 CHAIRMAN MAMMINA: So, everyone understands. There are
11 criteria of law that this Board has to examine. Like I said, this
12 is a quasi-judicial body, and there -- in terms of the area variances
13 that are here today, you have five points of law. I don't -- I don't
14 know -- do we have that little paper up there?

15 SECRETARY WAGNER: It should be up there on the podium.

16 CHAIRMAN MAMMINA: If you can just run down.

17 MR. STERNSTEIN: Yes.

18 CHAIRMAN MAMMINA: Do your best to give us a statement regarding
19 each one of those so that we have a full record that's there should
20 anybody else challenge it because anyone else in your neighborhood
21 can say, oh, no, no, no.

22 MR. STERNSTEIN: Yes, I'd be happy to. Thank you.

23 The questions are whether an undesirable change will be produced
24 in the character of the neighborhood or detriment to nearby
25 properties will be created by the granting of a variance? Whether
26 the benefits sought by the applicant can be achieved by some method

1 feasible for the applicant to pursue other than an area variance?
2 Whether the requested area variance is substantial? Whether the
3 proposed variance will have an adverse effect or impact on the
4 physical or environmental conditions in the neighborhood district,
5 and whether the alleged difficulty is self-created?

6 As I mentioned before, I think all of the answers to this, which
7 I will provide --

8 CHAIRMAN MAMMINA: Can you please go down them one at a time
9 with a sentence or two?

10 MR. STERNSTEIN: There will be no undesirable change in the
11 character of the neighborhood or a detriment to nearby properties.
12 Again, because it is an 18-inch gap on the rear side of the house
13 that will be -- that will be sealed off. That's the only change that
14 will be made.

15 CHAIRMAN MAMMINA: Also, there is no way visible from the
16 street.

17 MR. STERNSTEIN: Certainly, not from the street.

18 CHAIRMAN MAMMINA: Nor, in my opinion, with an adjacent
19 neighbor, say, oh my gosh, you know, that hole in the wall. They
20 filled it in.

21 MR. STERNSTEIN: I agree with that assessment. That would be
22 my assessment as well.

23 The benefit that I articulated earlier is to renovate the house
24 and expand the kitchen to make it a family space. It is really not
25 feasible to pursue, other than by opening this space up. We won't
26 be able to do the work that we foresee doing.

1 The requested area variance is insubstantial, in my opinion.
2 It is 7 square feet, 0.17 percent addition to the existing square
3 footage.

4 The proposed variance will not have an adverse effect or impact
5 on the physical or environmental conditions in the neighborhood
6 district for the reasons that I've already articulated, and the
7 alleged difficulty was not self-created insofar as we bought this
8 property with this gap creating a sort of dogleg.

9 CHAIRMAN MAMMINA: Just as the -- not the technicalities of the
10 law, the reality of it, it's always self-created because you bought
11 the property. That's okay.

12 Of the Five Factors, you don't have to meet all five. We have
13 discretion, where if this was a use variance, you must meet all four
14 factors. I don't think we have any use variances here today, but
15 just so everybody understands, there's equity in the law as well.

16 MEMBER GOODSSELL: I would also like just to state for the record
17 that normally when you have a nonconforming house, you're over on
18 the GFA, you're increasing it, and normally, we do not look favorably
19 on increasing a nonconformity. It would be nice if it was decreased,
20 but would you assure on the record that there's nothing else changing
21 about the perimeter of the house? The house is staying where it is.
22 You're not breaking through into any other part of the yard; is that
23 correct?

24 MR. STERNSTEIN: That's correct.

25 CHAIRMAN MAMMINA: What you do on the interior, again, just for
26 everybody, has nothing to do with the Board unless we look at it and

1 say, do you really need a 30-by-40 living room, and you're asking
2 for a variance. That sort of thing. Those are judgment calls, and
3 maybe you do need that, so.

4 SECRETARY WAGNER: Well, in that case, unless the Board has any
5 other questions, the improvement seems to be de minimis. Yes, it
6 is an increase in GFA, but it is de minimis increase in GFA, and
7 therefore, I vote that we grant the application.

8 CHAIRMAN MAMMINA: We have a motion to grant the application.
9 Do we have a second?

10 MEMBER HERNANDEZ: Second.

11 CHAIRMAN MAMMINA: Second by Member Hernandez. Motion by
12 Member Goodell. Please poll the Board.

13 SECRETARY WAGNER: Member Hernandez?

14 MEMBER HERNANDEZ: Aye.

15 SECRETARY WAGNER: Member Goodsell?

16 MEMBER GOODSSELL: Aye.

17 SECRETARY WAGNER: Vice Chairman Francis.

18 VICE CHAIRMAN FRANCIS: Aye.

19 SECRETARY WAGNER: Chairman Mammina?

20 CHAIRMAN MAMMINA: Aye. For reasons stated, the application
21 is granted.

22 MR. STERNSTEIN: Thank you so much.

23

24

25 SECRETARY WAGNER: Next appeal, Appeal #21841, Schuler Gordon;
26 42 Udall Drive, Great Neck; Section 2, Block 117, Lot 11; Zoned:

1 Residence C.

2 Variance from 70-50.A to legalize an enclosed porch that is too
3 close to the street.

4 VICE CHAIRMAN FRANCIS: You've heard Appeal #21841, Schuyler
5 Gordan. Is there anyone interested in the application other than
6 the applicant?

7 (No response given.)

8 VICE CHAIRMAN FRANCIS: Seeing no one. Good morning, sir,
9 please give your name and address.

10 MR. GORDON: Good morning, ladies and gentlemen. Thank you in
11 advance for your time and consideration. My name is Schuyler Gordon.
12 Address, 42 Udall Drive, Great Neck, New York 11020.

13 VICE CHAIRMAN FRANCIS: Tell us about your application.

14 MR. GORDON: So, this application arises out of an application
15 I filed in December 2025, seeking to repair the footings of the porch,
16 which were old brick columns that had begun to lean, and I submitted
17 plans through my architect to replace those with concrete footings
18 and pressure-treated wood posts as required by the building code,
19 and to repair a concrete stairway leading from the back of the porch
20 to the backyard.

21 In the course of that application, it was determined that this
22 porch had never been legalized as enclosed, and so, I was directed
23 to file a separate application to address the enclosure of the porch.
24 In the course of that, I have spoken to my neighbors, done some
25 research. The porch itself has existed in its current footprint
26 since at least 1938. The earliest record that I can find is that

1 property card from April 21, 1938, which reflects the same dimensions
2 of the porch. The earliest photographic evidence I can find of the
3 condition of the porch being screened is 1997, and having looked at
4 those photos prior to purchasing the house, I assumed when I purchased
5 the house, since it had been screened for so long, that it was always
6 screened. I've spoken to my neighbors, some of whom have lived in
7 the neighborhood for many decades. They reflected to me that it had
8 been screened for similarly many decades even before that 1997
9 photograph, but I have no conclusive evidence of that. At the time
10 that I purchased it in 2018, it was screened, and I'm not seeking
11 to make any change to it whatsoever, merely to legalize the
12 modifications that were made at some point in between 1938 and 1997.

13 The remaining portions of the application, the repair, the
14 footings, and the repair of the staircase have already been granted,
15 and I'm in the process of finding a general contractor to effectuate
16 those repairs. This application does not address those repairs and
17 is simply an appeal to legalize the screened state of the porch.

18 VICE CHAIRMAN FRANCIS: So you're saying that the porch was
19 screened in since 1997.

20 MR. GORDON: At least 1997, but my neighbors say it was long
21 before that.

22 VICE CHAIRMAN FRANCIS: And that predates your ownership?

23 MR. GORDON: Yes, sir, I bought the house in 2018.

24 SECRETARY WAGNER: Do you have any plans to change any part of
25 your application to change anything about this porch?

26 MR. GORDON: Only the footings and the repair of the rear

1 stairway. That's the only -- and those have already been approved
2 by the building department. They were able to separate the two
3 issues into two separate applications. So, the portion that deals
4 with the safety and the repair of the footings of the porch is already
5 in progress and moving forward, and then this was separated out into
6 a separate application, so that I could bring it to you as the Board.

7 MEMBER GOODSSELL: You've got quite an old house.

8 MR. GORDON: Yes, ma'am.

9 MEMBER GOODSSELL: I'm sure that we all, at least I've looked
10 at the property tax card and confirmed what you said, and we might
11 have one of those houses that is pre-existing nonconforming or just
12 pre-existing. We don't know.

13 But my question is more going to -- going forward with this
14 application. You have no plans to change anything about the porch;
15 is that correct?

16 MR. GORDON: No, ma'am.

17 MEMBER GOODSSELL: It's just to maintain, really.

18 VICE CHAIRMAN FRANCIS: Yes.

19 MEMBER GOODSSELL: I don't have any objection to this.

20 Anybody have any questions?

21 VICE CHAIRMAN FRANCIS: No.

22 CHAIRMAN MAMMINA: No questions.

23 MEMBER GOODSSELL: The Board having no questions about it, and
24 the applicant has testified that he has no plans to change anything
25 about this, presumably, the screen rips, fix the screen, but that
26 being said, the application to maintain the porch existing as it is,

1 I move that we grant the application.

2 CHAIRMAN MAMMINA: We have a motion from Member Goodsell. Do
3 we have a second?

4 VICE CHAIRMAN FRANCIS: Second.

5 CHAIRMAN MAMMINA: Seconded by Vice Chairman Francis. Please
6 poll the Board.

7 SECRETARY WAGNER: Member Hernandez?

8 MEMBER HERNANDEZ: Aye.

9 SECRETARY WAGNER: Member Goodsell?

10 MEMBER GOODSELL: Aye.

11 SECRETARY WAGNER: Vice Chairman Francis?

12 VICE CHAIRMAN FRANCIS: Aye.

13 SECRETARY WAGNER: Chairman Mammina?

14 CHAIRMAN MAMMINA: Aye. Application is granted.

15 MEMBER GOODSELL: This is one of those surprises that comes up
16 with an old house.

17 MR. GORDON: Absolutely. Ladies and gentlemen, thank you for
18 your time and attention.

19 CHAIRMAN MAMMINA: Off the record.

20 (Whereupon, a discussion was held off the record.)

21 CHAIRMAN MAMMINA: Next case, please.

22

23

24 SECRETARY WAGNER: Appeal #21842, Eliahu Samra; 22 Shore Cliff
25 Place, Great Neck; Section 2, Block 367, Lot 49; Zoned: Residence
26 A.

1 Variances 70-29.C, 70-30.A, 70-101.B, 70-31.A, 70-32.3.A,
2 70-32.3.B, & 70-32.7 to construct a new two-story single-family home
3 that would be too big, too close to the street, include a portico
4 too close to the street, too close to a side property line, which
5 violates the sky exposure plane, is too tall/high, and with eave
6 heights that are too tall/high.

7 CHAIRMAN MAMMINA: You've heard Appeal #21842, Eliahu Samra.
8 Please give your name and address.

9 MR. BJORNEBY: Good morning. My name is Erik Bjorneby,
10 architect, 4250 Veterans Highway, Holbrook, New York 11741.

11 CHAIRMAN MAMMINA: You are the architect for the project?

12 MR. BJORNEBY: Correct.

13 CHAIRMAN MAMMINA: The microphone is yours.

14 MR. BJORNEBY: I'm the architect for the project. I was hired
15 by the owner to represent them here. They purchased the property
16 in 2025, and they intend to live here --

17 CHAIRMAN MAMMINA: I know you're way taller than me, so.

18 MR. BJORNEBY: Closer?

19 CHAIRMAN MAMMINA: Pull that up. Get a little closer to it.

20 MR. BJORNEBY: Got it.

21 CHAIRMAN MAMMINA: There you go.

22 MR. BJORNEBY: The owner purchased the property in 2025, and
23 they intend to live here as their permanent residence once it's
24 completed. We're here today seeking approval for several variances.

25 The property is a waterfront property, interior lot
26 approximately 115 feet by 150 feet or 17,249.7 square feet in an RA

1 zone. The existing residence is a two-story residence with a
2 basement and attached garage. The existing residence is
3 approximately 4,312 square feet, including a 420-square-foot garage.

4 The first variance that I'm here seeking to request is for a
5 floor area variance for section 70-29C. The code reads that a lot
6 greater than 14,000 square feet with development that exceeds 4,000
7 square feet shall meet the regulations of RAA zone. The lot is
8 17,249.7 square feet.

9 As per section 70-19, floor area under RAA zone shall not exceed
10 31 percent of the lot area or 5,200 square feet. The proposed
11 residence has 5,863 square feet, but that includes 80 square feet
12 of a covered deck that's counting as floor area, and approximately
13 600 square feet of double-height space as the entrance that is not
14 habitable space. The proposed structure is actually under the 5,200
15 limit based on the actual floor area.

16 CHAIRMAN MAMMINA: When you say the actual floor area? The
17 actual floor area is disapproved by the Department of Buildings,
18 fitting the definitions of floor area. So, you know, that statement,
19 you know, I understand the statement, but it doesn't comport with
20 what the ordinance says. I don't want to say the law, but now -- you
21 can refute the ordinance, but the ordinance is defined by the building
22 department. It doesn't mean that we can't overturn the building
23 department, and we have on a minuscule amount of applications where
24 something is very tiny, about 2 percent, you know. The floor area
25 is pretty cut and dry.

26 MR. BJORNEBY: Understood. So, floor area counts as the bulk

1 and double-height space counts as additional space, so.

2 CHAIRMAN MAMMINA: So, there's a formula to how you calculate
3 double-height space.

4 MR. BJORNEBY: Understood.

5 CHAIRMAN MAMMINA: I assume you used that formula. I assume
6 you saw -- and this is not being critical of you. This is just
7 completing the record.

8 MR. BJORNEBY: Understood.

9 CHAIRMAN MAMMINA: I'm very empathetic to standing on that side
10 of the podium, and I'm sure you've sat with the plan examiner
11 regarding the objections or most probably. They then put forward
12 their reasons for the objection.

13 VICE CHAIRMAN FRANCIS: So, based on the legal definition of
14 floor area, how much over are you?

15 MR. BJORNEBY: Based on the legal definition, which includes
16 double-height space and outside space that's covered with an
17 overhang, it's 5,863 square feet.

18 CHAIRMAN MAMMINA: How much are you over the permitted?

19 MR. BJORNEBY: So, again, that's -- as per the code that I just
20 described here, we're supposed to be qualifying with the regulations
21 of the RAA zone.

22 CHAIRMAN MAMMINA: To me, this comes directly from your
23 disapproval.

24 MR. BJORNEBY: Correct.

25 CHAIRMAN MAMMINA: So, what does the disapproval say?

26 MR. BJORNEBY: So the -- I don't believe it says it on there.

1 The planning examiner, as it was described to us, because we
2 were -- the existing setbacks don't meet the requirements of the zone,
3 he was saying that we were going to be restricted to the
4 4,000-square-foot area.

5 CHAIRMAN MAMMINA: But he does list the numbers on here. I'll
6 read it for you.

7 It says, "required a maximum gross floor area of 4,000 square
8 feet of post two-story single-family dwelling with an attached
9 garage, rear balconies, rooftop balcony, finished cellar on a
10 partially existing foundation with a proposed total gross area of
11 5,860 square feet."

12 So, his calculation and reading of the drawings says 5,863
13 square feet, and yours is 4,000. That's all. That's not --

14 MR. BJORNEBY: Understood.

15 CHAIRMAN MAMMINA: That's just keeping the record nice and
16 concise.

17 VICE CHAIRMAN FRANCIS: So, you're over 1,863 square feet.

18 MR. BJORNEBY: So, again, I --

19 CHAIRMAN MAMMINA: Yes. Yes, 1,863. And I'm not penalizing
20 you. I'm not judging you.

21 MR. BJORNEBY: Understood.

22 CHAIRMAN MAMMINA: I'm just keeping the record concise.
23 That's all.

24 MR. BJORNEBY: Understood. And for the record, the code says
25 that areas that are -- properties that are over 14,000 square feet
26 are permitted to go 5,200 square feet. So, the code says this --

1 MEMBER HERNANDEZ: 663 square feet, even the RAA.

2 CHAIRMAN MAMMINA: But also, you don't get that automatically.
3 It has to do with the configurations of the site, and you know that
4 sort of thing as well.

5 MR. BJORNEBY: I understand the interpretation.

6 CHAIRMAN MAMMINA: So, if you're refuting the interpretation
7 when you come to that, then you can state your reasons as to why the
8 plans examiner is incorrect in their denial.

9 VICE CHAIRMAN FRANCIS: And the question always is with regard
10 to the new construction of the new house, why can't you build a
11 compliant house?

12 MR. BJORNEBY: So, we're not building a new house. We're
13 trying to do additions to the existing house. We're trying to
14 keep -- keep it as much as we can. So, the proposed additions are
15 maintaining the existing foundation and maintaining the existing
16 front yard, side yards. So, our proposed addition is on the rear.
17 So, we're trying to keep the existing footprint and only do a rear
18 extension.

19 CHAIRMAN MAMMINA: Okay, so I'll modify the question then. How
20 big is the -- how much floor area in the existing house?

21 MR. BJORNEBY: So, the existing house is 4,312 square feet.

22 CHAIRMAN MAMMINA: Okay, so it's still -- it still -- we're not
23 trying to rattle you, believe me. Not for a second.

24 MR. BJORNEBY: Understood.

25 CHAIRMAN MAMMINA: But there's still a significant difference
26 5,863 square feet and 4,000 -- I don't remember what the other numbers

1 are. And that's okay.

2 MR. BJORNEBY: Again, in the code, it says that if your lot is
3 over 14,000 square feet, which this is, then you're entitled to use
4 section -- the coding under RAA, which says that this lot at that
5 floor area is a maximum of 5,200 square feet. It doesn't say in that
6 section that you have to meet the other requirements or any of the
7 other language that the plans examiner was using. So, that's our
8 basis for this argument.

9 CHAIRMAN MAMMINA: So, you're saying that the plan examiner has
10 spelled out reasons why, and you disagree with those reasons?

11 MR. BJORNEBY: Correct. It's not stated in the code what he's
12 describing.

13 CHAIRMAN MAMMINA: So, if you feel he's being arbitrary, we'd
14 like you to put that on the record as well, so that we can look -- we
15 can look at it as well and see what they -- what your feelings.

16 MEMBER HERNANDEZ: And also, you're -- again, part of your
17 argument has to be why you are exceeding the -- if you are correct
18 about the 50 to 100, why do you need 5,863? Because now you're
19 exceeding that number too. So, you're not exceeding single. You're
20 exceeding double it.

21 MR. BJORNEBY: Understood.

22 CHAIRMAN MAMMINA: Also, I will say that our staff's analysis
23 is that we are not meeting all of the standards of AA, and you have
24 to meet all of the standards of AA, and that could be as simple as
25 a setback or any number of other things. So, if you can cite the
26 Residence AA, and which parts you feel are incorrect, then that's

1 really where you need to come from, and I'm not saying that it's just
2 your opinion, but it can't be just, you know, just your opinion, and
3 look, it's okay to say gee, I didn't -- I didn't fully grasp that
4 part of the zoning.

5 MR. BJORNEBY: So, this is just a disagreement between the plans
6 examiner and I. The code does not say that you have to meet the front
7 and side yard setbacks to receive that zoning.

8 CHAIRMAN MAMMINA: It says all of the standards of Residence
9 AA. So, whatever the requirements of Residence AA are, that's what
10 you have to meet.

11 MR. BJORNEBY: So, that's understood in terms of RA oversized
12 is now considered RAA, so we should still be going for those variances
13 for the existing setbacks that are under that, but because I have
14 an existing nonconforming setback, doesn't mean that I should be
15 restricted from all the other benefits that an oversized lot should
16 achieve from being over the 14,000 set in the RA zone and being 17,250
17 as an RAA. So, we should have the benefits of the oversized lot and
18 square footage.

19 CHAIRMAN MAMMINA: Well, that's just not the way it is.

20 MR. BJORNEBY: I understand that's how it's being interpreted
21 by the plans examiner, and --

22 CHAIRMAN MAMMINA: It's not an interpretation.

23 MEMBER HERNANDEZ: Not an interpretation.

24 CHAIRMAN MAMMINA: It's not an interpretation. It is the
25 zoning.

26 MEMBER HERNANDEZ: It's the code.

1 CHAIRMAN MAMMINA: And you're still over on the square footage
2 anyway.

3 MR. BJORNEBY: Okay. So, again, I -- I --

4 CHAIRMAN MAMMINA: And again, we're not being combative.
5 We're -- you can state your position, and you know, we -- it's a
6 discussion.

7 MR. BJORNEBY: So, the other part that I would say about this --
8 (Audience member raises hand.)

9 CHAIRMAN MAMMINA: I saw a hand go up. If somebody else wants
10 to speak, you cannot speak now.

11 UNIDENTIFIED SPEAKER: Oh, I just wanted to go and ask. I just
12 wanted to say I want to speak after him.

13 CHAIRMAN MAMMINA: No, no, no, that's okay. I'm sorry. You
14 are correct. I didn't ask if there was anyone else who wished to
15 speak, so.

16 UNIDENTIFIED SPEAKER: Right.

17 CHAIRMAN MAMMINA: Is there anybody else who wishes to speak?
18 (No response given.)

19 CHAIRMAN MAMMINA: My apologies.

20 MR. BJORNEBY: So, again, the benefit of having an oversized
21 lot would be to get additional square footage, point number one.

22 Point number two is --

23 CHAIRMAN MAMMINA: If you met the standards.

24 MR. BJORNEBY: Okay. So, on the right side of the property --

25 CHAIRMAN MAMMINA: I'm just going to ask for the record because
26 it is a legal proceeding. Do you recognize that you don't meet the

1 standards based on what the building department and the Board are
2 both saying is what the law says?

3 MR. BJORNEBY: I don't -- I don't --

4 CHAIRMAN MAMMINA: You may not agree with.

5 MR. BJORNEBY: I don't agree with that. I understand what your
6 point of view is, but I don't agree with it.

7 And the second reason would be, on the property, on the right
8 side, there was an extension in 1985 that was granted a variance for
9 a side yard, which is over the 4,200 square feet, and I don't believe
10 floor area was ever discussed.

11 CHAIRMAN MAMMINA: In 1985, it didn't exist.

12 MR. BJORNEBY: Okay.

13 CHAIRMAN MAMMINA: And I will say, again, we are a
14 quasi-judicial Board.

15 MR. BJORNEBY: Okay.

16 CHAIRMAN MAMMINA: And you know, certainly if you feel that the
17 Board has made an error, and I'm not -- I'm not suggesting this, and
18 again, I'm not being difficult. I'm laying this out kind of to
19 everybody; every person here has a right to file for what's called
20 an Article 78. So, it is a -- it's a legal proceeding. It makes
21 it sound a little scary saying, well, it's a legal proceeding, but
22 it does -- it does exist, you know. It's there. You can challenge
23 the Board, you know, and then it becomes a, you know, you're
24 successful, you know, or our interpretation is upheld.

25 MR. BJORNEBY: I understand.

26 CHAIRMAN MAMMINA: But again, it's important to understand that

1 since 1985, there have been dramatic changes to the zoning. I'm here
2 since 1992. There's been dramatic changes to zoning since 1992.
3 And floor area is something, you know, that came in during the 90s
4 as the Town Board looked at how -- two things.

5 First, how houses were being built very big, and also, though,
6 at the same time how houses that were on lots that were oversized
7 shouldn't be held to the same criteria, you know, as a house that's
8 on a 50-by-100, but you must meet all of the criteria. But those
9 are later adjustments in the zoning that were not in effect in 1985.

10 MR. BJORNEBY: So, just to move along and proceed in the
11 understanding that that's how the Board and the planning examiner
12 interprets that definition of the code.

13 CHAIRMAN MAMMINA: And that you have an option.

14 MR. BJORNEBY: Right. Which I would choose not to try to pursue
15 the Article 78 at this time. I feel like we can try to discuss this --

16 CHAIRMAN MAMMINA: Sure.

17 MR. BJORNEBY: -- and see what we could do here. Again, the
18 reason I believe that they have that code to allow the bigger lots
19 to have that additional floor area because maybe the other
20 neighborhood people in this neighborhood might not have that
21 oversized lot. So, this is a benefit to the oversized properties
22 to have that additional square footage.

23 Whether or not it's entitled to it because it doesn't have the
24 correct setbacks? The whole point of that is that we don't want to
25 knock this down and move it over and move it back to get that
26 additional square footage, which is what you're saying is our right

1 to do.

2 CHAIRMAN MAMMINA: Yes.

3 MR. BJORNEBY: But we're trying to create less destruction,
4 less -- we're trying to achieve the house that we're looking for under
5 those.

6 MEMBER GOODSSELL: So, let's focus on -- let's focus on that
7 issue for a bit.

8 MR. BJORNEBY: Okay.

9 MEMBER GOODSSELL: Let's focus on the setback issue.

10 MR. BJORNEBY: Okay.

11 MEMBER GOODSSELL: Can you address the current house setback
12 issues?

13 MR. BJORNEBY: Yes. So, we are not changing the setbacks of
14 the existing structure on the front or the sides. We're doing a rear
15 extension.

16 MEMBER GOODSSELL: The front setback. Your proposal is a
17 28.5-foot setback, which may be what you currently have on your
18 survey.

19 MR. BJORNEBY: Correct.

20 MEMBER GOODSSELL: But your required setback is greater than
21 that. So, can you address that issue?

22 MR. BJORNEBY: Yes. So, again, this existing structure is
23 28.5. We're not changing the setback to the street. It's 35 feet
24 or the average neighbor, which we believe to be about 31.5 feet for
25 the setback for the front yard. So, we're less than what the
26 neighbors are.

1 Again, this house is existing. It's probably been there longer
2 than most of the neighbors' houses have been there, and something
3 about this property, we really don't have a lot of room to move back,
4 and if we move -- if we had to move the building back, we would have
5 to knock it down, number one.

6 Number two, I feel it would be dangerous to even attempt that
7 because if you look at the grading plan shortly after the back of
8 the building, the property starts dropping off pretty significantly,
9 even on the back of the building, you'll see that the -- there's no
10 basement exposed on the front and on the back of the building it's
11 fully exposed. The basement is. So, the -- there's really -- to
12 be pushing this back would be pushing it towards the water, and that's
13 just not, you know, something -- you could see that this -- this
14 is -- at this point, it starts dropping down significantly to here,
15 right?

16 This is the back of the building. We're pretty much keeping
17 it there. There were decks there. There was an extension there that
18 we are modifying it and kind of expanding it across the back of the
19 house.

20 MEMBER GOODSSELL: So, we're leaving the front yard setback the
21 way it is without changing that?

22 MR. BJORNEBY: Correct.

23 MEMBER GOODSSELL: Could you address the side yard setbacks?

24 MR. BJORNEBY: So, the only thing that we are doing on the front
25 is we're putting an unenclosed overhang in front of the front door.

26 MEMBER GOODSSELL: A portico.

1 MR. BJORNEBY: A portico.

2 CHAIRMAN MAMMINA: But that also requires a variance.

3 MR. BJORNEBY: Right. So that's on here. That's -- that's,
4 you know, because he doesn't specify on here. Just yeah, we're going
5 for an open portico on the front of the house. If that's not
6 permitted then it is what it is, but I feel people should be able
7 to get the keys out of their pockets and keep dry.

8 CHAIRMAN MAMMINA: I'll also say one other thing. I own a
9 property that is waterfront, and that's a terrific thing. I get up
10 in the morning and drink my coffee and have folks go by, and whatever.
11 But there are ways to build. You have setbacks that you have to
12 comply with. Looks like you do. But it may need screw piles. If
13 you need them. I don't think drive piles generally on Long Island
14 in that area; you must have drive piles, but. There are ways to solve
15 that economically, and of course, that's not preferable, but we -- we
16 can't look at, well, that's just going to cost too much.

17 VICE CHAIRMAN FRANCIS: Right.

18 MR. BJORNEBY: Okay.

19 CHAIRMAN MAMMINA: It's not a factor.

20 MR. BJORNEBY: Okay. So, the side yards are staying the way
21 that they are. We're maintaining the extension in the back on the
22 right side. We're maintaining that setback.

23 MEMBER GOODSSELL: I understand that you're maintaining the side
24 yards. Would you specifically state what your side yard setback is
25 on each side, and what the required is? Because the house itself
26 right now doesn't meet side yard setback. I'd like the record to

1 reflect on each side by how much it does not meet setback.

2 MR. BJORNEBY: Correct. So, right here is where the existing
3 is. We're proposing for this to go back.

4 CHAIRMAN MAMMINA: How wide is that?

5 MR. BJORNEBY: It's 9.6 -- 9 foot 6.

6 MEMBER GOODSSELL: And the required is?

7 MR. BJORNEBY: The required is ten.

8 MEMBER GOODSSELL: In your opinion, it's de minimis.

9 MR. BJORNEBY: I believe it's de minimis.

10 MEMBER GOODSSELL: On the other side of the house, what's the
11 required? What is the average?

12 CHAIRMAN MAMMINA: It's required is ten.

13 MR. BJORNEBY: It's 30 feet, 8 inches. So, the overall the
14 aggregate meets the requirements. It's only the one existing side
15 yard with the 9.5 feet that requires it.

16 CHAIRMAN MAMMINA: We have that in our information.

17 MR. BJORNEBY: Right.

18 CHAIRMAN MAMMINA: But it's important to create a record.

19 MR. BJORNEBY: Right. Would it be helpful if I went through
20 the plans quickly?

21 CHAIRMAN MAMMINA: As you wish.

22 MR. BJORNEBY: So, again, the house is here. It's existing.
23 We're proposing a rear addition and then modifying the second floor.

24 These are the calculations that you --

25 CHAIRMAN MAMMINA: Can you pull the drawings and things closer
26 to the mic because we are on Zoom and --

1 SECRETARY WAGNER: Live stream.

2 MEMBER HERNANDEZ: Live stream.

3 CHAIRMAN MAMMINA: Live stream, I'm sorry. I like to say Zoom
4 because I live on Zoom.

5 MR. BJORNEBY: So, this is our parcel. This was the
6 calculation for the setbacks. We're assuming, like I said, the 31.55
7 feet is the setback, but we're not changing, you know, what that is.

8 The next variance that we're seeking is for 70-32.3A and
9 70-323B, which is for the sky exposure plane. The property slopes
10 pretty significantly from the front to rear, so that affects the
11 average grading on the side.

12 The proposed -- I'm sorry, from the front view, the top of the
13 parapet, the 42-inch parapet, is approximately 26.3 feet, which is
14 lower than what the existing ridge of the structure was about 27.3
15 feet. So, the proposed top of the structure is one foot lower.

16 From the front view, when taking into account the average slope
17 along the side and lowering the grade mark as you move towards the
18 water, the variance would require approximately a 10.25 relief from
19 the sky exposure plane.

20 CHAIRMAN MAMMINA: I will say sky exposure plane we look at
21 extremely carefully.

22 MR. BJORNEBY: Okay.

23 CHAIRMAN MAMMINA: That is a somewhat newer part of the zoning
24 in an effort to maintain a certain height at that side property line
25 for someone else who might be building on the other side, or again,
26 just appearance from the street. So, that's a tough one.

1 Why can't that be made to comply? Other than that, I really
2 don't want to affect my interior design.

3 MR. BJORNEBY: It's existing nonconformity.

4 MEMBER GOODSSELL: So, the house currently in its present state
5 violates sky plane; is that correct?

6 MR. BJORNEBY: Yes. So, the next -- the next variance that
7 we're here to discuss is for 70 --

8 CHAIRMAN MAMMINA: I'm sorry, but I'm reading -- again, I'm
9 reading what the plan examiner wrote, and I try my best to look really
10 carefully at these plans. I've stood on your side of the podium
11 hundreds of times over 15 years, but the objection says, under
12 proposed, a proposed two-story single-family dwelling, with attached
13 garage, rear balconies, finished partially existing foundation that
14 violates the sky exposure plane. So, just for clarity, that exists.

15 MR. BJORNEBY: So, again the --

16 CHAIRMAN MAMMINA: You're not building yet. Not building any
17 part of that.

18 MR. BJORNEBY: So, the existing grade slopes from the front to
19 the back, so on -- on that side, the average grade, which is where
20 this mark is being set up is 4 feet below the first floor, so
21 that -- that mark starts 4 feet below the first floor. The
22 greatest --

23 CHAIRMAN MAMMINA: Which is how it's calculated.

24 MR. BJORNEBY: I understand, and I'm just trying to explain
25 why -- why the existing structure doesn't meet that requirement
26 because the property slopes so much from front to back, and like I

1 said before, on the back of the structure, it looks like a three-story
2 building because it's a -- the basement is fully exposed on the back.
3 On the front, you can see that this is where this is. The line is
4 4 feet below the first floor where we calculated the average, so it
5 comes through. So, it's this corner here, and we are squaring off
6 the building, but we're not moving -- we're not moving it. We're
7 actually lowering the height at the ridge, but it is increasing the
8 height at the perimeter.

9 CHAIRMAN MAMMINA: So, you are modifying the perimeter? Yes?
10 No? I'm just trying to understand.

11 MR. BJORNEBY: We're taking a house -- we're taking a
12 colonial-style house, making it into a modern house.

13 CHAIRMAN MAMMINA: So, you're modifying it.

14 MR. BJORNEBY: So we are -- we are changing the plan of what
15 that is.

16 CHAIRMAN MAMMINA: So, therefore, while the wall might be
17 existing -- I mean, I'm asking the question.

18 MR. BJORNEBY: Yeah.

19 CHAIRMAN MAMMINA: The wall might be existing in a lower
20 existing part of the house, as you raise it up, you create that
21 incursion into the structure; is that correct?

22 MR. BJORNEBY: Correct.

23 CHAIRMAN MAMMINA: So, the objection is valid.

24 MR. BJORNEBY: The same as the side yard --

25 CHAIRMAN MAMMINA: It's really a yes or no?

26 MR. BJORNEBY: Yes. It's -- it's existing. It's existing, so

1 it was there before. It's still there.

2 CHAIRMAN MAMMINA: I spent hours and hours and hours looking
3 at these things, just because I want to make sure that I'm
4 understanding that fairly asking questions because sometimes, I
5 don't understand. I mean, I think I do. I did see what I felt was
6 a clear incursion into the sky plane.

7 MR. BJORNEBY: So, again, if this was a flat piece of property,
8 we wouldn't be having this conversation.

9 CHAIRMAN MAMMINA: But it's not.

10 MR. BJORNEBY: I understand, so -- and because our bench -- if
11 we were able to take it at the highest point, again, we wouldn't be
12 having this conversation. But because the average is 4 feet below
13 the first floor, we're starting this mark in the cellar. So, it's
14 almost very difficult, and the existing structure doesn't meet that
15 requirement either.

16 I'm just trying to say that. Its design didn't create that.
17 It didn't make it better, but it didn't create -- it didn't create
18 it.

19 CHAIRMAN MAMMINA: But your requirement is to meet the existing
20 zoning. And again, I deal with many buildings, especially in New
21 York City that were built at the turn of the last century, you know,
22 when there was no zoning, and I still have to answer to the zoning.

23 MR. BJORNEBY: No, I understand. I understand --

24 MEMBER GOODSSELL: So, basically, I think what you can hear the
25 Board saying, and what I'm saying to you is, you are designing a
26 beautiful house. Is there no way to bring it more into conformity

1 with the zoning code than what you've done?

2 MR. BJORNEBY: We would have to knock the house down.

3 CHAIRMAN MAMMINA: Sometimes it happens.

4 MR. BJORNEBY: The existing -- the existing house doesn't meet
5 that requirement, and I don't think the neighbors want this --

6 MEMBER GOODSSELL: The location of the sky plane, there's no way
7 to modify the sky plane to bring it into conformity or closer to
8 conformity, is there?

9 CHAIRMAN MAMMINA: Without playing architect --

10 SECRETARY WAGNER: Does the existing house have a peaked roof?

11 MR. BJORNEBY: Correct.

12 SECRETARY WAGNER: So, this is not a peaked? The existing
13 peaked roof appears the sky exposure?

14 MR. BJORNEBY: So, this is a front yard diagram showing that
15 both -- neither one of them comply.

16 CHAIRMAN MAMMINA: Yeah, but you're just clipping it in one.

17 MR. BJORNEBY: Right.

18 CHAIRMAN MAMMINA: And you're cutting into it in the other.

19 MR. BJORNEBY: Right.

20 CHAIRMAN MAMMINA: By what looks like, to me, raising the, you
21 know, that wall as well. And look, it's not mine to say in that I
22 don't play designer in these things, you know, but while it may not
23 be what someone wants, because I always say, look, I'd love to drive
24 a real hot fancy Porsche, but I don't. So, it's easy for me to say,
25 you've got a 22-foot-wide master bedroom in there that's, you know,
26 that's whatever, I think, like 18 feet, you know, a walk-in closet

1 that's as big as a bedroom, and a master bath that's bigger than a
2 bedroom, and I'm not saying that people shouldn't have that, but you
3 know, it all just plays into, you know, just saying, okay, here's
4 what the zoning says, and I'm not saying that this is the case, but
5 we've had sky plane where sky plane comes up, and it clips the end
6 of the rafter, you know, coming across, and we say, yeah, okay, you
7 know, or it goes a foot into the rafters, we say, yeah, okay.

8 This is substantial, and substantiality is something that we
9 need to look at because just also understand, once we grant it,
10 anywhere, not just in this, we now legally open up a whole -- I don't
11 know --

12 VICE CHAIRMAN FRANCIS: Precedent.

13 CHAIRMAN MAMMINA: Precedent. Thank you. A whole precedent
14 for somebody else to say, well, look at that.

15 We actually had someone who filled in the side of his house in
16 order to meet, and I looked at his survey. You can't do that. You
17 created this grade artificially in order to meet this guideline, but
18 he still needed a variance.

19 MR. BJORNEBY: No, I understand everything you're saying. So,
20 you know, it -- again, the existing structure has floor area at that
21 level. It's being clipped barely.

22 CHAIRMAN MAMMINA: I don't see it as barely.

23 MR. BJORNEBY: No, the existing. The existing --

24 CHAIRMAN MAMMINA: But I don't care about the existing. The
25 existing doesn't --

26 MR. BJORNEBY: I could leave the existing there and --

1 MEMBER HERNANDEZ: The one that you're proposing has a 60-foot
2 hole in the middle of the house. 16 feet wide. You could bring the
3 whole second floor in 8 feet on each side without that hole in it.

4 CHAIRMAN MAMMINA: Look, we don't play designer.

5 MEMBER HERNANDEZ: Yeah.

6 CHAIRMAN MAMMINA: I have to put information on the record in
7 case there is an Article 78, in case somebody else comes and says,
8 well, look. I mean in that entire space you show a breakfast table.
9 I don't know. I'm not saying that it's not okay to say, well, I want
10 to have a space that's as wide as the entire house and two stories
11 high for my breakfast table.

12 MR. BJORNEBY: Okay.

13 VICE CHAIRMAN FRANCIS: I think what you're hearing from the
14 Board, you might want to take a second look at your plan to see whether
15 or not you can get closer to what we're talking about. One of our
16 main jobs is to mitigate the amount of variances that we give. So,
17 to the extent that your plan helps us do that, we're moving in the
18 right direction.

19 CHAIRMAN MAMMINA: I mean, that's our goal. Our goal is not
20 to say no.

21 MR. BJORNEBY: Right. So, you know, variances are made for
22 properties that have unique circumstances to be, you know, viewed
23 upon, see where exceptions can be made. You know, one of the things
24 is that this is an oversized lot. One of the things is that this
25 is a waterfront property that has a steep front to back.

26 CHAIRMAN MAMMINA: But you have -- waterfront lots have nothing

1 to do with zoning. But you have, as you say, an oversized lot. So,
2 that gives you a much bigger palette.

3 MEMBER HERNANDEZ: And you still have not addressed why you are
4 exceeding the 200 square feet, which is your oversized lot size.

5 MR. BJORNEBY: Again --

6 MEMBER HERNANDEZ: Assuming that we can agree with you at some
7 point that this is eligible for the bump up. You're still exceeding
8 the 50 percent.

9 MR. BJORNEBY: Understood. Walkable space is under the
10 5,200 --

11 CHAIRMAN MAMMINA: I try really hard not to play designer. I
12 mean, but the two-story space is wonderful. Get rid of the two-story
13 space or make it a partial two-story space because that counts as
14 floor area as well. Pull that old bedroom over on the second floor.
15 You're going to take out a chunk of floor area -- I don't know how
16 much -- and the reason the Zoning Board is here is to do a balancing
17 test. You don't have to meet exactly what you have to exist and look
18 at a different approach without destroying the magnificence of a
19 house with a waterfront view and option, and all of those things.
20 But that conforms or gets really close on the zoning.

21 VICE CHAIRMAN FRANCIS: So, on the podium somewhere probably
22 under your table, there's a list of the Five Factors that you have
23 to use to determine our decisions. If you can just run through those
24 and give explanations to each one of those Five Factors.

25 MR. BJORNEBY: Would an undesirable change be produced in the
26 character of the neighborhood or the detriment by the nearby

1 properties? Again, I feel like we're doing additions on the rear.
2 I feel that the existing front yard and side yards are existing, and
3 I don't feel that this would be an undesirable change for the
4 neighborhood.

5 CHAIRMAN MAMMINA: You're creating additions that go all the
6 way to the front as well. So, it's not just strictly on that.

7 MR. BJORNEBY: We're doing -- we're modifying the second floor.
8 We're not doing additions.

9 CHAIRMAN MAMMINA: You're modifying the second floor; that's
10 an addition, and that comes all the way through the front of the house.

11 MR. BJORNEBY: Okay. So, whether the benefit sought by the
12 applicant can be achieved by a feasible alternative to the variance?
13 Again, we're over -- the majority of it, we're over the existing,
14 you know, trying to say that if we eliminate the double-height space,
15 which is one of the biggest benefits to this property to have that
16 you walk in and have those views.

17 CHAIRMAN MAMMINA: It's up to you to demonstrate that you don't
18 have any other option.

19 MR. BJORNEBY: Okay.

20 CHAIRMAN MAMMINA: You have to hit it on the head.

21 MR. BJORNEBY: Right.

22 CHAIRMAN MAMMINA: That's not what it means, or you wouldn't
23 be here.

24 MR. BJORNEBY: I understand, and again, my perspective is that
25 we're not using that floor area, which I think is the biggest, you
26 know, point for what that is, and I feel we should -- oversize lot

1 should be granted the bigger size property.

2 Whether the requested variance is substantial? Again -- I
3 guess you're going to say it's substantial. I get this done in other
4 towns all the time. So, I don't -- I don't think it's substantial.

5 CHAIRMAN MAMMINA: The numbers say it is.

6 MR. BJORNEBY: What's that?

7 CHAIRMAN MAMMINA: The numbers say it's substantial based on
8 the building department.

9 MR. BJORNEBY: I understand.

10 Would the variance have an adverse impact on the physical
11 environmental conditions in the neighborhood? I feel that this
12 would be a better situation than knocking the building down and moving
13 it over, and so, I feel that this is a better alternative.

14 Whether the alleged difficulty was self-created? Again, the
15 front yard was not self-created. The side yard was not self-created.
16 The floor area, and -- and, I'll agree with you that the -- this side
17 of the sky plane, is self-created, but that's because of the existing
18 setbacks that were there already.

19 VICE CHAIRMAN FRANCIS: Everything was self-created.

20 CHAIRMAN MAMMINA: Everybody is always self-created for every
21 application that comes in. Unless you are an American Indian --

22 MEMBER GOODSSELL: That's not determinative.

23 MR. BJORNEBY: Just trying to be as honest as I can, but
24 that's --

25 CHAIRMAN MAMMINA: No, no, no. We certainly appreciate.

26 MR. BJORNEBY: If could --

1 CHAIRMAN MAMMINA: Do you have any photos of the neighborhood?

2 MR. BJORNEBY: I do. I do. Not the neighborhood.

3 CHAIRMAN MAMMINA: Of the neighborhood. And plans that show
4 that they are the same as you.

5 MR. BJORNEBY: So, there are --

6 CHAIRMAN MAMMINA: In mass, not in design. It's a lovely
7 design.

8 MR. BJORNEBY: Thank you. So, this is the existing, just for
9 your reference, and then this is the proposal. So, we're looking
10 to make a beautiful building here.

11 I think the neighborhood would appreciate this design versus
12 what's there previously.

13 And then, this is rear currently, and this is the proposed rear.

14 SECRETARY WAGNER: Do you want to submit those as exhibits?

15 MR. BJORNEBY: If I may?

16 SECRETARY WAGNER: This will be Exhibit 1.

17 CHAIRMAN MAMMINA: I do, only in an effort to help you, I'm
18 really talking about what does the neighborhood look like, you know,
19 here within 200 feet, here's this house. Within 150 feet, here's
20 this house. Across the street and 300 feet down, here's this house.
21 I mean, those are -- those are the types -- and none of those are
22 determinative in our decision. We do a balance of --

23 VICE CHAIRMAN FRANCIS: We do have --

24 SECRETARY WAGNER: This will be Exhibit 1.

25 CHAIRMAN MAMMINA: Oh, yes. We do have a young lady that had
26 her hand up, and you will have the opportunity to speak again after.

1 Assuming that you put on the record that you would like to put on
2 the record.

3 MR. BJORNEBY: So, I guess, just one other thing. This is a
4 diagram of what the houses on either side are. You can see that the
5 footprints are bigger on either side than what we're currently
6 proposing. The majority of the houses are newer and are modern of
7 the same, similar style. So, I mean, I think this is in the character
8 of the neighborhood. I don't think it's the largest one in the
9 neighborhood, and --

10 CHAIRMAN MAMMINA: I would assume that they meet the zoning.

11 MR. BJORNEBY: I don't know how they would.

12 CHAIRMAN MAMMINA: I'm saying I assume that they meet the
13 zoning, and we see hundreds and hundreds of cases a year. I'm not
14 going to say that I remember every one of them, but I mean, that would
15 certainly be something that the Board would say, yeah, please.

16 So, I do want to hear from the young lady that put her hand up,
17 and like I said, you'll have opportunity to speak as well, and to
18 either support what she says, or I don't agree with what she says.

19 MR. BJORNEBY: Okay.

20 CHAIRMAN MAMMINA: Come on up and give your name and address.

21 MS. HAKIMIAN: Sure.

22 CHAIRMAN MAMMINA: Again, my apologies for not asking.

23 MS. HAKIMIAN: I didn't mean to interrupt you. My name is
24 Michelle Hakimian. I live at 42 Hawthorne Lane in Great Neck. My
25 house is behind Shore Cliff Road, and so we have a view of the water,
26 and we've been living there for about 25 years. We have beautiful

1 sunsets. We even renovated our home to take advantage of the view.

2 What my concern is the sky plane exposure. I am afraid -- and
3 we're not directly in back of his house, but I'm concerned that it
4 will create a precedent, and if they can raise their homes to impede
5 someone else's view, then someone can buy the house directly in front
6 of me, and raise their home, and then that would destroy my view.

7 VICE CHAIRMAN FRANCIS: Ma'am, I'm sorry, what was the address?

8 MS. HAKIMIAN: I'm sorry, 42 Hawthorne Lane, Great Neck, New
9 York 11023.

10 VICE CHAIRMAN FRANCIS: I'm just looking for your house.

11 MS. HAKIMIAN: Okay.

12 CHAIRMAN MAMMINA: And you can interrupt. My wife does it all
13 the time.

14 MS. HAKIMIAN: I'm a big interrupter.

15 CHAIRMAN MAMMINA: I saw another young lady with her hand up.
16 Only, if you're done?

17 MS. HAKIMIAN: I mean, I'm done. I'm just concerned about it,
18 you know, impeding my view and my enjoyment of my house.

19 SECRETARY WAGNER: Thank you.

20 MS. TUCKER: Hi, my name is Rachel Tucker, and we live at 19
21 Short Cliff Place. So, we're basically right across 22, and as I
22 understand what they're trying to build is not higher. That the
23 house is existing house now.

24 CHAIRMAN MAMMINA: It is higher.

25 MS. TUCKER: No, no, but what they are trying to build is not
26 going to be higher than the existing house now.

1 CHAIRMAN MAMMINA: The right side will be higher than the right
2 side is.

3 MS. TUCKER: I think it's just going to be more uniform. Right?
4 It's not going to be higher like the sky, you know, but just
5 basically -- I think it's going to improve the neighborhood, and I
6 think also that the architect was correct. Some buildings,
7 especially to the left, the building is much higher and closing the
8 view of the neighbors.

9 CHAIRMAN MAMMINA: All of that is important for the record
10 and --

11 MS. TUCKER: Yes.

12 CHAIRMAN MAMMINA: I'll trust that he's hearing you that he can
13 then seek out those properties and support what you're saying for
14 his own benefit.

15 MS. TUCKER: Right. Exactly. Also, like you're saying. I
16 hear what you're saying. Maybe they can cut down a little bit on
17 the square footage to make it within the requirements. Thank you
18 so much.

19 VICE CHAIRMAN FRANCIS: Thank you.

20 CHAIRMAN MAMMINA: Thank you so much. It's so important, you
21 know, for people to come and put out their negatives and positives,
22 and I've said it, we do that balancing test. I don't necessarily
23 hear the scales of justice, but it's in some ways we are.

24 So, the last word belongs to the applicant. If you have some
25 type of a closing statement. I can say --

26 MEMBER GOODSELL: Before he gets to that, could you address one

1 of the concerns? Could you address the height of this -- of the
2 existing house, and the height of the new house? Is it going to
3 change, or has the measuring changed?

4 MR. BJORNEBY: So, we're taking a sloped roof off, and we're
5 putting a flat roof on. So, the overall height of the structure is
6 being reduced by a foot approximately. So, to the top of the parapet,
7 we have a 42-inch parapet that's on top. So, the top of the parapet
8 is approximately 26 feet, 3 inches versus the existing, which is about
9 27 feet, 3 inches. So, we're dropping in about a foot lower than
10 what the existing is.

11 CHAIRMAN MAMMINA: I guess, I'm just not reading it that way
12 from even the photograph. I'm seeing that right side.

13 MEMBER HERNANDEZ: Talking about the ridge. He's talking
14 about the top of the ridge. It's not the eave. It's the ridge. So,
15 it's building up basically to a foot below the ridge. So, the house
16 is becoming larger. Because the side walls of the house are going
17 higher.

18 MR. BJORNEBY: The perimeter is getting higher. The overall
19 height is going down by about 4 feet.

20 CHAIRMAN MAMMINA: Because then I would ask that question and
21 it would destroy your argument --

22 MEMBER HERNANDEZ: Four? I thought you said one.

23 CHAIRMAN MAMMINA: -- is keep it where it was, you know, but
24 that's not going to be something that architecturally you're going
25 to want to do, and while it -- while it really can't play into our
26 decision it's a lovely house.

1 MR. BJORNEBY: So, the -- without a majority of this, this
2 project is pretty much going to be scrapped. If we were to make a
3 concession on this side and pull that in and have a balcony on this
4 side and pull that bedroom.

5 CHAIRMAN MAMMINA: We can't -- we can't say because we're not
6 in a position to negotiate that now. As I said, we frequently get
7 sky planes that just clipped, you know, that much of a corner of a
8 sloping roof, and we'll grant that, not always. I'm just saying,
9 but, you know, there -- please, I don't mean it in a derogatory way,
10 but sometimes, when people get a little pushy, you know, I will say
11 to them, this is not let's make a deal.

12 So, I think that you've heard us. I can tell that you're
13 extremely competent and, you know, have good effort forward to
14 create, you know, something that's beautiful.

15 So, it'll be back to the drawing board, just on the basis of
16 the things that we've talked about.

17 MR. BJORNEBY: So, again, I'm not sure how far this, you know,
18 I'm going to be able to make -- so, if I took this building and I
19 slid it over --

20 CHAIRMAN MAMMINA: I can't do that.

21 MR. BJORNEBY: I'm just giving you a hypothetical.

22 VICE CHAIRMAN FRANCIS: Go ahead.

23 MR. BJORNEBY: If I took this building and I slid it over six
24 inches and slid it back five feet, the only variance that I would
25 be here seeking is for the floor area, which again we're only
26 proposing 5,200 square feet of usable floor area. Understanding

1 that the definition of that. So, that's what we're talking about
2 here. We're talking about knocking a building down over six inches
3 and pushing it back onto a cliff.

4 VICE CHAIRMAN FRANCIS: Well, then you would have to submit
5 those new plans to the building department, and the building
6 department would give you a new notice of disapproval.

7 CHAIRMAN MAMMINA: It would not be a second hearing.

8 VICE CHAIRMAN FRANCIS: No. Right.

9 MR. BJORNEBY: But we would still need the floor area regardless
10 because they want -- the first thing they've been talking about since
11 they bought this property was having a double-height space when they
12 walk in, and that's what the goal is.

13 CHAIRMAN MAMMINA: Do you know if your basement is included in
14 the gross floor area?

15 MR. BJORNEBY: It is not.

16 MEMBER GOODSSELL: We will consider your application as it is,
17 if that's what you want us to do. If you would like to go back to
18 your clients and say we might need a modification to continue, or
19 if you would like us to make a decision based upon what you've
20 presented, we'll do it, but not today.

21 I'm going to suggest that we reserve.

22 CHAIRMAN MAMMINA: Yeah, I think --

23 MR. BJORNEBY: We would like you to consider it the way that
24 it's been presented.

25 CHAIRMAN MAMMINA: Okay.

26 MEMBER GOODSSELL: May I suggest that we reserve. I have looked

1 at this property. I did take my husband down that street and never
2 been there before, and when I got my jaw up off the floor. I will
3 give it all the consideration, but I, for one, would like to reserve
4 this.

5 CHAIRMAN MAMMINA: I think in fairness we should do that, and
6 when we reserve a decision that means that we have everything that
7 we need. And as I said, we deliberate in public. I can't say we're
8 going to do it today. We probably are not going to do it in the next
9 hearing. It's summer. They give us a tiny bit of a break, and we
10 only have one hearing. You're welcome to come back. But if you call
11 our secretary, she's not going to be able to say, oh, we're definitely
12 going to -- we may have a room as big as this.

13 SECRETARY WAGNER: We just want you to understand that if we
14 reserve the decision, that means that depending on what the decision
15 is that would be final. So, there would be no ability to change the
16 plan at that point.

17 TOWN ATTORNEY ALGIOS: He could. He would have to refile.

18 SECRETARY WAGNER: Yeah, you'd have to refile with the building
19 department.

20 TOWN ATTORNEY ALGIOS: It would be a whole new application.

21 SECRETARY WAGNER: In other words, you're saying you don't want
22 the opportunity to submit any revisions at this point to us?

23 MR. BJORNEBY: I'm sorry, I might --

24 SECRETARY WAGNER: Want to speak to your client?

25 CHAIRMAN MAMMINA: Why don't you speak with your client? We
26 want nothing more than to be completely fair.

1 Again, we are all homeowners. We all pay a ton of taxes. We
2 all know what we all live with.

3 (At this time, there was a pause in the proceeding.)

4 MR. BJORNEBY: So, I think we want to take the opportunity to
5 see what the neighbors have been granted because I feel like the homes
6 around this property are over the 5,200 square foot. So, I want to
7 take a look at that. So, I guess, we'll --

8 CHAIRMAN MAMMINA: Continue.

9 SECRETARY WAGNER: So, then, you can submit that information
10 as well as any decisions that have been made about those other
11 properties to our staff because that's part of the record.

12 CHAIRMAN MAMMINA: Also, understanding that if they're over
13 5,200 square feet, but were built prior to the ordinance, then it -- I
14 don't want to say doesn't count.

15 MR. BJORNEBY: The houses around here are new. So, it's not,
16 you know, this is the oldest house. This is the one that's in the
17 most need of repair. We're trying not to knock it down. I just
18 feel --

19 MEMBER HERNANDEZ: Well, you are knocking it down. You're just
20 leaving the foundation. You're building a new house on top of an
21 old foundation. So, you are knocking it down. Effectively. The
22 house itself.

23 CHAIRMAN MAMMINA: You're saving the foundation.

24 MEMBER HERNANDEZ: You're saving the foundation. Let's call
25 it what it is. You're saving the foundation. You're building a new
26 house, which is the way it should be done. I'm not disagreeing with

1 you.

2 CHAIRMAN MAMMINA: If you can.

3 MR. BJORNEBY: Right. That's what we're trying to do.

4 CHAIRMAN MAMMINA: Thank you. We appreciate that. You're
5 obviously very competent.

6 MR. BJORNEBY: Have a good day.
7
8

9 SECRETARY WAGNER: Appeal #21843, Anna Costaras; 105 Dover Road,
10 Manhasset; Section 3, Block 224, Lot 12; Zoned: Residence A.

11 Variances from 70-29.C and 70-30.B to enclose a covered porch
12 that is located too close to the street and to construct an addition,
13 that together with the enclosed porch, makes a home too big.

14 CHAIRMAN MAMMINA: You've heard Appeal #21843, Anna Costaras.
15 Is there anyone in the room interested in the application other than
16 the applicant?

17 (Audience members raise hands.)

18 CHAIRMAN MAMMINA: Seeing a few hands up, and you will have the
19 opportunity to speak after the presentation.

20 MR. HIGGINS: Good morning, Mr. Chairman, Members of the Board.
21 For the record, Timothy Higgins, 76 Hillside Avenue, Manhasset, New
22 York 11030 for the applicant, Mr. and Mrs. Costaras.

23 The applicant seeks two area variances here. The first is a
24 variance of Section 70-29C for the floor area or maximum -- or our
25 gross floor area is in excess of 4,000 square feet by 333.5. What
26 that translates to is approximately 0.083 or 8 percent.

1 The second variance we seek is a variance of 70-30B, for the
2 proposed porch enclosure of the existing covered porch with a primary
3 front yard setback of 29.5 versus the required setback of the code
4 of 35.

5 With respect to the variance for gross floor area, Section
6 70-29.C, provides that we can't exceed gross floor area by more than
7 36 percent, but then -- I'm sorry, 70-29B limits us to 36 percent
8 of lot area, and you multiply 36 percent of the lot area shown on
9 the survey, 13,959. We could build, in theory, a little bigger than
10 5,000, but 70-29C caps it at 4,000, and that's what we're seeking
11 relief from.

12 As noted from the building plans, which are attached to the
13 application, the gross floor area of the home, as it is now, is
14 3,925.5. The porch enclosure, although the porch is there with a
15 roof, is going to increase the gross floor area by 210 square feet,
16 and then the second branch of relief that we seek is the ability to
17 build a master bedroom closet over the existing flat-roofed garage.
18 So, we're not increasing the footprint, which will increase the floor
19 area by another 171, for a total of 4,333.5. This excess of gross
20 floor area again will not increase the footprint of the house. It
21 will simply enclose the existing covered porch and include a closet
22 to be built over the flat roof of the existing two-car garage.

23 Having owned one of these Levitt homes in South Strathmore
24 myself, almost every home was built with the open porch with the roof.
25 Most today are enclosed. The applicant seeks to use the proposed
26 porch enclosure for a home office, which in this day and age is greatly

1 needed.

2 Of course, again, Levitt in the 1940s wasn't designing houses
3 with adequate closets in the master. All we're simply seeking to
4 do is just to add the needed closet over the flat roof of the garage.
5 Again, not increasing the footprint of the house in any way, shape,
6 or form.

7 Once again, the proposed excess of 333.5 measures or computes
8 to be 0.083 in excess of what would be permitted. I know that was
9 a question you had in the prior application.

10 Secondly, with respect to the variance of the front yard
11 setback, for the proposed covered porch, the covered porch currently
12 has a front yard setback of 29.5.

13 The code requires us to have either 35 or the average of the
14 homes on either side 200 feet, whichever is higher.

15 As shown on the zoning analysis and the plans by Don Alberto,
16 the front yard average for homes in both directions is actually 29.2.
17 Our existing setback of the front porch is 29.5. So, we're an inch
18 or two bigger or more than we need, but more importantly, the 29.5
19 is pre-existing. We're not going to in any way enlarge or encroach
20 further into the sidewalk. We're simply looking to enclose what's
21 there. Consistent with what most homes in the area have done.

22 Balancing that criteria for determining relief here. First,
23 whether the proposed variance would produce an undesirable change
24 to the neighborhood or a detriment to nearby properties? Again, the
25 proposed porch enclosure and master bedroom closet will not increase
26 the footprint for the existing home, and as such should not create

1 a detriment to the surrounding homes and/or the community.

2 Second factor is whether the benefit sought can be achieved by
3 some other feasible means? Trying to add a home office in any other
4 way, shape, or form would require us to increase the footprint. In
5 this case, we're simply trying to stay within the footprint and
6 enclose a structure that's already there.

7 Third factor is whether the applicant's request is substantial?
8 And both these variances, we believe, although all variances are
9 somewhat substantial, this is not that substantial. The approximate
10 increase is 0.08 or 083, which translates to 8 percent, which is
11 nominal, and once again, will not increase the footprint.

12 Similarly, the existing covered porch currently has a 29.5 front
13 yard setback. The proposed enclosure of that porch will not lessen
14 or decrease the existing front yard. Therefore, it is not
15 substantial.

16 Neither of these variances, if granted, will create any
17 environmental issue.

18 And the fifth factor, as the chairman pointed out in the prior
19 hearing, all variances are self-created. Yes, we are. It's a
20 self-created variance, but once again, we're simply looking to
21 enclose an existing porch and add a closet where it's greatly needed
22 but not increasing the footprint, going over the existing two-car
23 garage.

24 Respectfully, request that the Board grant the variances.

25 Ready to take any questions that the Board may have.

26 CHAIRMAN MAMMINA: The only question that I had is probably my

1 own confusion, is the existing gross floor area as opposed to the
2 allowable. Because I'm reading that the proposed is 4,355.

3 Oh, okay. So, I'm seeing that the max is 4,000. Never mind,
4 I got it right.

5 MR. HIGGINS: Actually, I pointed out to Don that the
6 calculation was off, and he amended it to 4,333.5 to match the notice
7 of disapproval.

8 CHAIRMAN MAMMINA: It seems twisted a little bit to me.

9 MEMBER GOODSSELL: There are basically two additions. Two
10 improvements. One is over the garage, and one is on the other side
11 of the house where the covered porch is.

12 MR. HIGGINS: Correct.

13 MEMBER GOODSSELL: Right now, neither of those additions has
14 floor area counted in at the present; is that correct?

15 MR. HIGGINS: Correct.

16 MEMBER GOODSSELL: So, in order to go over the permitted 4,000,
17 could you tell us the basis of that?

18 CHAIRMAN MAMMINA: Well, the porch enclosed -- or the porch is
19 210 square feet. Currently has a roof. So, what we're simply doing
20 is looking to enclose that. So, we would be adding 210 square feet
21 to the existing.

22 MEMBER GOODSSELL: And the closet to be added --

23 MR. HIGGINS: Is 100 --

24 MEMBER GOODSSELL: 8.5 by --

25 VICE CHAIRMAN FRANCIS: By 17.

26 MR. HIGGINS: So, it translates to 171 square feet, thereby

1 increasing the allowance by 333 inches.

2 MEMBER HERNANDEZ: I guess you're breaking the window to get
3 to the closet.

4 MR. HIGGINS: Yes. They will put a door where the existing is.
5 Either that, or they'll go outside and pull up a ladder.

6 MEMBER HERNANDEZ: Like I said, in this neighborhood, building
7 over the garage, which almost all were built without a second floor.

8 MR. HIGGINS: Yes.

9 MEMBER HERNANDEZ: It's the most natural expansion. I just
10 want to just clarify the drawing. I see that you are not building
11 completely over the whole garage.

12 MR. HIGGINS: Correct.

13 MEMBER HERNANDEZ: You're only doing about half of the garage,
14 correct?

15 MR. HIGGINS: Even less. Only 8 feet out.

16 MEMBER HERNANDEZ: Only 8 feet out. So, the garage must have --

17 MR. HIGGINS: Almost 20.

18 MEMBER HERNANDEZ: And also the depth of the garage, you're also
19 not building the --

20 CHAIRMAN MAMMINA: Correct, we're only going 17.

21 MEMBER HERNANDEZ: Just to point out that you're not building
22 over the whole.

23 MR. HIGGINS: Oh, not at all. Less than a third.

24 MEMBER HERNANDEZ: Unless you have anything else?

25 CHAIRMAN MAMMINA: People wish to speak. Come on up together
26 or one at a time. Whatever you would like.

1 MS. DERMONT: Hi. My name is Laurie Dermont. I live at 95
2 Dover Road in Manhasset. We're the neighbors directly on the garage
3 side that we're talking about.

4 So, first and foremost, we take no issue with the increase in
5 size. It'll be lovely, useful, et cetera. What we wanted to do -- we
6 just have -- we didn't get a chance to talk to the neighbors about
7 it. We heard about this, so we wanted to come in and just -- our
8 only concern is really a little bit more about the construction time.

9 We went through this with our neighbors on our other side of
10 the home, which was a more extensive, new home, essentially, and it
11 was pretty disruptive.

12 So, our biggest concern is a little bit more about clean up,
13 debris. We had part of our property and landscaping that was damaged
14 at that time. Daily, we were picking up debris from the
15 construction. There wasn't really seemingly any repercussions or
16 opportunity from either the homeowner or the construction company
17 to clean up after themselves.

18 So, we wanted to just raise that, like making sure that that's
19 covered for us. We do obviously share a property line, but we have
20 since redone our landscaping. We do actually pay to maintain that
21 landscaping, even on the property line is a little bit odd.
22 Technically, some of that is their property, but we maintain it.

23 So, really, that's kind of our main concern is just if there
24 is damage, debris, et cetera, cleanup, how will that be maintained?

25 CHAIRMAN MAMMINA: Valid questions, and I will say just
26 regarding the construction time. Just my opinion. There will be

1 two 9-foot walls, and one 17-foot wall over the garage.

2 I understand the horror that you're talking about when someone
3 builds a new house. When this gigantic hole in the ground sits for
4 a month with nothing happening, and where the concrete trucks are
5 loading in, and then the deliveries of the lumber and contractor
6 frames, and then disappears, and their lack of concern for running
7 over your bushes and shrubs. Been there. Lived that.

8 MS. DERMONT: This should not be that. We anticipate this will
9 not be that, but we also learned the hard way. So, we have to say
10 that.

11 CHAIRMAN MAMMINA: Those are valid things.

12 MS. DERMONT: Yeah, but take no issue in the improvements
13 they're wanting to do with the home. It'll be lovely.

14 CHAIRMAN MAMMINA: For sure. Sir?

15 MR. WOLF: Hi, my name is Leonard Wolf, and I live at 95 Dover,
16 also. I guess my question is, who is responsible, and how are people
17 held responsible if there's damage or debris gets on the property?

18 CHAIRMAN MAMMINA: I can't really answer that directly, but you
19 certainly do have an option to call code enforcement. If you see
20 something there that someone is intruding on your property, or you
21 know, whatever. I think code enforcement would be someone to call
22 potentially, and then beyond that, I guess -- it's not an attorney,
23 but. I understand and appreciate your issues and --

24 MR. WOLF: Just --

25 TOWN ATTORNEY ALGIOS: Just so you're aware, the proper
26 mechanism you call 311, and they would file a complaint, and then

1 probably would go to the building department, and they would send
2 an inspector.

3 MR. WOLF: Gotcha, okay.

4 CHAIRMAN MAMMINA: We'll have the attorney.

5 MEMBER GOODSELL: So if the construction company shows up at
6 your house and starts to -- your roof apart, we copied down the name
7 of the construction company because that would clearly be an error.
8 Actually, didn't happen to me, to a neighbor of mine, but for the
9 most part, code enforcement.

10 MR. WOLF: Thank you.

11 CHAIRMAN MAMMINA: In the manner that is put forward by the Town
12 Attorney.

13 MR. HIGGINS: Just to quickly respond. We hear your concerns.
14 We will address any issue you have. But to Chairman Mammina's point,
15 simply enclosing that porch. I don't think there's any foundation
16 or anything like that. Unless the footing is very close. And then
17 the upstairs, there's no foundation. All we're doing is three walls
18 and the roof.

19 MR. WOLF: The other question is dust.

20 MEMBER HERNANDEZ: You can discuss that outside.

21 CHAIRMAN MAMMINA: The question has been asked of dust.

22 MR. HIGGINS: We'll do our best to minimize the dust. But once
23 again we're not knocking down anything, and we're not opening
24 anything other than a window to create a door. Everything else is
25 being added. This should minimize that.

26 CHAIRMAN MAMMINA: Also, I will say, they're not digging any

1 holes.

2 MR. WOLF: They're not going through the brick?

3 CHAIRMAN MAMMINA: Well, they'll strip the brick where the
4 master bedroom closet will be, but that's just preparation. That'll
5 be inside, and then one more, and I'm sure if you request it of your
6 neighbor that they cut that door through, which they probably would
7 anyway because they're not going to want to cut the door through
8 first.

9 MR. HIGGINS: Correct.

10 CHAIRMAN MAMMINA: You know, and have the wind, or depending
11 on when it gets done with snow, you know, coming in. They'll build
12 the enclosure first.

13 MR. HIGGINS: It'll be all enclosed before we even open or
14 change the window to the door because otherwise, it will be all the
15 way.

16 CHAIRMAN MAMMINA: There'll be some cutting of 2 by 4s and
17 things, but it's really -- it's almost just a home improvement that
18 I might try to take on myself, and then everything else, of course,
19 is being done on the other side of the house, and there's nothing
20 more than filling in that porch.

21 MR. HIGGINS: So, again, Mr. Chairman, we've heard their
22 concerns. We will be very aware of it, and I would just conclude
23 by asking the Board that I respectfully request that the Board
24 consider granting the two subject variances.

25 MEMBER HERNANDEZ: Mr. Chairman, it is an FAR increase
26 technically. It is not significant. It is not increasing the

1 footprint, and given what we have discussed so far, I move that we
2 grant the application.

3 CHAIRMAN MAMMINA: We have a motion by Member Hernandez to
4 approve. Do we have a second?

5 VICE CHAIRMAN FRANCIS: Second.

6 CHAIRMAN MAMMINA: Seconded by Vice Chairman Francis. Please
7 poll the Board.

8 SECRETARY WAGNER: Member Goodsell?

9 MEMBER GOODSSELL: Aye.

10 SECRETARY WAGNER: Member Hernandez?

11 MEMBER HERNANDEZ: Aye.

12 SECRETARY WAGNER: Vice Chairman Francis?

13 VICE CHAIRMAN FRANCIS: Aye.

14 SECRETARY WAGNER: Chairman Mammina?

15 CHAIRMAN MAMMINA: Before I vote, I will -- which will be aye.
16 I will also point out for the record that we do get many requests
17 that essentially, we're enclosing the porch, and we're putting in
18 some windows, and as you pointed out, I was at my daughter's house
19 this morning, and she works exclusively from home now, and that's
20 become more and more the case. So, yeah, the need for that is
21 something that was not there when these houses were probably built
22 in the 50s.

23 MR. HIGGINS: I think the 40s.

24 CHAIRMAN MAMMINA: He built Levittown in '45, and he created
25 a whole concept, and quite an undertaking.

1 So, with that said, I think the motion passes, and the application
2 is granted.

3 MR. HIGGINS: Thank you for your time.
4
5

6 SECRETARY WAGNER: Appeal #21844, John Toro; 29 Garfield Place,
7 Roslyn Heights; Section 7, Block 51, Lot 103; Zoned: Residence C.
8 Variance from 70-100.2.A(2) to construct fencing located in a
9 front yard beyond the building line.

10 CHAIRMAN MAMMINA: You heard Appeal #21844, John Toro. Is
11 there anyone in the room interested in the application other than
12 the applicant?

13 (No response given.)

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

16 MR. BETTIS: Good afternoon and thank you to the Board Members.
17 Do you hear me?

18 CHAIRMAN MAMMINA: Yes.

19 MR. BETTIS: Perfect. My name is Nicholas Bettis. I'm the
20 architect and applicant for the job at 29 Garfield Place.

21 This variance is -- comes as a result of the initial permit.
22 The house is nearing completion more or less, and there was a request
23 for the accessory structure of the fencing or the proposed fencing.

24 CHAIRMAN MAMMINA: Okay. I will say that the proposed
25 fencing -- we virtually never permit a fence on a front setback of
26 a house, and I was a little confused. I believe it was just in denial

1 because in one place it said 5 feet and then 4 feet, 6 feet, you know.
2 So, I got confused, but you do have a usable backyard area because
3 we understand that corner lots are very difficult. So, you could
4 use the word easily to cut that line back to that front line of the
5 house and be in conformance.

6 MR. BETTIS: Right.

7 CHAIRMAN MAMMINA: And then also, my opinion, is that you are
8 permitted a 6-foot fence up the back of the garage, no fence beyond
9 that, and then you are permitted, as a right, a 5-foot fence across
10 that long property line. Does that make sense to you? I can mark
11 the drawing.

12 SECRETARY WAGNER: No, it would be -- I think it would be 6 feet.

13 CHAIRMAN MAMMINA: That's the side yard.

14 SECRETARY WAGNER: I know, but they changed the code.

15 CHAIRMAN MAMMINA: Oh, that's right. They recently changed
16 the code. My apologies. So, yes, permitted the 6 feet fence there
17 on the side, and as you show, on the Powerhouse Road side, you know
18 you have it stopped at the setback.

19 MR. BETTIS: Yes.

20 CHAIRMAN MAMMINA: I did notice -- it's none of my business
21 because I always look at the survey. I looked at Google photos and
22 things. I mean, he had a lovely landscape all along that line, which
23 is none of our business, but we opted to take that out, and normally
24 what we always put forward when we should grant -- if we should grant
25 is what I mean -- some sort of relief, and that we say, well, put
26 it in a nice buffer of landscape. You had that buffer of landscaping.

1 You took it out for whatever reason you opted to, and that's
2 just -- I'm only one Board member, but I think that would be what
3 we could do on this -- on this application.

4 So, nothing beyond the garage in the -- on the north property
5 line, and then set back, you know, to the -- to that line of the house
6 4-foot fence.

7 MR. BETTIS: May I just elaborate on the reasoning for going
8 beyond?

9 CHAIRMAN MAMMINA: Sure.

10 MR. BETTIS: So, this, as you mentioned, is a just give-me a
11 kind of corner-lot condition and just trying to make the best
12 opportunity for maximizing really the backyard. Adding this small
13 chunk here would increase the backyard by 540 square feet. So, while
14 it wouldn't make a huge impact on the surrounding areas and the
15 community, really it would make a huge impact on a family who, you
16 know, would live at this home. So, that was the reason for trying
17 to maximize that backyard footprint.

18 CHAIRMAN MAMMINA: I would say that driving that street,
19 adjacent houses, and others on the street, have that landscaping,
20 you know, right up the street, and I'm not certain, but my thought
21 process says, you bought that piece of property, and bought that
22 house, you opted to make it a lovely house that it is, but yet, it's
23 right on Powerhouse Road. But that was your decision, and your
24 decision to take down the trees, and you know, all of the things that
25 are there, which I don't know. I could say that's a good thing. I
26 could say that's a bad thing. I mean, that's -- but that's up to

1 you.

2 But I don't think that in this instance, just as one Board
3 Member, that creates a merit to bring that forward when you have all
4 of that landscaping in there, and you could've put that 4-foot fence
5 at that setback in there, you know, and I think you would've had a
6 shot.

7 (Whereupon, there was a discussion amongst Board Members.)

8 SECRETARY WAGNER: Let me just show you what you have
9 as-of-right. Four foot straight back here and then 6 foot here.

10 MR. BETTIS: So, currently, the fence line is 13 feet, 6 inches
11 past the building line proposed.

12 MEMBER HERNANDEZ: I'm sorry. Repeat that.

13 CHAIRMAN MAMMINA: Yeah.

14 MR. BETTIS: The proposed fence line is 13 feet, 6 inches past
15 the building line currently.

16 MEMBER HERNANDEZ: Yes.

17 MR. BETTIS: What if this was drawn back to half of that to that
18 about 6 feet?

19 CHAIRMAN MAMMINA: I'm just one Board Member, but I say no.

20 MEMBER HERNANDEZ: If you go straight back where the code allows
21 you to go back, I know you said you're adding 400 square feet, or
22 whatever to your yard by going to the front of the property line.
23 But if you -- if you remove that 13 feet, all you're removing is
24 basically 160 feet of space. You still have -- what is that? 36
25 times 40 -- 40 times 36, you still have a 1,400-square-foot backyard.
26 So, it's not that you don't have a backyard, and that's why we, you

1 know, we're very strict on not going to the front property line.

2 CHAIRMAN MAMMINA: And then you have the option of landscaping,
3 you know, that. Landscaping it nicely, and -- I mean -- I don't know.
4 I can't -- I can't say what you can sell it for, but I'm -- it's
5 none of my business. But I'm sure you'll sell it for a sizable amount
6 of money, as you should.

7 MR. BETTIS: Yeah.

8 CHAIRMAN MAMMINA: Landscape the whole thing, and, you know,
9 essentially, you -- you also can't come all the way forward on
10 the -- on that northern property line with the 6-foot fence.

11 MEMBER HERNANDEZ: You can't come to the street.

12 MR. BETTIS: That would go to the face of the garage.

13 CHAIRMAN MAMMINA: Yes, the face of the garage.

14 MEMBER HERNANDEZ: Now, you could keep that little piece of
15 fence in the back where you have the door from the garage coming into
16 the yard because that is within your house --

17 MR. BETTIS: Correct.

18 MEMBER HERNANDEZ: -- envelope.

19 MR. BETTIS: Yeah, I would just -- yeah, I would want to contain
20 it basically. Contain it for safety.

21 MEMBER HERNANDEZ: And if you move -- and you could move that
22 doorway that you have in the 13.6 -- move it over to the long fence
23 to have access, if you want that access.

24 CHAIRMAN MAMMINA: If you want that.

25 MEMBER HERNANDEZ: If you wanted that access.

26 MR. BETTIS: Speaking on the landscaping. There is intent,

1 obviously, to landscape and to beautify the property. There was a
2 bit of overgrowth with the initial application at the time that I
3 was on board. So, the decision to remove those two trees and replaced
4 with, you know, new trees and shrubbery is the way to go. Landscaping
5 is also maintenance. So, the idea was to go with fencing here.
6 Okay. Understood.

7 CHAIRMAN MAMMINA: I think that's where -- that's where we're
8 going. So, I think -- and please correct me if I'm wrong. In terms
9 of -- one moment.

10 (Whereupon, there was a discussion amongst Board Members.)

11 CHAIRMAN MAMMINA: It has been pointed out for the record by
12 our legal counsel. There is a commercial building that is directly
13 across the street from there.

14 MR. BETTIS: Yes.

15 CHAIRMAN MAMMINA: What would be reasonable for this to work
16 that if we were to ask you to pull that fence back, 3 feet in there,
17 plant arborvitae in there, three feet on center, irrigated. You'll
18 probably irrigate everything anyway. That could be a way for us to
19 grow in terms of what is directly across the street, you know,
20 from -- I think the fence along the north side, in my opinion, still
21 should not -- should not be there because then that neighbor next
22 door is looking at that 6-foot fence. So, that should be cut back.

23 SECRETARY WAGNER: So, we're going to deny that rear fence.
24 Rear side fence up to the property line, but you want to amend the
25 other fence back from the property line.

26 MEMBER HERNANDEZ: And then subject to planting of arborvitae

1 or bushes.

2 MR. BETTIS: In front of the fence.

3 MEMBER HERNANDEZ: In front of it, so that when you're walking
4 on the sidewalk, you're not up against the fence.

5 MR. BETTIS: Right.

6 CHAIRMAN MAMMINA: I'm a big fan of arborvitae because
7 arborvitae grows all year. If you irrigate that, in my own house,
8 and I live on a small lot, 60 by 100, and they're 12 feet high now.

9 SECRETARY WAGNER: How high do you want these plantings?

10 CHAIRMAN MAMMINA: I would say we usually give 6 feet.

11 MEMBER HERNANDEZ: Three on center.

12 CHAIRMAN MAMMINA: Three on center; 5 feet, 6 feet, whatever.

13 SECRETARY WAGNER: Five.

14 CHAIRMAN MAMMINA: Those are going to cost a fortune.

15 MEMBER HERNANDEZ: No, they're not. After that, they begin to
16 go up in price.

17 MR. BETTIS: So, if the fence gets drawn back from 13 feet, 6
18 inches to 10 feet, 6 inches with arborvitae providing that they're --

19 MEMBER HERNANDEZ: On the outside of the fence. Between the
20 fence and the sidewalk.

21 CHAIRMAN MAMMINA: Three feet on center; 5, 6 feet. Again, the
22 fence along the property line. To the north, 6-foot fence gets
23 pulled back --

24 MR. BETTIS: Pulled back, yes.

25 MEMBER HERNANDEZ: I mean, we're making a very rare
26 accommodation because of what's directly in front of this house.

1 MR. BETTIS: Yeah, sorry, I forgot. I should've mentioned
2 that.

3 CHAIRMAN MAMMINA: No, no, no, and I should've remembered.

4 MR. BETTIS: I also uploaded -- apologies. I uploaded renders.

5 CHAIRMAN MAMMINA: Yes. Looks lovely.

6 MR. BETTIS: Thank you.

7 SECRETARY WAGNER: What was the question?

8 CHAIRMAN MAMMINA: Just reiterating. He's also saying
9 uploaded renderings.

10 SECRETARY WAGNER: Vote?

11 CHAIRMAN MAMMINA: Anyone else wish to speak?

12 (No response given.)

13 CHAIRMAN MAMMINA: Oh, I need a motion.

14 (Laughter.)

15 MEMBER HERNANDEZ: Motion to move.

16 CHAIRMAN MAMMINA: Details. Details.

17 MEMBER HERNANDEZ: As amended.

18 SECRETARY WAGNER: As amended.

19 CHAIRMAN MAMMINA: Do we have a second?

20 MEMBER GOODSSELL: I'll second.

21 CHAIRMAN MAMMINA: Seconded by Member Goodsell. Poll the
22 Board.

23 SECRETARY WAGNER: Member Goodsell?

24 MEMBER GOODSSELL: Aye.

25 SECRETARY WAGNER: Member Hernandez?

1 MEMBER HERNANDEZ: Aye.

2 SECRETARY WAGNER: Vice Chairman Francis?

3 VICE CHAIRMAN FRANCIS: Aye.

4 SECRETARY WAGNER: Chairman Mammina?

5 CHAIRMAN MAMMINA: Aye. The application is granted as
6 amended.

7 MR. BETTIS: Thank you very much.

8 CHAIRMAN MAMMINA: Thank you, and good luck.

9

10

11 SECRETARY WAGNER: Appeal #21845, Joe Mathew; 19 Edgemere
12 Drive, Albertson; Section 7, Block 153, Lots 12; Zoned: Residence
13 A.

14 Variances 70-100.1.A & 70-101 to install a bench within a front
15 yard, and to legalize a front terrace within a front yard.

16 CHAIRMAN MAMMINA: You've heard Appeal #21845, Joe Mathew. Is
17 there anyone in the room interested in the application other than
18 the applicant?

19 (No response given.)

20 CHAIRMAN MAMMINA: Seeing no one. Please give your name and
21 address.

22 MS. LOKI-CHIANESE: Good morning, Members of the Board. My
23 name is Ashley Loki Chianese, C-H-I-A-N-E-S-E from Mark Anthony
24 Architects. Our office is located at 1063 Bellmore Avenue in
25 Bellmore, New York.

26 I am here this evening on behalf of my client, Mr. Joe Mathew,

1 who is the owner and occupant of the subject property located at 19
2 Edgemere Drive.

3 Forgive me. I'm losing my voice.

4 We are here this morning as a result of an application --

5 CHAIRMAN MAMMINA: If you're going to be reading, which is
6 absolutely fine, just slow it down a little bit, so that our marvelous
7 stenographer can get it all down.

8 MS. LOKI-CHIANESE: We are here this morning --

9 CHAIRMAN MAMMINA: You look slightly nervous.

10 MS. LOKI-CHIANESE: I just don't have a voice. So, that's all
11 I said.

12 CHAIRMAN MAMMINA: We can hear you fine.

13 MS. LOKI-CHIANESE: We are here this morning as a result of an
14 application filed with the building department for a proposed area
15 of paver patio with masonry bench, to maintain an existing paver patio
16 on concrete base in the front yard, maintain an existing paver stoop
17 and sliding door, and to maintain an existing AC unit.

18 This property is located in a Residence A zone and has a lot
19 size of 10,711 square feet. The proposed installation of a
20 22-inch-high fixed semi-circular bench in the front yard located
21 along the Dell or the west side of the property is seeking relief
22 for being located in the front yard, as it is required to be located
23 in the rear yard. Since it's a corner property, this is the side
24 of the house, but it is considered the front yard.

25 Additionally, on the same side, the proposed maintain of the
26 front terrace has a 33.46-foot front yard setback. Again, also

1 located along the Dell, where 42.48 feet is required. There is a
2 five-yard encroachment, which is being utilized, which brings us to
3 37.8 feet, for which we are requesting relief of 4.02 feet.

4 We do not believe this is producing an undesirable change in
5 the neighborhood or creating a detriment to the neighboring
6 properties. The terrace and seating area are landscape features
7 that are compatible with the surrounding area. They do not introduce
8 large structures that would be bothersome to nearby properties, and
9 as the bench is only 22 inches off the ground and functions as a
10 decorative landscape use and seating element rather than in an
11 enclosed accessory building or structure. We do not believe that
12 it should cause any bother to the neighboring properties. The
13 features enhance the aesthetics of the property and is well
14 maintained, and they are unseen from the road. There is a fence,
15 and there are hedges that surround that side of the property located
16 along the Dell.

17 CHAIRMAN MAMMINA: Just be aware that they're off your
18 property.

19 MS. LOKI-CHIANESE: Yeah.

20 CHAIRMAN MAMMINA: These hedges and things are off the
21 property, and for your own benefit, you may want to get approval from
22 the Department of Transportation, you know, for those; otherwise,
23 to some extent, you know, discount those.

24 MS. LOKI-CHIANESE: We do not believe it would be feasible to
25 locate this to the rear yard. There is essentially no true rear yard
26 on the property. The only usable yard space is located on the west

1 side of the property along the Dell and serves as the property's main
2 yard. As a result, that corner property, as I previously said, that
3 is where the majority of the issues come into play.

4 I would like to note that there is a proposed trench drain and
5 a proposed dry well in the front yard to eliminate any drainage
6 issues.

7 CHAIRMAN MAMMINA: Which is required by the building code. Has
8 nothing to do with the zoning.

9 MS. LOKI-CHIANESE: The proposed dry well is 10 feet in diameter
10 and 8 feet deep.

11 We do not believe that the request is substantial. The terrace
12 extends only approximately 4 feet beyond what is otherwise permitted
13 into the required front yard setback and remains over 33 feet from
14 the property line facing the Dell.

15 Additionally, there are also existing hedges, as I previously
16 said, and the bench occupies a very limited portion of the landscape
17 front yard.

18 Neither of the variance requests create a visual obstruction
19 or significant departure from the surrounding properties. There is
20 no increase in building coverage that would adversely affect the
21 surrounding neighborhoods beyond the existing conditions, and as I
22 previously mentioned, there are the drywalls and the trench drains.

23 MEMBER GOODSELL: If I could interrupt you for a second?

24 MS. LOKI-CHIANESE: Sure.

25 MEMBER GOODSELL: This is kind of my neck of the woods. So,
26 could we start by having you address the elevation of this property

1 on the record because we have in front of us flat plans; however,
2 upon visual inspection, it's clear this is not a flat piece of
3 property. So, to address the elevation.

4 CHAIRMAN MAMMINA: Probably should have been shown on your
5 survey.

6 MEMBER GOODSELL: When I drove this property, it's a little
7 confusing to me as to which side was the front door because there
8 were steps leading up the side of the street facing the garage is
9 low. On the Dell, street level, it goes up and increases to what
10 I believe to be the side of the house and the door, and the same thing
11 with Edgemere. It looks as if the street level is one level, and
12 then the house is much higher than the street level. So, it's a
13 little bit -- it's a little bit confusing as to where the front door
14 is, but the address is on Edgemere.

15 MS. LOKI-CHIANESE: The address is on Edgemere. I do have a
16 photo of the house prior. I can submit a copy for everyone.

17 MEMBER HERNANDEZ: Please.

18 CHAIRMAN MAMMINA: Please.

19 SECRETARY WAGNER: This will be Exhibit 1.

20 MEMBER GOODSELL: And that's fine. So, the functional or the
21 nominate, in name only, the Edgemere Drive is the front of the house.

22 MS. LOKI-CHIANESE: Yes.

23 MEMBER GOODSELL: And the Dell, which is also technically a
24 front yard kind of functions as the side yard, if I understand your
25 drawings correctly. It is very nicely wooded and shielded. It's
26 not always possible to see because I did look at it. It's not always

1 possible to see what's going on behind the hedges.

2 MS. LOKI-CHIANESE: The yard along the Dell essentially
3 functions as what they would be using as the rear yard if they had
4 a rear yard.

5 MEMBER GOODSSELL: What is on that side of the house right now?
6 I see the proposed plans. What's there now?

7 MS. LOKI-CHIANESE: The paver patio already exists.

8 MEMBER GOODSSELL: Okay.

9 MS. LOKI-CHIANESE: And the stairs.

10 MEMBER GOODSSELL: That's one of the photographs that you're
11 showing.

12 MS. LOKI-CHIANESE: Yes. The circular bench and the paver
13 patio where the circular bench would go, does not yet exist. The
14 homeowners received a stop work order during the process.

15 CHAIRMAN MAMMINA: The stop work order was when they were
16 putting in steps, correct?

17 MS. LOKI-CHIANESE: Yes, the paver patio and the steps. The
18 work stopped prior to putting in the bench, and the remaining -- the
19 remaining pavers underneath the concrete base.

20 MEMBER GOODSSELL: Looks like a flat piece of property to me.
21 Now, I have to go back and take a look.

22 (Whereupon, there was a discussion amongst Board Members.)

23 MEMBER GOODSSELL: I apologize.

24 MS. LOKI-CHIANESE: It's okay.

25 MEMBER GOODSSELL: And I'm going to retract everything I just
26 said on the record. I'm looking at another corner of Edgemere.

1 MS. LOKI-CHIANESE: Yes.

2 MEMBER GOODSSELL: Because not everybody puts their house
3 numbers where we can see.

4 MS. LOKI-CHIANESE: Fair enough.

5 CHAIRMAN MAMMINA: That does happen.

6 MS. LOKI-CHIANESE: Fair enough.

7 CHAIRMAN MAMMINA: Also the elevation -- the survey doesn't
8 show any elevation. Probably because the surveyor looked at it and
9 said, well, flat, and it's a house.

10 I guess, for me, I don't get that bench, and I don't quite
11 understand what it is, and/or the why, and remembering that you really
12 can't have that shrubbery there. I don't know. I just don't -- I
13 don't understand it.

14 Put it down by where the dry well is, and you don't have any
15 problems, and look, I'm Italian. I don't know, but like I said, that
16 sounds like -- looks like something my Uncle Nunzio would do or my
17 grandpa.

18 MS. LOKI-CHIANESE: I hear you.

19 CHAIRMAN MAMMINA: I mean, and you know, and that's -- that's
20 probably one of the principals that you were denied for.

21 MEMBER GOODSSELL: I did look at the wrong property.

22 MS. LOKI-CHIANESE: No worries.

23 MEMBER GOODSSELL: The house across the street.

24 MEMBER HERNANDEZ: So, the semi-circular bench that we're
25 looking at in your plans, is that semicircle that you have attached
26 to the pavements? Is that where the location of it is going to be?

1 MS. LOKI-CHIANESE: Yes, there will be pavers under it. They
2 haven't been added yet.

3 MEMBER HERNANDEZ: But basically attached to it.

4 MS. LOKI-CHIANESE: Yeah.

5 MEMBER HERNANDEZ: Sort of like a straight line with a bubble.

6 MS. LOKI-CHIANESE: Yes.

7 CHAIRMAN MAMMINA: You can also tell Mr. Munisteri from me that
8 as usual, his plans are very scant. It's very difficult. I have
9 to look really hard to find things, and I'm not going to say it on
10 the record, but boy, oh boy, do you have to hunt for that; it's just
11 tiny little details. The front yard paving diagram was with --
12 that's just my opinion -- should be where there is; a detail of what's
13 going on in there. Every line that it shows intimates that there's
14 a step down into there. Maybe there is. Maybe there isn't. I don't
15 know. The only thing that I see when I really, really hunt and
16 search --

17 MS. LOKI-CHIANESE: Forgive me. Which page are you on?

18 CHAIRMAN MAMMINA: -- is that detail of the bench, you know.
19 On AA00 up in the corner. When you've got these gigantic details
20 of brick pavers, you know, so.

21 MS. LOKI-CHIANESE: I'll be sure to pass it along,
22 unfortunately.

23 CHAIRMAN MAMMINA: There's no section through the stairs.
24 That should be a major part of what's shown because that's what you're
25 asking.

26 MS. LOKI-CHIANESE: I will let Mr. Munisteri know.

1 CHAIRMAN MAMMINA: Generally, you're doing a superior job.

2 MEMBER GOODSSELL: I looked at the house across the street
3 because, as I said, they're all so clearly marked.

4 CHAIRMAN MAMMINA: I know. Let's go back to this bench.

5 MEMBER GOODSSELL: Let's go back to the bench. In all the years
6 I've been on here, and I'm the newest member of the Board, nobody's
7 come in front of us with an application for a bench.

8 CHAIRMAN MAMMINA: Right.

9 MEMBER GOODSSELL: So, I need to take a look at this.

10 MS. LOKI-CHIANESE: What would you like to know exactly?

11 MEMBER GOODSSELL: Well, it's a structure. It seems to be a
12 structure.

13 CHAIRMAN MAMMINA: Yes, the building department consistently
14 deems that's what is a structure. They deem --

15 MEMBER HERNANDEZ: That's built-in?

16 MS. LOKI-CHIANESE: Yeah, it'll be a built-in bench.

17 CHAIRMAN MAMMINA: Not making it up. A little Italian man,
18 who's holding the lantern, as a structure. Light piers and all of
19 those sorts of things. I don't know, you know. It's not even like
20 it's -- that's only my opinion.

21 MEMBER GOODSSELL: Is it a sunken seat, walk down? Is it on
22 grade?

23 CHAIRMAN MAMMINA: No, according to this, it's on pavers.

24 MS. LOKI-CHIANESE: It will be on grade.

25 MEMBER GOODSSELL: It has no roof?

26 MS. LOKI-CHIANESE: Just a masonry bench.

1 CHAIRMAN MAMMINA: Masonry with cultured stone.

2 MS. LOKI-CHIANESE: Yes, on a concrete -- well, the proposed
3 pavers will be underneath on a concrete base.

4 CHAIRMAN MAMMINA: Yes, yes, of course. It also struck me that
5 those stairs don't have any handrail. I see that there is a detail.

6 MS. LOKI-CHIANESE: There will be one foot, but we got a
7 stop-work order, so we stopped all the work.

8 CHAIRMAN MAMMINA: You put one in the center as well. Again,
9 my Uncle Nunzio had too much beer.

10 MS. LOKI-CHIANESE: Fair enough.

11 CHAIRMAN MAMMINA: Just talking about my family.

12 (Laughter.)

13 MEMBER HERNANDEZ: Okay.

14 CHAIRMAN MAMMINA: Why don't we talk about the stairs because
15 that's hiding in there, as well.

16 MEMBER HERNANDEZ: The one that says --

17 CHAIRMAN MAMMINA: Yeah, he's calling it an open story porch
18 and terraces because the plan examiner says that it can only be 7
19 feet wide because the ordinance says that you can only be the width
20 of these. He's interpreting the ordinance to say that it can only
21 be 7 feet wide based on the amount of space allowed at each side of
22 the door.

23 MS. LOKI-CHIANESE: You said you wanted a railing in the middle
24 of the stairs, correct?

25 CHAIRMAN MAMMINA: Oh no, it's not that I wanted.

26 MS. LOKI-CHIANESE: Suggest.

1 CHAIRMAN MAMMINA: That's just my feeling.

2 MS. LOKI-CHIANESE: Got it. Fair enough.

3 CHAIRMAN MAMMINA: Safety. That's all. Just strictly a
4 suggestion.

5 MS. LOKI-CHIANESE: Understand.

6 CHAIRMAN MAMMINA: He's talking about the landing.

7 VICE CHAIRMAN FRANCIS: Right.

8 (Whereupon, there was a discussion amongst Board Members.)

9 CHAIRMAN MAMMINA: I'm assuming that he also meant the angles,
10 and because I couldn't quite make that out, and then the steps up
11 come in like that -- I'm talking the aesthetic.

12 SECRETARY WAGNER: Yeah --

13 CHAIRMAN MAMMINA: You understand what I'm saying.

14 SECRETARY WAGNER: Yeah. That's what he intended --

15 CHAIRMAN MAMMINA: You're smarter than me.

16 SECRETARY WAGNER: -- obviously.

17 CHAIRMAN MAMMINA: Yes, of course.

18 SECRETARY WAGNER: It would be the same as if they had like a
19 deck coming out of those sliding glass doors.

20 CHAIRMAN MAMMINA: Yes.

21 (Whereupon, there was a discussion amongst Board Members.)

22 SECRETARY WAGNER: This is considered an accessory structure
23 in --

24 MEMBER HERNANDEZ: He's looking at the lowest possible step.

25 CHAIRMAN MAMMINA: Okay, so he's considering that an accessory
26 structure.

1 SECRETARY WAGNER: Right. You're not allowed to have an
2 accessory structure in the front yard, deck, or terrace.

3 MEMBER HERNANDEZ: Right.

4 CHAIRMAN MAMMINA: Limited to seven --

5 SECRETARY WAGNER: Well, no, actually, it's not that it's -- I
6 don't think it's not allowed in the front yard. It doesn't meet the
7 setback. So, it's a setback here.

8 CHAIRMAN MAMMINA: Legalizing the fronts.

9 SECRETARY WAGNER: It has a -- the required setback is 37 feet,
10 and it only has 33 feet.

11 MEMBER HERNANDEZ: But it's not a stoop.

12 SECRETARY WAGNER: Right. Front yard setback.

13 CHAIRMAN MAMMINA: I think that he's considering it to be an
14 entrance to the building, same as someone might in front of their
15 house, but if somebody put that in the back of their house within
16 the 30-foot rear yard.

17 SECRETARY WAGNER: It's a setback. The terrace is a setback
18 variance. The bench is because it's an accessory structure in the
19 front yard.

20 CHAIRMAN MAMMINA: Yeah, the bench.

21 SECRETARY WAGNER: We're only looking at the setback variance.
22 The required -- the average -- actually, no, I'm sorry. They're
23 required to have 37 feet.

24 MS. LOKI-CHIANESE: So, we're required -- Virginia, I'm sorry.
25 I overheard you.

26 SECRETARY WAGNER: Go ahead.

1 MS. LOKI-CHIANESE: We're required to have 42.48 feet.

2 SECRETARY WAGNER: On the one side.

3 MS. LOKI-CHIANESE: But there's the 5-foot encroachment.

4 SECRETARY WAGNER: Right.

5 MS. LOKI-CHIANESE: Which brings it to 37.48.

6 SECRETARY WAGNER: Thank you, yes.

7 MS. LOKI-CHIANESE: But we have 33.46. So, we need relief of
8 4.02. We had the same conversation in my office this morning.

9 SECRETARY WAGNER: My eyesight is starting to fade with the
10 heat.

11 MS. LOKI-CHIANESE: Fair enough.

12 CHAIRMAN MAMMINA: And being here so long.

13 SECRETARY WAGNER: They're permitted the 5-foot encroachment.

14 CHAIRMAN MAMMINA: And that's okay. So, this platform is
15 4-foot-1, if I remember the drawing correctly, but he's looking at
16 the whole -- the bulk of this, which is correct.

17 (Whereupon, there was a discussion amongst Board Members.)

18 MEMBER GOODSELL: Seems to be the consensus of the Board, as
19 we are looking at this, that the bench, however beautiful it might
20 be, is in fact a structure. Like other structures. Brick walls,
21 like maybe permitted, sheds to like -- it's a structure, and as a
22 structure, it has required setbacks. Even in a backyard. Like
23 we've had before us kitchens or sunken patios. This is just a bench,
24 but we are considering this to be a structure, and as a result, as
25 a structure, it doesn't come anywhere close to the setbacks which
26 are required. So, I don't think that we can grant it; we can consider

1 it, but I don't think we can grant it. On the other hand, I'm inclined
2 to grant the steps because as we all pointed out, we have a door.
3 I wouldn't describe this as a stoop. Your steps going down to the
4 ground. So, in my opinion, as one Board Member, I believe we should
5 grant the steps. I think we deny the circular bench.

6 MEMBER HERNANDEZ: Just to add a point to the bench. There is
7 a reasonable alternative that we can come to, which is basically don't
8 build a permanent one. Buy one that can be placed.

9 MS. LOKI-CHIANESE: I just have one question, though. We
10 weren't denied for the setback for the bench. We were only denied
11 for its location.

12 CHAIRMAN MAMMINA: For having it in the front, which means it's
13 not set back. So, it's the same.

14 MS. LOKI-CHIANESE: I understand what you're saying.

15 MEMBER GOODSSELL: It is a seating area. There are alternatives
16 to a permanent stone bench, which is a structure that the applicant
17 could consider. There is nothing, in my opinion, unique about the
18 landscaping here or anything which would justify that this must take
19 place. This is not replacing anything.

20 In my opinion, as one Board Member, I could not grant this
21 because it is a structure that violates setback, not by a little bit,
22 but by a lot.

23 I would make a motion that we grant the application for the
24 steps, and we deny the application for the bench.

25 CHAIRMAN MAMMINA: We have a motion.

26 MEMBER HERNANDEZ: Second.

1 CHAIRMAN MAMMINA: Motion by Member Goodsell. Seconded by
2 Member Hernandez. Please poll the Board.

3 SECRETARY WAGNER: Member Hernandez?

4 MEMBER HERNANDEZ: Aye.

5 SECRETARY WAGNER: Member Goodsell?

6 MEMBER GOODSELL: Aye.

7 SECRETARY WAGNER: Vice Chairman Francis?

8 VICE CHAIRMAN FRANCIS: Aye.

9 SECRETARY WAGNER: Chairman Mammina?

10 CHAIRMAN MAMMINA: Aye. It's approved as amended.

11 SECRETARY WAGNER: Partially granted, partially denied.

12 MS. LOKI-CHIANESE: Thank you.

13 CHAIRMAN MAMMINA: You did a very good job.

14 MS. LOKI-CHIANESE: Thank you.

15 CHAIRMAN MAMMINA: We're just going to take five minutes.

16 SECRETARY WAGNER: We're taking a five-minute break before the
17 next appeal.

18 (Whereupon, there was a recess taken in the proceeding.)

19

20

21 SECRETARY WAGNER: Appeal #21846, Appeal #21846, Jillian
22 Wiseman; 3 Burnham Ave., Roslyn Heights; Section 7, Block 243, Lot
23 17; Zoned: Residence C.

24 Variances 70-50.C, 70-52, & 70-100.2.A(2) to construct a new
25 second-floor addition that would be too close to the street and too
26 close to the rear property line, and to legalize a fence located

1 forward of the front building line.

2 CHAIRMAN MAMMINA: You've heard Appeal #21846, Jillian
3 Wiseman. Is there anyone in the room interested in the application
4 other than the applicant?

5 MS. WISEMAN: (Raises hand.)

6 MR. WISEMAN: She's Jillian, and I'm Lane.

7 CHAIRMAN MAMMINA: You're the applicants?

8 MR. KAPLAN: They're the homeowners.

9 CHAIRMAN MAMMINA: You don't want to speak against it?

10 MR. WISEMAN: No.

11 MS. WISEMAN: No.

12 MR. KAPLAN: Good afternoon, everybody.

13 CHAIRMAN MAMMINA: Good afternoon.

14 MR. KAPLAN: Andrew Kaplan, architect, 4830 Clearview
15 Expressway, Bayside, New York 11364.

16 We have before you a property located at three Burnham Avenue
17 in Roslyn Heights. This is an RC zone.

18 We are seeking relief to build a new second floor to replace
19 the existing second floor that's a one-and-a-half-story cape, as well
20 as maintaining a fence between the front yard of the property.

21 I do just want to point out a couple of things of note. This
22 is a pre-existing non-conforming property. Both our front yard and
23 rear yards are noncompliant, and while this is considered an interior
24 lot by the building department, it sort of functions as a corner lot
25 due to having two different streets and a T-shaped intersection.

26 We are before you for both the front yard setback and the rear

1 yard setback for this addition. This is a vertical addition on the
2 house. We are not adding any additional lot coverage to this
3 property. So, this is strictly just vertical, straight up.

4 The front yard setback requirement is 25 feet. However, the
5 average front yard setback is 25.61, which is what controls this
6 property. Both the existing and proposed setback, closest point of
7 the house to the curved front lot line is 19.89 feet.

8 The rear yard is similar. Fifteen feet is required, while both
9 the existing and proposed setbacks are 11.29 feet at the closest
10 point. Because the addition extends only vertically and creates no
11 further encroachment into either yard, I consider the requested
12 relief de minimis.

13 This does not affect the sky plane, does not affect the gross
14 floor area, and again, it is compliant with the lot coverage.

15 Probably the bigger conversation we have is about the fence.
16 This fence has been at this property at least since the mid-1990s
17 prior to the Wisemans owning this home. You can actually see this
18 fence on Google Street View as far back as 2012 in its current state.

19 It is well maintained. It is 6-foot tall. It is a solid wood
20 fence. Overall, the fence has 76 linear feet of its 92 linear feet
21 going southeast on Warner Avenue, and the remaining turns inward into
22 the property.

23 I do want to point out that the fence is set back approximately
24 4 feet from the property line. However, the fence continues to be
25 much further away from the street than even that.

26 Looking at the original survey, there is a telephone pole that

1 is off our property and on our land. From that point, the utility
2 pole is 6.5 feet from the fence, and there's still additional green
3 space beyond that. In front of this fence, there is existing
4 green -- greenery. That is there all year round. So, it is
5 naturally already well screened.

6 I have been down this road, both north and south on Warner
7 heading back home, meeting with the client multiple times, multiple
8 times of the year, as well as multiple times during the day. This
9 fence does not pose a hindrance for vehicular traffic in either
10 direction, nor does it create a sight line issue for the homeowners
11 themselves.

12 In fact, in the 30 years that the homeowner has been at this
13 property, two cars have driven down Warner Avenue in the southwestern
14 area, the T-shaped intersection, heading front of the home, and hit
15 either that telephone pole or driven through that fence over time.
16 So, it's protected the house from actual damage.

17 The grade is a little varied over there as well. The house sits
18 on a hill. So, this area does act as its de facto backyard, as it
19 is such a de minimis rear yard behind this home.

20 Considering that the area the house is located in is the
21 backyard, the house across the street from Warner Avenue sits lower,
22 and then even further back, even though it's not part of the fence,
23 the neighbors that are in the village behind them sit much higher.
24 So, there's really no visual issue for this fence or anything about
25 this project. It's well maintained.

26 We do have letters of consent from multiple neighbors

1 surrounding the property. It's been uploaded to the portal previous
2 to this hearing. Two of which being the direct neighbor north on
3 Warner Avenue and also across the street on Warner Avenue, the two
4 people most affected by this fence.

5 Considering the five points, even though this is not a coverage
6 situation. Neither the two-story second-story addition nor the
7 fence creates an undesirable neighbor effect. Neither one of these
8 things creates an environmental issue. Keeping the fence would be
9 preferable than making modifications to it. As well as, this really
10 isn't another way to expand this home in any functional way to create
11 a lesser impact on the setbacks, and of course, we are self-created.

12 The most important thing I would probably want to bring up about
13 the fence is, besides just generally the fact that it has been here
14 for such a long time. As far as I'm aware, there's never been any
15 calls to the building department about an unsafe condition. No
16 complaints from any neighbors.

17 The homeowners have maintained this fence in the backyard very
18 well their entire time they've been there. They've raised two
19 children while being in their backyard and having other features back
20 there, such as the playground that has been removed over time, and
21 as well it also does protect and hide the access to the septic system,
22 which is actually in that weird triangular yard situation.

23 The privity of time, I'll take any questions instead of babbling
24 on.

25 CHAIRMAN MAMMINA: What brings you here?

26 MR. KAPLAN: I'm sorry?

1 CHAIRMAN MAMMINA: What brings you here today?

2 MR. KAPLAN: It is for the front yard setback, rear yard
3 setback.

4 CHAIRMAN MAMMINA: No, no. Denial from the building
5 department?

6 MR. KAPLAN: Yes.

7 CHAIRMAN MAMMINA: Somebody picked it up.

8 MR. KAPLAN: Oh, no. It's by the building department.

9 CHAIRMAN MAMMINA: No, I'm saying, was somebody driving down
10 the street?

11 MR. KAPLAN: No.

12 CHAIRMAN MAMMINA: The building?

13 MEMBER HERNANDEZ: You want to build a second floor?

14 MR. KAPLAN: Yeah.

15 CHAIRMAN MAMMINA: Oh, okay, so, it came up.

16 MR. KAPLAN: Self-incriminating.

17 CHAIRMAN MAMMINA: Sorry, I was scooting into the room.

18 VICE CHAIRMAN FRANCIS: Let me get back to the fence issue.
19 You're not looking to replace the fence.

20 MR. KAPLAN: Correct.

21 MEMBER HERNANDEZ: To maintain.

22 VICE CHAIRMAN FRANCIS: To maintain a wooden fence.

23 MR. KAPLAN: Correct.

24 VICE CHAIRMAN FRANCIS: As one Board Member -- and you have some
25 shrubbery there that kind of blends into that area. You don't really
26 see the fence, and it's not white PVC, which I personally hate. It's

1 a wood fence.

2 MR. KAPLAN: Correct.

3 VICE CHAIRMAN FRANCIS: So, as one Board Member, I would ask
4 that if the fence ever had to be replaced, that it be replaced with
5 a wood fence, and that screening of shrubbery be maintained.

6 MR. KAPLAN: I have no problem with the condition.

7 VICE CHAIRMAN FRANCIS: We dealt with that. Now, we can deal
8 with the less obvious.

9 MR. KAPLAN: And then as far as the house goes, we're just going
10 vertical.

11 VICE CHAIRMAN FRANCIS: Right. Right. So, you're coming in
12 closer to the street. You're not -- there's no sky plane issues.

13 MR. KAPLAN: Correct.

14 MEMBER GOODSELL: As a matter of fact, on the tax card, it looks
15 like it's 1955 construction, and the footprint is exactly what's
16 shown now. So, there's been no changes since then.

17 CHAIRMAN MAMMINA: Also, this is a highly irregular lot. I
18 mean, I've seen here pretty funky ones over time, and I think also,
19 the grade change that's in here, and -- you have a number of photos
20 that illustrate that, including one of a lovely young lady, who the
21 photo does not do her justice, but I did recognize her.

22 I mean, part of what we consider is uniqueness, and this is
23 certainly extremely unique piece of property.

24 For myself, I think just echoing Mr. Hernandez and Vice Chairman
25 Francis, if the fence ever had to be replaced, then it is replaced
26 in kind, also with a wood fence, and that landscaping be maintained,

1 in perpetuity. It's lovely, and it does the job of fitting into the
2 neighborhood. It's a lovely neighborhood, and the whole thing only
3 enhances it, as I'm sure the additional work to the house will for
4 the family. I don't have any issues with it.

5 VICE CHAIRMAN FRANCIS: All right, I'll move it. I move that
6 we grant the application with the conditions that are proposed for
7 the fence.

8 MEMBER GOODSSELL: I'll second.

9 SECRETARY WAGNER: Could you just list them out?

10 VICE CHAIRMAN FRANCIS: So, that the fence, if ever having to
11 be replaced, it's replaced in kind of a wood fence, and that the
12 shrubbery be maintained as the Chairman said, in perpetuity.

13 CHAIRMAN MAMMINA: That's a motion by Vice Chairman Francis.
14 I think I have a second from Member Goodsell. Please poll the Board.

15 VICE CHAIRMAN FRANCIS: Unless you have any problem with what
16 I said?

17 MR. KAPLAN: No.

18 (Laughter.)

19 SECRETARY WAGNER: Member Hernandez?

20 MEMBER HERNANDEZ: Aye.

21 SECRETARY WAGNER: Member Goodsell?

22 MEMBER GOODSSELL: Aye.

23 SECRETARY WAGNER: Vice Chairman Francis?

24 VICE CHAIRMAN FRANCIS: Aye.

25 SECRETARY WAGNER: Chairman Mammina?

26 CHAIRMAN MAMMINA: Aye. Application is granted.

1 MR. KAPLAN: Thank you.

2 MS. WISEMAN: Thank you very much.

3 MR. KAPLAN: I actually argued with the building department.
4 I was trying to convince them it was a corner lot just to help the
5 matter, but it didn't.

6 CHAIRMAN MAMMINA: It was a good argument.

7 MEMBER HERNANDEZ: It's more like a pizza slice.

8 MR. KAPLAN: Yes.

9 MEMBER HERNANDEZ: It's not even a straight line.

10 MR. KAPLAN: No, it's absolutely bizarre. Thank you.

11

12

13 SECRETARY WAGNER: Appeal #21847, Greg Koumoulllos; 2 Nortema
14 Court, New Hyde Park; Section 8, Block 302, Lot 15; Zoned: Residence
15 B.

16 Variance 70-40 to construct a second-story addition too close
17 to the street in the primary and secondary front yards.

18 CHAIRMAN MAMMINA: You heard Appeal #21847, Greg Koumoulllos.
19 Is there anyone in the room interested in the application other than
20 the applicant?

21 (No response given.)

22 CHAIRMAN MAMMINA: Seeing no one. Please give your name and
23 address.

24 MR. TYRONE: Scott Tyrone, 54 Willis Avenue, Mineola, New York
25 11501.

26 Again, I'm here representing Mr. Greg Koumoulllos, the owner of

1 2 Nortema Court, New Hyde Park, which is in a Residence B district.
2 It's identified Section 8, Block 302, and Lot 15.

3 I did bring a picture of the front elevation just so I can
4 reference it later on. The big easel and small ones, sorry about
5 that. The biggest size I can do by color.

6 We are seeking variances from 70-40C, which is the front yard
7 section of the town code. As you can see from the photo, the existing
8 dwelling is a split-level dwelling. It was built in 1960, and our
9 application proposes to build a second-floor addition over the right
10 side of the home. We're also adding a couple of peaks over the
11 existing dwelling.

12 The subject property is a corner house. It's the corner of
13 Nortema Court and New Hyde Park Road. The primary front yard is
14 Nortema because that's the narrowest street frontage. So, that
15 either has to be the average or 30, whichever is more restrictive.
16 The average, I believe, is 27.9. So, the 30-foot rules the day. So,
17 on Nortema, requires 30, and on New Hyde Park Road it requires 25.

18 We are seeking a front yard variance on both sides of the street.
19 On Nortema, we are not seeking a variance for the addition. I spoke
20 to the architect. He's actually setting the addition back. So, the
21 addition does comply with the 30-foot. The only thing on Nortema
22 that does require a variance -- I'm sorry, the small photo -- over
23 the front door you'll see from the elevation. Right now, it's like
24 a gable roof. He's putting a reverse over it, and then over the
25 garage side, the existing addition, he's putting two additional
26 layover gables on there. But it's -- we're not getting any closer

1 to the street. It's just the roof lines there already. We're just
2 putting peaks over it to balance the peaks that they're doing on the
3 addition on the side.

4 MEMBER GOODSSELL: Are they decorative, so to speak?

5 MR. TYRONE: They're decorative. If you look at the elevation
6 of the house, I mean, we have peaks on this side on the addition.
7 So, without it, it kind of, from an architectural standpoint, would
8 be out of balance. So, it kind of -- it ties the house together.
9 But it does violate the front yard setback, but the existing house
10 does. So, that's the only issue. But again, they're not projecting
11 any further than what is there right now.

12 MEMBER HERNANDEZ: They're basically changing the roof line.

13 MR. TYRONE: We're changing the roof line, exactly.

14 On the New Hyde Park Road side, the minimum on that side required
15 is 25, and we are proposing 22.1. That is an existing condition.
16 The existing house on this side is 22.1, and we are going straight
17 up with that. Again, that's to bring that in to comply. If you look
18 at the plan, the master bedroom would be, I think, 10-foot wide, not
19 so desirable for a master suite. So, they are proposing to go to
20 the end of the house, which would give the second floor the same 22.1
21 as we have on the first floor. Again, that faces New Hyde Park Road.
22 It's a main road. At that point, it's three lanes of traffic. One
23 on our side, two on the other, with a double yellow line down the
24 middle. There are, you can kind of see here, there are evergreen
25 bushes.

26 Mr. Koumoullos did get a variance from you guys to put in the

1 pool. So, if you see the survey, there's a pool there. You guys
2 did approve the pool, so that's legal.

3 I mean, as you can tell from the fence, these bushes are
4 approximately 15-foot tall, and they're arborvitaes, as the Chairman
5 seems to like. They're going to grow continuously at least 2 feet
6 a year. I mean, I have in my yard. They've taken off like crazy.
7 It's great, you know, great privacy. So, they are also alongside
8 the New Hyde Park Road.

9 We did get consent letters. Mr. Koumoulllos did speak to all
10 the neighbors, and they're uploaded in the portal. He got them from
11 1 Nortema Court and 3 Nortema Court, which are directly across the
12 street facing the house. He did get it from 183 Laurel Drive, which
13 is the neighbor directly behind, and he did get from 2225 New Hyde
14 Park Road, which is on the New Hyde Park Road side.

15 Again, the addition on a split level on that side of the house,
16 the side with the one-story addition, is not uncommon. It's a fairly
17 common addition that we do all the time. It's just with the setbacks
18 of the existing house, we have to seek a variance.

19 CHAIRMAN MAMMINA: Reverse gable on the left-hand side still
20 remains, and you just kind of put a little wing --

21 MR. TYRONE: Exactly.

22 CHAIRMAN MAMMINA: -- over the tops of those two doors and maybe
23 it's 4 feet high at the highest point.

24 MR. TYRONE: Yeah, it's not anything -- I mean, we're way under
25 the height. We're not even close to it. But again, it's for the
26 circumstance of the existing footprint of the house.

1 MEMBER GOODSSELL: As I recall, and this is kind of my area, I
2 went to the church for years and years and years. I'm probably the
3 only person who even knew where Nortema was off the bat because it's --

4 MR. TYRONE: I didn't think it was part of the town when I got
5 the phone call.

6 MEMBER GOODSSELL: That's exactly right. It's about 10 or 12
7 houses on a period, and it looks to me like they were in -- they were
8 all built in the same era.

9 MR. TYRONE: When you look, yeah.

10 MEMBER GOODSSELL: As I photographed most of the houses, I
11 noticed that several had undergone similar improvements.

12 MR. TYRONE: Yeah.

13 MEMBER GOODSSELL: In fact, if we were talking about a house that
14 was a nonconforming property, I suspect it would not need a variance
15 to do all these things. It's really because it is on the corner of
16 New Hyde Park Road.

17 MR. TYRONE: Yes.

18 MEMBER GOODSSELL: I don't know how your clients handle the
19 noise.

20 MR. TYRONE: Bushes.

21 MEMBER GOODSSELL: Yes, bushes, and they do work very well.

22 MR. TYRONE: Absolutely.

23 MEMBER GOODSSELL: This is not an uncommon improvement
24 particularly on this court. I think there's only two houses which
25 are in their original condition, and this seems to be the third.

26 I, for one, do not have any problems with this addition. The

1 setbacks are the setbacks. The house was built this way. The
2 applicant is going up and not out, and the applicant does have a
3 variance for the pool, but this addition is not going to affect the
4 pool.

5 I did ask about the deck, changing the roof line of the deck,
6 and it's not coming closer to the street or the side of the property
7 line, and we do not have a sky plane issue.

8 MR. TYRONE: No.

9 MEMBER GOODSSELL: We do not have a GFA issue. In my opinion,
10 this is the type of application we grant.

11 CHAIRMAN MAMMINA: May I ask you one other question?

12 MR. TYRONE: Yes.

13 CHAIRMAN MAMMINA: You had said that the front is being moved
14 back?

15 MR. TYRONE: So, the second-floor addition that we're doing
16 over the house on this side has an existing front yard setback of --

17 CHAIRMAN MAMMINA: You're looking at the survey now?

18 MR. TYRONE: Yeah, I have the survey. I have the site plan.
19 Hold one.

20 So, the second-floor addition is being set back to where it has
21 a 30-point -- well, more than 30 feet on the front end.

22 CHAIRMAN MAMMINA: So, it's in line with the --

23 MEMBER GOODSSELL: 30 feet 22.

24 MR. TYRONE: So, it's -- it's -- yeah, it's going to be in line
25 with that. So, it's, I think, it's actually a step back from that.
26 So, it's -- it's -- again, because there's a nonconforming front yard

1 on the garage side, and also this one-story addition side, they're
2 not level. Both of them are nonconforming, but the second floor
3 facing Nortema will be conforming. We're pushing it back even
4 further. We're not asking for a variance for the second floor on
5 Nortema at all. It's just the people with the door and the double,
6 you know, little reverses over the garage.

7 CHAIRMAN MAMMINA: Okay, so we have a motion.

8 VICE CHAIRMAN FRANCIS: I'll second.

9 CHAIRMAN MAMMINA: Motion by Member Goodsell. Second by Vice
10 Chairman Francis. Please poll the Board.

11 SECRETARY WAGNER: Member Hernandez?

12 MEMBER HERNANDEZ: Aye.

13 SECRETARY WAGNER: Member Goodsell?

14 MEMBER GOODSSELL: Aye.

15 SECRETARY WAGNER: Vice Chairman Francis?

16 VICE CHAIRMAN FRANCIS: Aye.

17 SECRETARY WAGNER: Chairman Mammina?

18 CHAIRMAN MAMMINA: Aye. The application is approved.

19 Off the record.

20 (Whereupon, a discussion was held off the record.)

21

22

23 SECRETARY WAGNER: Appeal #21830, Francisco Gilbert; 30
24 Central Avenue, New Hyde Park; Section 9, Block 249, Lot 656; Zoned:
25 Residence C.

26 Variances 70-50.A, 70-101.B, 70-51.A, & 70-52.3 to construct

1 a new home that is too close to the front and side property lines,
2 a front porch that is too close to the front and side property lines,
3 a rear porch that is too close to the side property line, with the
4 proposed home violating the sky exposure plane.

5 CHAIRMAN MAMMINA: You've heard Appeal #21830, Francisco
6 Gilbert, is there anyone in the room interested in the application
7 other than applicant?

8 (Audience members raise hands.)

9 CHAIRMAN MAMMINA: See two people in the back with their hands
10 up, and you'll have the opportunity to speak after the presentation.
11 Thank you.

12 MR. O'CONNELL: Thank you, Chairman, Members of the Board. For
13 the record, my name is Todd O'Connell, architect doing business at
14 1200 Veterans Highway, Hauppauge, New York. Architect for the
15 Gilbert family, who's here with me this evening with their beautiful
16 little daughter.

17 So, I wanted to make a little bit of clarification about this
18 application. So, it is true that we are going for some variances
19 for relief on the front yard, for relief on the sky plane, and some
20 relief on the side yard setbacks.

21 So, part of why we had to come to you is that with the amount
22 of work we're doing to build an apartment is deeming this new
23 construction. So, it changes the way we look at the code.

24 As new construction, it brings in sky plane. It's an existing
25 house. The existing house already does not comply with the sky
26 plane. We're not changing it. We're just working with what the

1 house is today. The same goes for the side yard setback. Same goes
2 for the front yard setback. We're trying to work with what the house
3 currently is.

4 This is not new construction, and I highlight this not being
5 new construction because the town has had some correspondence from
6 some neighbors, whereas you read the denial, it states building a
7 new two-story home, new construction. Very misleading. That's
8 really not what this is all about.

9 This is an existing house that's being expanded upon. So, many
10 of the correspondence that came through was all about, why are they
11 building a new house, and why can't they make this new house comply?
12 Well, obviously, I can't. This is an existing home. It's just
13 because of the definition with the town code that they need to deem
14 this as new construction.

15 VICE CHAIRMAN FRANCIS: Aren't we kind of stuck with that then?

16 MR. O'CONNELL: Yes.

17 VICE CHAIRMAN FRANCIS: Okay.

18 MR. O'CONNELL: So, exactly. So, to kind of clarify where the
19 variances are, I highlighted. This is -- the existing house is
20 pretty much this area, and you can see this yellow highlighted area;
21 4 inches I'm encroaching into the side yard.

22 Why am I doing that? Really, just to work with the existing
23 house. As an architect, we like to have nice clean lines.

24 Can I hold that wall in? Yes, I could, but in my opinion, that
25 hurts the character of the neighborhood. Now, we're just kind of
26 creating a bump. It looks like a mistake. So, we're looking to try

1 to work with what the house is. It's only 4 inches.

2 Now, that same four inches; see that little, tiny yellow dot?
3 There's my sky plane, you know, encroachment. That little, tiny
4 yellow dot. Very, very little.

5 CHAIRMAN MAMMINA: It's what I was talking about earlier on
6 another application.

7 MR. O'CONNELL: Right.

8 CHAIRMAN MAMMINA: In terms of sky plane.

9 MR. O'CONNELL: Yeah, so, that's the side that I'm 4.7 feet,
10 4-inch encroachment, and that's the same little, tiny sky plane
11 that's, you know, encroaching on the sky plane. Extreme de minis.

12 SECRETARY WAGNER: But the top part of that door is also
13 encroaching, right?

14 MR. O'CONNELL: That's pre-existing.

15 SECRETARY WAGNER: But you're not reconstructing that at all?

16 MR. O'CONNELL: No, that's an existing roof.

17 SECRETARY WAGNER: Not the top part. Okay, so that's a good
18 clarification.

19 MR. O'CONNELL: Yes, that's an existing roof. We're not
20 touching that. That's all pre, you know, the existing part of the
21 house.

22 So, you can see from the side, we're just trying to maintain,
23 you know, the roof line. Trying to keep everything clean, so it looks
24 like a house that -- what a house should look like when you build
25 from scratch.

26 Now, also, we talk about in the denial about the front porch.

1 If you've seen the house, you'll see that there's a front porch that
2 goes across the whole front of the house. We're actually making it
3 smaller. We're cutting the front porch back. We're making about
4 a third smaller than what that front porch currently is. It's there
5 already. We're just making it smaller.

6 So, lastly, the front yard. We have a front yard encroachment
7 over here, and if you had the opportunity to take a look at the plan,
8 the first-floor encroachment is in line -- is aligning with the
9 existing house in the front yard, and the reason for that is just
10 part of this application because we want to make the living room
11 wider. We didn't want to have a jog in the middle of the living room.
12 If you had a chance to look at the plan, but where I could on the
13 second floor, I did take the opportunity to push the house back a
14 little bit so the second floor would have a little bit more setback
15 than the first floor does, and in doing that, we're also looking to
16 keep the character of the home. Not that it looks like a big L shape.
17 We're trying to keep, you know, a nice-looking home.

18 We were very careful to design that addition with a hip roof,
19 so it gets, you know, brings down the density or the exposure towards
20 the street where the roof slides away from you in both directions,
21 you know, away from the street and away from the side property line.

22 CHAIRMAN MAMMINA: Diminishes both.

23 MR. O'CONNELL: Yes, diminishes both.

24 There was the neighbor directly to the right where there is no
25 sky plane encroachment or anything. She had a comment about some
26 bushes that are currently screening her property. We have no

1 intention of removing those bushes; we love, you know, to keep the
2 screening there. Would absolutely condition that into what we hope
3 becomes an approval of this application, and I guess, you know -- I
4 tried to answer some of the five points as, you know, part, you know,
5 as I was going through the application, but again, this is -- I look
6 at this as being a de minimis application. A lot of this had to do
7 with keeping the character of the neighborhood and the character of
8 the home. So, we felt, you know, that was important.

9 There's no negative environmental impact on anything that we're
10 doing over here. Yes, it may sound like a major application, but
11 in reality, it's not because this is really in addition to an existing
12 house. We're working with what's already here.

13 MEMBER HERNANDEZ: The actual addition that you're doing, I'm
14 trying to figure out why the building department calls this thing
15 a new application?

16 MR. O'CONNELL: It's just -- they just -- based on the amount
17 of work. Because I'm building this addition in the back and along
18 the side. It's like an L-shaped addition on the first floor and
19 second floor, and because that square footage -- it's a small house
20 now, so they just deemed it as new construction.

21 SECRETARY WAGNER: Are you removing any walls on the inside in
22 order to do that?

23 MR. O'CONNELL: Yeah, we are.

24 SECRETARY WAGNER: I think that what --

25 MR. O'CONNELL: That's part of it. I'm sure. It's the --is
26 the work overall, but the shell of what's there on the outside, and

1 you know, is remaining. We're not changing.

2 MEMBER HERNANDEZ: So, you now have your driveway to the right,
3 correct?

4 MR. O'CONNELL: Correct.

5 MEMBER HERNANDEZ: So, are you going over the driveway? Is
6 that where you're building the addition?

7 MR. O'CONNELL: Yes. The addition -- plenty of driveway. We
8 still have 15 feet on that side. Plenty of room with the driveway.

9 CHAIRMAN MAMMINA: Looking at your drawing 3.5, which is the
10 sky plane. Yeah, 3.5. It would appear -- this is the clarification
11 for the benefit of everybody. That little piece that's in the
12 background, is actually a tiny little existing kind of an attic, gable
13 in there.

14 VICE CHAIRMAN FRANCIS: Right.

15 MR. O'CONNELL: That is correct.

16 CHAIRMAN MAMMINA: It's not a whole roof coming across it, and
17 it exists.

18 MR. O'CONNELL: That is correct.

19 CHAIRMAN MAMMINA: Not changing that in any way.

20 MR. O'CONNELL: Not in any way. We're not touching it.

21 (Whereupon, there was a discussion amongst Board Members.)

22 MEMBER GOODSELL: I am willing to bet that in 1928, this was
23 the only house on the field of nothing. It predates just about
24 everything surrounding it. Hence the odd setbacks in other houses.
25 So, when it predates the code, it's -- it's not as if you must now
26 comply with the code. That is a clarification that we are anxious

1 to put on the record. So, there's a substantial issue here that the
2 house itself existed before the setback codes did.

3 CHAIRMAN MAMMINA: I'd like to add just one other thing. That
4 I believe that the building department probably looked at the value
5 of the construction, and the building code says if the value of the
6 construction exceeds 50 percent of what is deemed as the value of
7 the house, then you know, it's a new house. Of course, you probably
8 could've gone and gotten estimates and whatever the attempt
9 to refute --

10 MR. O'CONNELL: Not worth fighting with the building
11 department. Not worth it. Do with what they say.

12 (Laughter.)

13 CHAIRMAN MAMMINA: That was always my attitude. Don't fight.
14 No Reason.

15 I think also the 4 inches on one side, aside from the fact that
16 I think it did look very odd scooted over that much. Structurally,
17 I mean, that becomes -- it becomes a bit of a hardship to do something
18 wacky.

19 MR. O'CONNELL: Yeah, exactly.

20 CHAIRMAN MAMMINA: For the sake of wacky. So, it's -- the house
21 would probably look very odd with that.

22 MR. O'CONNELL: That's correct. As an architect, that is
23 something we strive not to do.

24 CHAIRMAN MAMMINA: We had a couple of gentlemen that had their
25 hand up, and if they wish to speak, you know, they --

26 VICE CHAIRMAN FRANCIS: Come on up.

1 SECRETARY WAGNER: Come on up.

2 CHAIRMAN MAMMINA: -- certainly are welcome to. So, come on
3 up. Take your time. Nice and easy, and you'll just give your name
4 and address.

5 MR. BUKOWSKI: Just sitting so long. Have to loosen up.

6 (Laughter.)

7 CHAIRMAN MAMMINA: I'm kind of there, too.

8 SECRETARY WAGNER: Step up to the microphone.

9 VICE CHAIRMAN FRANCIS: Name and address.

10 MR. BUKOWSKI: I've been living on cough drops because my voice
11 gets a little lame after a while, and it's been an education here,
12 and a lot of new terminology, architectural terminology.

13 CHAIRMAN MAMMINA: Give your name and address and pull that
14 microphone over just a little bit to you.

15 MR. BUKOWSKI: Yeah, it's like setbacks. I've used other
16 words, you know.

17 CHAIRMAN MAMMINA: Did you give your name and address?

18 MR. BUKOWSKI: No, I'll give my name. My name is Paul Bukowski.
19 That's B-U-K-O-W-S-K-I. I live at 76 3rd Street, I say, Garden City
20 Park, which is really New Hyde Park.

21 CHAIRMAN MAMMINA: Nice Italian name.

22 (Laughter.)

23 MR. BUKOWSKI: And I'm adjacent to the applicant's project.
24 Really reading from my notes that I put together here, notes, letter,
25 or whatever. So, it might be repetitive a little bit, and it's just
26 a page. It won't take long.

1 My intro really was a statement I put down here, but overall
2 I find that the proposed project troubling in how it might impact
3 the -- be an impact on my property.

4 The building code violations delineated in the BZA notice and
5 illustrated in the accompany plan show a decrease in space at various
6 points between the proposed structure and the property lines. This
7 along with a reference to violation of the sky exposure plane only
8 adds to my concern as to how it might impact -- be an impact of this
9 project would have if it is allowed to progress or unless variances
10 are denied or the plan is revised. That's basically my intro.

11 Getting into the specifics with maybe an interjection also
12 thrown in. Mainly, I'm concerned with the applicant's variances
13 requested for front and rear porch code violations to front and side
14 property lines. In particular, the plan shows that the front porch
15 has a code violation because not enough distance was allocated
16 between the front porch -- the front to the property line, which now
17 I understand is called a setback. Thank you.

18 CHAIRMAN MAMMINA: You're getting the jargon.

19 MR. BUKOWSKI: But, and I go on to say that allowing this
20 variance with this violation greatly troubles me, and why? The
21 applicant's proposed building, and this is totally my observations,
22 adjacent to mine, is on the same Central Avenue block, which shortly
23 ends at the intersection of 3rd Street. Across that location is a
24 public elementary grade school, which becomes quite busy during the
25 school year in the morning and afternoon hours, and
26 also -- interjection. They're also running a daycare school now also

1 there. So, there is some traffic, but it's of a much lesser degree.

2 The applicants proposed building --

3 (Three-minute timer rings.)

4 CHAIRMAN MAMMINA: That's the three minutes, but you keep on
5 going.

6 MR. BUKOWSKI: The related activity generates a condition with
7 a lot of car street traffic, additional parked vehicles, and
8 pedestrians who use the sidewalks that pass by our houses. All of
9 this, along with the concerned parents eager to drop off or pick up
10 their kids, adds to the mix.

11 More often than not, I have found it difficult to safely back
12 my car out of the driveway onto Central Avenue while trying to get
13 a good range of view to see who or what may be coming across my path
14 of exit. Who needs an unpleasant situation or experience? It has
15 been a problem and more so it is a safety issue, which I feel must
16 be addressed.

17 Any acceptance of the proposed front porch building addition,
18 which I assume will be a new porch, as I read the plan, or a variance
19 given thereof, will only increase the problem at hand, which would
20 be a decreased range of view, and in my opinion, should be rejected
21 or changed in the plan.

22 CHAIRMAN MAMMINA: I would just say, with the permission of my
23 esteemed colleague to the right, I'll answer some of those questions,
24 and then also be able to pop in.

25 MR. BUKOWSKI: Of course.

26 CHAIRMAN MAMMINA: Member Goodsell.

1 The porch is actually being made smaller.

2 MR. BUKOWSKI: Yes, it's being made smaller, as I understand,
3 but --

4 CHAIRMAN MAMMINA: It's being condensed.

5 MR. BUKOWSKI: Yes.

6 CHAIRMAN MAMMINA: Made no larger than it is now. It will be
7 exactly where it is now. So, there will be no obstruction that
8 doesn't exist.

9 MR. BUKOWSKI: But the setback.

10 CHAIRMAN MAMMINA: It's the same.

11 MEMBER HERNANDEZ: It's the same. Everything's the same.

12 MR. BUKOWSKI: Yeah, but I thought that --

13 CHAIRMAN MAMMINA: The building department has an obligation
14 to site everything because they're considering a new building on a
15 technicality of what the building code says, and so that's valid.

16 MR. BUKOWSKI: Right. So, then the variance is out the window
17 then?

18 CHAIRMAN MAMMINA: No, no, no --

19 SECRETARY WAGNER: They still need a variance.

20 CHAIRMAN MAMMINA: I'm just saying the variance is still valid,
21 but nothing is changing, and considering the age of the house,
22 nothing's changing, though, in there. In terms of the sky plane,
23 okay, the sky plane in the new edition that's on the opposite side
24 is being clipped by 6 inches, maybe, just based on the way the house
25 is framed, in order to match -- it's important for you to understand.
26 Because we use a word called de minimis in here. You heard a sky

1 plane application earlier, which was much more significant than this.
2 The front setback already exists exactly where it is. It doesn't
3 change, and they're -- they're lining it up with what it is, which
4 requires a variance because they're going to move it forward 4 inches
5 in order for the house to look more correct.

6 MR. BUKOWSKI: Well, I'm having a little difficulty
7 understanding that the -- yes, I understand it's going to be widened
8 and so forth, the front porch.

9 CHAIRMAN MAMMINA: No, the front porch is going to be narrow.

10 MR. BUKOWSKI: Excuse me, narrow but --

11 CHAIRMAN MAMMINA: That's okay.

12 SECRETARY WAGNER: This is the elevation. That's what it's
13 going to look like. That's the rendering.

14 MR. BUKOWSKI: Yes.

15 CHAIRMAN MAMMINA: Maybe Mr. O'Connell can point.

16 MR. BUKOWSKI: Yeah, but -- but aside from pictures. Show
17 me -- show me the other floor plan the -- yeah, show me that.

18 MR. O'CONNELL: That's where it is now. We're putting it back
19 the same distance.

20 MR. BUKOWSKI: Right. Is this new construction, or is this the
21 existing one?

22 MR. O'CONNELL: It's being -- we're reconstructing what's
23 already there, which is because it's old 1800 construction.

24 MR. BUKOWSKI: Yeah. But you're not -- it's new, though. It's
25 new. It's not the old one that's just -- it's rehab.

26 MR. O'CONNELL: I could keep the old one. It just doesn't make

1 sense to. But I can keep the old one.

2 MR. BUKOWSKI: But you're going to take it down and construct
3 a new one in its place.

4 MR. O'CONNELL: Because that's the right thing to do, yes.

5 MR. BUKOWSKI: It's new construction.

6 CHAIRMAN MAMMINA: We're not arguing. We're not --

7 MR. BUKOWSKI: It's new construction. Why can't -- why can't
8 this be set back?

9 CHAIRMAN MAMMINA: Because there will be no front porch then.

10 VICE CHAIRMAN FRANCIS: Right. It would be an unusable front
11 porch.

12 MR. O'CONNELL: It would be an unusable front porch.

13 CHAIRMAN MAMMINA: You would have two feet in front of your
14 door; how do you open the door?

15 MR. BUKOWSKI: Well -- well, all right.

16 MR. O'CONNELL: We are also looking to keep the existing
17 foundation. I'm using the foundation to support the structure.

18 MR. BUKOWSKI: The foundation is your ace in the hole because
19 that's grandfathered, right? Foundations are grandfathered, as I
20 understand it, and what people tell me, anyway.

21 MEMBER HERNANDEZ: There shouldn't be any debate. Please make
22 your points, and then we let the architect answer your point.

23 MEMBER GOODSELL: May I ask you a question?

24 MR. BUKOWSKI: Yes, ma'am.

25 MEMBER GOODSELL: I am a very, very long-time resident of New
26 Hyde Park. Have you been in your house a long time, too?

1 MR. BUKOWSKI: A number of years. Off and on. It's my -- it
2 was my parents' house. I've been -- I've lived out of town for a
3 little while. I've been back. I was on a contract elsewhere, and
4 I came back, so.

5 MEMBER GOODSELL: But you know the neighborhood.

6 MR. BUKOWSKI: Yes.

7 MEMBER GOODSELL: Let me ask you something then. You heard me
8 say before that this house was built in the 1920s. Before there was
9 even a building code, and you heard me say, I'm guessing, I'm
10 guessing, it was the only structure on a field of nothing. So, as
11 the neighborhood developed, the street was paved. The house didn't
12 move, but the development did. So, maybe a house from 1928 that was
13 perfectly fine is suddenly now too close to the street because the
14 street wasn't there when it was built, and that's a fact that we take
15 into consideration.

16 CHAIRMAN MAMMINA: Honestly, with all due respect, I think this
17 discussion of the Board has to be cut short.

18 MR. BUKOWSKI: Yeah.

19 CHAIRMAN MAMMINA: Certainly, Mr. O'Connell is very much so a
20 gentleman, you know, and you can -- you and he can step out into the
21 lobby.

22 MR. BUKOWSKI: Okay, I understand.

23 CHAIRMAN MAMMINA: -- and continue, but we can't continue on
24 the record.

25 MR. BUKOWSKI: I understand. I appreciate the time given that
26 really, but I still have that safety issue because I'm encountering

1 every time I pull out of my driveway, the impact the school has --

2 CHAIRMAN MAMMINA: I like to believe I'm a total gentleman and
3 you are -- but we really have to cut that short. You're on the record.

4 MR. BUKOWSKI: How do I solve that problem?

5 Okay, well, no, it's not your purview. I understand that. I
6 appreciate the time given to us.

7 CHAIRMAN MAMMINA: We appreciate you coming down. You have
8 been a delight.

9 MR. BUKOWSKI: Thank you.

10 SECRETARY WAGNER: There was another person.

11 MEMBER HERNANDEZ: Yes.

12 VICE CHAIRMAN FRANCIS: Come on up.

13 SECRETARY WAGNER: Right?

14 MEMBER HERNANDEZ: Yes.

15 MR. VILLANOVA: Good afternoon, Members of the Board; My name
16 is Gerard Villanova. I'm the owner of 65 2nd Street, New Hyde Park,
17 Garden City Park, adjacent to the property.

18 My house, as you guys were discussing, that house was initially
19 there, and it was open field. Happens in my house now is
20 directly -- the backyard is right against the property line. It's
21 basically a setback. Basically, we have minimal walking area.
22 Basically, no backyard.

23 So, we have -- our major concern is not so much the new additions
24 that they're planning to do, but the issue comes as they're going
25 to expand the house to the right, they're going to reduce the amount
26 of area that they have for the driveway, and there is -- we

1 have -- there is arborvitaes there 12 feet, 12 to 15 feet high that
2 provides some privacy, and our major concern is that those bushes
3 are not affected by being that the driveway space now is reduced,
4 they need to cut it down, and then in that -- in that way, we don't
5 have any sort of privacy as to when we're in the bathroom.

6 MEMBER GOODSELL: Are they your bushes or are they theirs?

7 MR. VILLANOVA: They're actually on his property line. The
8 previous owners -- there's two owners before him. We've
9 been -- we've been there for 25 years. So, there was a 4-foot fence
10 there, and they wanted to put a 6-foot. It was not approved because
11 I think it's up to 4 feet because it's barely --

12 MEMBER GOODSELL: We changed that.

13 MR. VILLANOVA: Right. So, we decided to, okay, let's put some
14 arborvitaes because they're flexible. They get -- they can be as
15 high, you know, 12 feet high, and -- and you know, it was all something
16 like that.

17 So, our major concern is that. So, if somehow the property,
18 the driveway is not large enough because now the house is increased
19 by 8 feet to move towards us, maybe perhaps reduce it a couple of
20 feet if necessary. As long as the arborvitaes are not touched.

21 So, for that reason, I respectfully request that the Board
22 grants the changes to consider requiring preserving the existing
23 privacy screening of the -- currently exists.

24 VICE CHAIRMAN FRANCIS: Thank you.

25 MR. VILLANOVA: Thank you.

26 VICE CHAIRMAN FRANCIS: So, Mr. O'Connell will have something

1 to say about that.

2 MR. VILLANOVA: Yes, thank you.

3 VICE CHAIRMAN FRANCIS: Thank you, Board, for your comments and
4 explanation to the gentleman that stood up here. You took the
5 thunder right out of me.

6 But I mentioned in my earlier presentation that we absolutely
7 conditioned to keep the arborvitaes on that side of the house. That
8 was an earlier part of my presentation. I spoke to the Gilberts about
9 it, and they have absolutely no intention of eliminating them, and
10 they enjoy the arborvitaes just as much.

11 There's plenty of driveway space, even after I build the
12 addition, and also, when it comes time to, you know, the front porch,
13 and you know, the area that I am working with on the other side of
14 the house, we're not reducing -- we're not making any new safety
15 issues. The profile of what's there today is not changing. It would
16 remain as is the profile. So, there wouldn't be any, you know, new
17 difference from the street appeal. There won't be anything from,
18 you know, imposing closer to the neighbor's property. So, we don't
19 feel it's going to have a negative safety impact in any way, shape,
20 or form.

21 But, with that all said, I'd like to thank the Board for your
22 time and your comments and love to answer any further questions you
23 may have.

24 CHAIRMAN MAMMINA: That's all the questions we have.

25 To the last gentleman, I will also say, those arborvitaes and
26 I see this cute little girl here, I had those all around my house

1 that I -- that I planted and became 12 feet high, and it held them
2 in until they were probably about 12. They went out toward the front
3 of the house. So yes, your point is very valuable. Thank you.
4 Thank you all.

5 Do we have a motion?

6 MEMBER GOODSSELL: I'll make a motion. In consideration of the
7 comments and the presentation, let me just say that the -- the front
8 vary -- the front setback is not being reduced, but the amount of
9 the front setback is being reduced by the porch being cut down, which
10 I find the applicant is bringing now more in compliance, although
11 not 100 percent compliant.

12 I find the property setbacks predate the code, and therefore,
13 in my opinion, are therefore grandfathered in.

14 That the application for the addition to the property does not
15 violate side yard setback, does not violate GFA, and the sky plane
16 issue that we discussed is very small.

17 In light of all those things --

18 SECRETARY WAGNER: It does violate side yard --

19 MEMBER GOODSSELL: It does violate side yard setback?

20 SECRETARY WAGNER: It's too close.

21 MEMBER GOODSSELL: One side is de minimis side yard setback.

22 SECRETARY WAGNER: Yes.

23 MEMBER GOODSSELL: Very small. I make a motion that we grant
24 the application.

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

1 MEMBER HERNANDEZ: Second.

2 CHAIRMAN MAMMINA: Seconded by Member Fernandez. Please poll
3 the Board.

4 SECRETARY WAGNER: Member Goodsell?

5 MEMBER GOODSSELL: Aye.

6 SECRETARY WAGNER: Member Hernandez?

7 MEMBER HERNANDEZ: Aye.

8 SECRETARY WAGNER: Vice Chairman Francis?

9 VICE CHAIRMAN FRANCIS: Aye.

10 SECRETARY WAGNER: Chairman Mammina?

11 CHAIRMAN MAMMINA: Aye. The application is granted. Thank
12 everyone who came out today, and that is so important to understand.

13

14

15 SECRETARY WAGNER: Next appeal, Appeal #21848, Diana Ilyasova;
16 11 Heathcote Drive, Albertson; Section 9, Block 647, Lot 20; Zoned:
17 Residence B.

18 Variance from 70-39.B to construct additions that make a home
19 too big.

20 CHAIRMAN MAMMINA: One minute. You heard Appeal #21848, Diana
21 Ilyasova. Is there anyone in the room who is interested in the
22 application other than the applicant?

23 (No response given.)

24 CHAIRMAN MAMMINA: Seeing no one. Please give your name and
25 address.

26 SECRETARY WAGNER: I'm sorry, did you raise your hand?

1 CHAIRMAN MAMMINA: Oh, I didn't see it.

2 MR. KOHAN: Well, my name is Marcelo Kohan. I'm an architect.
3 My company is the Delargent Design, which is located in Merrick, New
4 York, and I have been retained by my client, Dr. Diana Ilyasova.
5 She's the owner of the property located at 11 Heathcote Drive in
6 Albertson, New York.

7 We are filing an application for the partial addition of the
8 first-floor entrance and the part of the second floor over the
9 attached two-car garage. At this point, we are seeking relief to
10 extend the first floor up front by 17 square feet, and in front of
11 the second floor, which is over the attached garage by an additional
12 66 square feet. We understand that the proposed addition on both
13 floors increases the maximum gross floor area load by an additional
14 83 square feet.

15 Our lot is only 6,000 square feet, and the Section 70-39B of
16 the Town of North Hempstead Code states that the maximum gross floor
17 area is 45 percent, which in our case is equivalent to 27 or 4 square
18 feet. What we proposed is forced me to a closer area, which will
19 be 46 percent to 2,800 square feet. So, as you can see, the addition
20 is minimal. Both extensions are.

21 The first and second floors are located 33 feet, 4 inches away
22 from the front property line. The average front yard setback of the
23 dwelling between where the dwellings within 200 feet on either side
24 of the house is 31.2 feet, and for the most up-to-date survey, the
25 existing garage, which was originally built with the house, it's
26 exactly 30 feet from the front property line.

1 Besides the addition, we propose to reinvigorate the
2 much-needed look of the house while respecting the character of the
3 block. The work proposed will not cause a detriment to the nearby
4 properties. On the contrary, we feel that our design will enhance
5 the character of the street. The proposed work will have no impact
6 on the public services environment, traffic, or pedestrians in the
7 area.

8 So, in conclusion, we are respectfully asking you to allow us
9 to build that additional floor area requested. We look forward to
10 a positive determination. Thank you.

11 MEMBER GOODSSELL: Can I start by saying, I like the renderings
12 that you have submitted.

13 MR. KOHAN: Thank you.

14 MEMBER GOODSSELL: Very easy to understand.

15 MR. KOHAN: That was the only deal. Thank you.

16 MEMBER GOODSSELL: Although I am sure your clients are going to
17 spend a fair amount of money, the proposed addition looks very small
18 compared to the rest of the house.

19 Now, you are aware that the house is currently ever so slightly
20 over GFA.

21 MR. KOHAN: I understand.

22 MEMBER GOODSSELL: This will be increasing the GFA, again a small
23 amount.

24 MR. KOHAN: If I may answer that? The additional area that
25 we're proposing is between the two floors is 83 square feet.
26 However, there was -- we know that originally, the house was overbuilt

1 by 25 square feet, which was original. So, it's obviously, we are
2 taking into consideration those 25 square feet to be added to the
3 83 square feet that we are actually having.

4 MEMBER GOODSSELL: Your application seems to indicate a
5 vestibule, but it's really more of a porch; is it not? Extending
6 the roof line to shelter the front door. The vestibule seems to be
7 all interior.

8 MR. KOHAN: Right. It's all -- it's all interior, yeah.
9 Actually, the -- what we're doing -- as you can see, I don't know
10 if you have a chance to look at the site plan.

11 CHAIRMAN MAMMINA: We look at everything.

12 MR. KOHAN: Okay. So, you can see that in the first floor, we
13 are extending the vestibule, the red portion that aligns with the
14 rest of the living room. So, we are extending that portion just to
15 make a straight line, pretty much. There was a setback that we are --

16 CHAIRMAN MAMMINA: You're eliminating that recess.

17 MR. KOHAN: Exactly. Exactly.

18 MEMBER GOODSSELL: Is that a bay or bow window that's going to
19 be --

20 MR. KOHAN: Yeah, we're gonna --

21 MEMBER GOODSSELL: So opulent --

22 MR. KOHAN: I know, I know. But as you could see in the street.
23 You know, they become a little obsolete at this point.

24 MEMBER GOODSSELL: As one Board Member, I don't have any
25 objection to those plans. When I drove the neighborhood, it seems
26 that there are many people who made tweaks and minor improvements.

1 Virtually everyone has a porch or covered porch or some sort of
2 enclosed entry.

3 MR. KOHAN: And if you would like, I can show you an additional
4 rendering for you to be able to visualize what our content is. So,
5 I can show it to you.

6 MEMBER GOODSSELL: We'll take everything that you want to show.

7 MR. KOHAN: Okay.

8 SECRETARY WAGNER: This will be Exhibit 1.

9 MR. KOHAN: Yes.

10 MEMBER GOODSSELL: Are there any other questions?

11 (No response given.)

12 MEMBER GOODSSELL: In that case, I make a motion that we grant
13 the application as presented. It's not going to change the character
14 of the neighborhood. It's not going to change -- it's not going to
15 stand out. This is a relatively small application, and even though
16 it does increase GFA, I find, in my opinion, it's a very small
17 increase. So, therefore, I make a motion that we grant the
18 application.

19 VICE CHAIRMAN FRANCIS: Second.

20 CHAIRMAN MAMMINA: Seconded by Vice Chairman Francis. Motion
21 by Member Goodsell. Please poll the Board.

22 SECRETARY WAGNER: Member Goodsell?

23 MEMBER GOODSSELL: Aye.

24 SECRETARY WAGNER: Member Hernandez?

25 MEMBER HERNANDEZ: Aye.

26 SECRETARY WAGNER: Vice Chairman Francis?

1 VICE CHAIRMAN FRANCIS: Aye.

2 SECRETARY WAGNER: Chairman Mammina?

3 CHAIRMAN MAMMINA: Aye. I will add to that. That taking that
4 existing little recess and pulling forward would be the absolutely
5 unobservable, if that's a word. Then you're just squaring off that
6 corner of the building. We're not an aesthetic Board, but I think
7 that is logical in terms of how it looks like, and you know, certainly
8 not something that becomes a monstrosity in comparison to the rest
9 of the community because we look very carefully at floor area. We
10 grant that little, tiny drops, so.

11 I already voted aye.

12 MR. KOHAN: Thank you very much.

13 CHAIRMAN MAMMINA: Thank you.

14

15

16 SECRETARY WAGNER: Appeal #21849, Ronald Buonpastore; 87
17 Knollwood Drive, Carle Place; Section 10, Block 303, Lots 24; Zoned:
18 Residence B.

19 Variance 70-39.B to construct a second-story addition that
20 would make the house too big.

21 CHAIRMAN MAMMINA: You've heard Appeal #21849, Ronald
22 Buonpastore. Is there anyone in the room interested in the
23 application other than the applicant?

24 (No response given.)

25 CHAIRMAN MAMMINA: Seeing no one. Please give your name and
26 address.

1 MR. COOK: Dennis Cook, 435 Maple Avenue in Westbury, New York
2 11590. I'm representing Ronald and his family.

3 The situation we have here is one that many younger people face
4 these days, and Ronald's son and his wife are living in the same house
5 as Ronald.

6 CHAIRMAN MAMMINA: I'm going to apologize. What is your
7 relationship to the application?

8 MR. COOK: I work with the architect, William Cook.

9 CHAIRMAN MAMMINA: Okay, continue.

10 MR. COOK: As many younger people face today, the housing market
11 is through the roof. They can't afford a house of their own. They
12 have two kids, right?

13 MR. BUONPASTORE: Yes.

14 MR. COOK: They have two little kids. So, they're currently
15 living on the second floor of Ronald's house. Room is getting tight.
16 Ronald and his wife reside on the first floor. Back in the -- when
17 was the addition in the back?

18 MR. BUONPASTORE: Back in '84, '85.

19 MR. COOK: Back in '84, '85, an addition of a large living room
20 was added to the back of the house.

21 CHAIRMAN MAMMINA: Are you saying it's a quasi mother-daughter
22 house?

23 MR. COOK: Yeah, with no second kitchen. It's just they all
24 live together.

25 MR. BUONPASTORE: We're together. We all eat together.

26 MR. COOK: His son's family lives upstairs. He and his wife

1 live downstairs.

2 Just in general, the space is getting tight. They have two
3 kids. They just need more space in general. There's an addition
4 in the back added in the 80s, and that --

5 CHAIRMAN MAMMINA: That's a common addition.

6 MR. COOK: Yeah, and maxed out the square footage of the house.
7 So, what's pushing us over FAR. They just need like a little bit
8 of a living area upstairs for the kids to play, you know. So, every
9 time the kids want to, you know, play with their toys or watch TV
10 or -- they don't have to go down the stairs, you know, into Ronald's
11 living room, and it gives both families some privacy from each other,
12 so they're not constantly on top of each other.

13 VICE CHAIRMAN FRANCIS: I'm sure Grandpa does not mind the kids
14 coming down.

15 MR. BUONPASTORE: To a certain extent.

16 (Laughter.)

17 MR. BUONPASTORE: You know what I mean?

18 MR. COOK: Many houses in the neighborhood have a similar
19 addition over that little bump out on the right side. So, it's not
20 really going to be a detriment to the character of the neighborhood.

21 VICE CHAIRMAN FRANCIS: Are there any other houses, is that what
22 you're proposing?

23 MR. COOK: I'm not sure if they have both, but I'm sure there
24 has to be --

25 MR. BUONPASTORE: Some of them do.

26 MR. COOK: Yeah, it's definitely something that's done in that

1 neighborhood.

2 Also, we tried to minimize the additions in the second floor.
3 We set it back on the sides and in the front. So, it doesn't just
4 go straight up; it gives it a little bit more character. So, the
5 massing is not in your face. It meets all the side yard and front
6 yard and rear yard setbacks. So, it's -- it's -- we're not asking
7 a variance for any of those things. It meets the height. It's lower
8 than, you know, the roof line's not getting higher at all.

9 Environmentally, it's not going to really affect anything.
10 Nothing's going to change. I mean, they already live in the house,
11 so traffic's not going to change, and same amount of waste.

12 We don't, you know, in our opinion, the variance is not
13 substantial. It's a 6,100 lot in the B zone, which there are other
14 6,100 lots in the B zone, but typically C zone has more of the 6,100
15 lots. It's kind of small for B zone, and a lot of the lots in the
16 neighborhood are 70 by 100. So, it's a little smaller than some of
17 the other lots in the neighborhood.

18 And you know, of course, everything, as you said, was
19 self-created. They had more kids, and they're running out of space,
20 and it's really just an affordability issue. They can't, you know,
21 they can't afford to buy a house of their own. I know I rent. I
22 have the same issue. I work three jobs.

23 MEMBER GOODSSELL: Well, let me ask you a question because the
24 house as it stands now, it's compliant with GFA, and you're asking
25 now to increase GFA --

26 MR. COOK: Yes, it's compliant.

1 MEMBER GOODSSELL: -- where it is not compliant.

2 MR. COOK: Yes, it's right at --

3 MEMBER GOODSSELL: I will ask the questions since you are
4 proposing new construction.

5 Is there any way to reconfigure the upstairs without increasing
6 the GFA?

7 CHAIRMAN MAMMINA: If I may just add to that?

8 You show on your plan an existing den, an existing den expansion,
9 and there's a small three-fixture bathroom. That total area is 1,162
10 square feet. What's that area?

11 There are houses that have, you know, back in the day, 800 square
12 feet, 900 square feet with three bedrooms in them. They were tiny,
13 you know. Plus, you have up there an existing sitting room, a
14 nursery, existing bedroom, existing bedroom. It -- I don't know,
15 you know. It's just -- it just seems like I -- I don't understand
16 the plan, and we look very carefully at floor area.

17 For all intents and purposes, it's already a big house, okay?
18 That's okay. That's fine. But I look at the second floor, and I'm
19 going to -- going back to what Member Goodsell said and just say -- I
20 don't know how many children there are. Two, I think you said.

21 MR. BUONPASTORE: Two.

22 MR. COOK: Two.

23 CHAIRMAN MAMMINA: Why not? I used to say in the olden days.
24 I'll take my red pencil out, but I don't say that anymore. I don't
25 do that anymore, you know. But I see certainly ways that this could
26 be made, you know, into virtually a very nice three-bedroom house,

1 you know, up there to save themselves a ton of money, and then the
2 house will still work fine. I'm sure that the grandfather sitting
3 there -- I'm a grandfather.

4 MR. BUONPASTORE: Well, you know.

5 CHAIRMAN MAMMINA: I know.

6 MR. BUONPASTORE: You know the area.

7 CHAIRMAN MAMMINA: But I'm just saying, you know, I'm not going
8 to be where I am forever. We're already spending, you know, three
9 months a year in Florida, but that's just me, and again, this is not
10 at all for me to say, so. I'll apologize. But maybe you flip-flop?
11 I'm just giving the reasons why, you know, we're granting --

12 MR. COOK: Yeah, no, I do understand.

13 CHAIRMAN MAMMINA: You're asking for FAR. One of the things
14 we have to look at within every decision are there any alternatives?

15 MR. COOK: Yes, I think in response to that, they don't want
16 to be like uprooted. They have a very small child, so they don't
17 want to redo like the whole thing. They just want to add additions
18 where you can kind of, you know.

19 MR. BUONPASTORE: Living spaces.

20 MR. COOK: Like portion it off with --

21 CHAIRMAN MAMMINA: That addition is going -- doing that
22 construction work, it's going to have an impact on the first floor.
23 You're putting in 2-by-8 beams with half inch steel plates that are
24 going to run across, you know, that bedroom. I mean, that's going
25 to be an enormous disruption to the first floor already.

26 MR. COOK: Yeah. Yeah. But the way that house is laid out,

1 we're kind of cordoning that off. That was an only thought.

2 MEMBER HERNANDEZ: Like the Chairman, I'm having a problem
3 understanding the second-floor floor plans because the creation of
4 that extra space is actually making the existing space work less or
5 be less valuable because it becomes a hallway. Where you actually
6 have what you're calling the middle of the space, you have two
7 bedrooms, you have a sitting room, and a nursery that are roughly
8 all the same size surrounding this middle space with again, the area
9 next to the bathroom, which is now a hallway going into the new space.
10 You take all that space together; the new space is actually hindering
11 access or uses of the space in the middle of the room. I don't
12 understand the floor plan.

13 VICE CHAIRMAN FRANCIS: I have to agree.

14 MEMBER GOODSELL: One of the things that we look at is the reason
15 why a homeowner would like to exceed GFA.

16 MEMBER HERNANDEZ: Yes, exactly.

17 MEMBER GOODSELL: While we understand you have three
18 generations in here, the house is going to be there long after two
19 or three generations moves or sells, and so, while this may be the
20 answer right now, as far as the bigger picture and the neighborhood
21 are concerned, is there any other reason other than space that you
22 need to exceed the GFA? I can't think of one, but I'm asking.

23 MR. COOK: Maybe the homeowner can respond.

24 MR. BUONPASTORE: Well, let me explain something.

25 SECRETARY WAGNER: Give your name and address.

26 MR. BUONPASTORE: My name is --

1 CHAIRMAN MAMMINA: If I may just finish appending onto that.
2 You're going to spend a lot of money doing this piece in the front,
3 and I just have to agree that within that existing floor plan, you
4 could create the array of one, two, three, four bedrooms, so to speak.

5 VICE CHAIRMAN FRANCIS: Right.

6 MR. BUONPASTORE: Very small ones.

7 CHAIRMAN MAMMINA: My son, Carle Place, his bedroom was 8 by
8 10.

9 MR. BUONPASTORE: It's going to be smaller than that.

10 CHAIRMAN MAMMINA: And the master bedroom was 11 by 14.

11 MEMBER HERNANDEZ: I don't have dimensions, so I can't tell what
12 size they are.

13 TOWN ATTORNEY ALGIOS: I'm sorry. I'm sorry, Jay. Since
14 you're speaking, just put your name on the record.

15 MR. BUONPASTORE: Ronald Buonpastore.

16 TOWN ATTORNEY ALGIOS: Thank you.

17 MEMBER HERNANDEZ: I don't have the dimensions, so I can't tell
18 what size, but it's irrelevant. The point is that you are not
19 proposing to make the rooms bigger. You're basically just adding
20 another space.

21 MR. BUONPASTORE: We do --

22 MEMBER HERNANDEZ: You're not reconfiguring the second floor.

23 CHAIRMAN MAMMINA: One at a time.

24 MEMBER HERNANDEZ: If you were reconfiguring the second floor
25 completely, okay, then maybe, maybe, it may make sense, but what
26 you're doing is basically adding just another -- again, I apologize,

1 I can't tell how much space it is.

2 MR. BUONPASTORE: It's smaller. It isn't that big, you know.
3 Like I said, I'm not asking for a 10 by 13. It's not a lot, but -- but
4 there's people in my neighborhood got bigger sheds than that. You
5 know what I'm saying?

6 MEMBER HERNANDEZ: I totally agree with you. But our problem
7 is that you are asking for an excess, and I don't mean that it's
8 excessive.

9 MR. BUONPASTORE: Right.

10 MEMBER HERNANDEZ: It's an excess of what you're permitted to
11 build. We need to be able to justify as to why we can grant that
12 excess.

13 MR. BUONPASTORE: It's cabin fever.

14 MEMBER HERNANDEZ: And I don't see it.

15 MR. BUONPASTORE: I do, because it's cabin fever there.
16 Believe me. It's not that, you know, we're four people in the house
17 with two kids, it's tough. I mean, they come down every day and eat
18 with us, and everything. You know how it is to afford a house in
19 Carle Place or anywhere in Nassau County? They want \$1 million
20 today, and it's just hard for them. They can't do it. They have
21 to go live out of state, and he can't because he works in Huntington,
22 and the wife works in the -- works for the state.

23 MR. BUONPASTORE, JR.: Stonybrook.

24 MR. BUONPASTORE: So, you know, it's -- it's hard for them.

25 CHAIRMAN MAMMINA: The existing second floor is 983 square
26 feet. Your family room in the back is a little over 400 square feet.

1 MR. BUONPASTORE: Yes, but I'm talking about upstairs.
2 They're living there.

3 CHAIRMAN MAMMINA: I understand, but I mean -- I don't know how
4 many people are -- if it's just you and your wife or --

5 MR. BUONPASTORE: No, it's me, my wife, and my other son, too.
6 He can't afford a house either.

7 CHAIRMAN MAMMINA: Well, but then, you probably got, I don't
8 know, at least 1,800 square feet on the first floor. I don't even
9 think I'm including --

10 MR. BUONPASTORE: Yeah, but their area, it's private entrance,
11 too. You come through the side, and they live up there privately,
12 you know what I mean? You know what I'm saying? They don't come
13 through my house or nothing like that. They got their own entrance,
14 and they can't afford a house anywhere else.

15 CHAIRMAN MAMMINA: The separate entrance raises other
16 questions.

17 MEMBER GOODSSELL: It does raise other questions, and I don't
18 know if you want to go there.

19 MR. BUONPASTORE: Okay, I don't want to go there. All right,
20 forget it. I'm sorry.

21 MEMBER HERNANDEZ: You're proposing to add 180 square feet. I
22 finally found the numbers, 180 square feet.

23 MR. BUONPASTORE: Oh, it's 180, I'm sorry.

24 MEMBER HERNANDEZ: Yeah, that's all. But again, because of the
25 way it is built into that open space, it is actually making it almost
26 impossible to use, 15 by -- I don't see the number, but it looks like

1 it's eight. So, you're losing about 100 to 120 square feet, which
2 connects to that space. Because if you put any furniture there, you
3 can't get it there.

4 MR. BUONPASTORE: I'm saying the rooms are small, and you put
5 furniture in the room, how much room you really have?

6 MR. BUONPASTORE, JR.: May I?

7 MR. BUONPASTORE: Yes.

8 CHAIRMAN MAMMINA: Please put your name and address.

9 MR. BUONPASTORE: Sure. Ronald Buonpastore, Jr., 87 Knollwood
10 Drive, Carle Place.

11 MEMBER GOODSSELL: Generation number two.

12 MR. BUONPASTORE, JR.: Yes. So, as you see, my daughters were
13 here, but they couldn't stay because it was a little too long.

14 But I know you're saying the layout is strange and not -- and
15 it doesn't -- but for us, in our situation, as you know, any extra
16 room is good with kids, especially you know, my mother, who lives
17 downstairs does baby -- takes care of the kids during the day, and
18 we both work two jobs -- well, we both work a job, and my wife works
19 at night, and I work during the day.

20 So, it's just the extra room, even though it's, I guess, on paper
21 it doesn't look like it -- it makes sense, but for us, I think it -- it
22 works because I know that you think it -- generationally, yeah, it
23 wouldn't make sense. Eventually, when my parents pass away, we would
24 probably split the house with my brother, and it would be, oh, now,
25 we have this extra room, but I feel like in this situation, as you
26 know, houses on Long Island are very expensive for our generation,

1 and our only option really is to move out of state, which we don't
2 want to do because then we lose our family.

3 So, that extra room, even though you believe it's, you know,
4 minimal and doesn't make sense from a design standpoint, I think will
5 help us long term in terms of raising our children in the school
6 district we want to raise them in and around the community we want
7 to raise them in. Because, as you know, Carle Place is a very nice
8 area for the kids, and we don't really want to have to move out. It's
9 really not something we want to do, but we just need that extra room.

10 It's very tight right now with furniture, toys everywhere. As
11 you know, having young kids, it's just very tight with two kids, and
12 we have babysitter comes, so it's -- sometimes, it's just a lot of
13 chaos, as you know. So, that extra room I feel would make a -- would
14 make a big difference in our situation.

15 CHAIRMAN MAMMINA: Just before we finish up here, you know,
16 Carle Placer, other side of the schools, and my house is 25 feet by
17 25 feet, so it was a little over 1,200 square feet on two levels.
18 I raised three kids. Had my mother-in-law with us. My
19 mother-in-law and my mother live with us. You know, it just is, you
20 know, a life reality that the housing is expensive on Long Island,
21 and I just see a lot of space between these two houses -- these two
22 spaces so much so that you're suggesting this and you're over the
23 gross square footage. So, I don't know. I think we should reserve
24 decision.

25 MEMBER GOODSSELL: I think we should reserve decision as well --

26 CHAIRMAN MAMMINA: So, we can talk further about it --

1 MEMBER GOODSSELL: -- so we can talk about this.

2 CHAIRMAN MAMMINA: -- and consider this.

3 TOWN ATTORNEY ALGIOS: You want him to go through the Five
4 Factors first?

5 CHAIRMAN MAMMINA: Oh, yes. Yes. If you could go through the
6 Five Factors.

7 MR. COOK: The first one is will the granting of the variance
8 produce an undesirable change in the character of the neighborhood?
9 We feel it doesn't, considering other houses with a similar addition
10 in the front and the addition in the back. Both additions existing.
11 You can't really see from the front.

12 Is it -- explain that the granting of the variance is necessary
13 or whether the same result can be achieved by any other method without
14 requiring a variance? In our case, we feel like, based upon the fact
15 that they have nowhere to go and move out, we just wanted to add
16 something that we could do without affecting the existing layout.
17 So, we feel like this is the -- and because the house is already at
18 max FAR, we feel like there's no other method.

19 Explain if the requested area variance is substantial? In our
20 eyes, we feel that it's not that substantial because, you know, it's
21 160 square feet out of the 100 allowed.

22 Explain that if it will have adverse effects or impacts on
23 environmental conditions in the neighborhood? We feel that, because
24 you know, they're already living there, nothing's going to change
25 with traffic or with water usage or with waste usage.

26 And then number five, is it self-created? As you guys mentioned

1 before, pretty much everything self-created, so. It's a hard to --

2 MEMBER GOODSSELL: That's not a determining factor.

3 MR. COOK: Yes.

4 CHAIRMAN MAMMINA: We're going to reserve decision, which
5 essentially means that there's no more information that we need. I'm
6 not asking you for any other documents or anything, and it's probably
7 enough. This won't be decided or anything today because we have a
8 long calendar, and we really like to consider things.

9 MR. COOK: No problem. Thank you. I appreciate your time.

10 MR. BUONPASTORE, JR.: Thank you.

11 MR. BUONPASTORE: Thank you.

12 CHAIRMAN MAMMINA: And then on a totally off the record.

13 (Whereupon, a discussion was held off the record.)

14

15

16 SECRETARY WAGNER: Next appeal, Appeal #21853, Alex Ibragimov;
17 27 Locust Street, Greenvale; Section 20, Block J-06, Lot 316; Zoned:
18 Residence C.

19 Variances 70-50.C, 70-51.A, and 70-52.5 to legalize an open
20 porch converted to habitable space and a second-floor addition that
21 are too close to the street and too close to the side property line,
22 to legalize a bathroom addition that is too close to the side property
23 line, and to legalize front yard paving that exceeds the permitted
24 percentage.

25 CHAIRMAN MAMMINA: You heard Appeal #21853, Alex Ibragimov.
26 Is there anyone in the room interested in the application other than

1 the applicant?

2 (No response given.)

3 CHAIRMAN MAMMINA: Seeing no response. Please give your name
4 and address.

5 MR. IBRAGIMOV: My name is Alex.

6 VICE CHAIRMAN FRANCIS: Pull the microphone closer.

7 MR. IBRAGIMOV: My name is Alex. I'm the homeowner of the
8 property. First, I'd like to thank the Board for taking the time
9 to review the application.

10 The purpose of this project is to improve and modernize an older
11 single-family home that doesn't have a CO, while preserving the
12 residential character of the neighborhood.

13 CHAIRMAN MAMMINA: Did you say it doesn't have a CO?

14 MR. IBRAGIMOV: It does not have a CO, and we're trying to
15 legalize everything --

16 CHAIRMAN MAMMINA: You purchased it without a CO?

17 MR. IBRAGIMOV: Yes. So, we're trying to legalize everything
18 that -- the home was built, I believe, in 1923, and we are intending
19 to -- not do any dramatic changes to the neighborhood, but the
20 existing footprint remains essentially the same. The front setback
21 is unchanged. The majority of additional living space is achieved
22 by upward and outward. There's a modest rear addition proposed.
23 Because it is located behind the house, it's very low impact to the
24 streetscape or on the appearance of the neighborhood from the public
25 roadway.

26 Architecturally, we are intentionally designing the home in a

1 traditional New England farmhouse style with simple roof lines,
2 traditional siding, and residential proportions. Our goal was not
3 to build something oversized or out of character, but rather a
4 timeless home that complements the surrounding neighborhood and
5 enhances the appearance of the property.

6 This project will remain a single-family residence. It does
7 not increase the intensity of the property's use, and it will not
8 create additional traffic, parking, or commercial activity.

9 The proposed improvements will replace an aging structure with
10 a home that is more functional for a modern family while respecting
11 the scale and character of the surrounding community.

12 We have also made every effort to minimize the variances
13 requested and to limit the impact on neighboring properties. The
14 relief requested represents the minimum necessary to accomplish the
15 project while maintaining the design of the home.

16 I believe the proposal will improve the neighborhood and enhance
17 the surrounding property values and provide a significant visual
18 improvement over the existing house without changing the character
19 of the area.

20 MEMBER GOODSSELL: Sir, if I could just interrupt for one moment.
21 How did you wind up in front of us? In other words, what prompted
22 the variance? Because it looks like the house is already under
23 construction.

24 MR. IBRAGIMOV: Oh, well, we -- I started demoing before we got
25 the permits because it was just taking too long, and we just started
26 minor demo, and then we had to stop altogether.

1 MEMBER GOODSSELL: That's what I suspected. You do realize that
2 we all looked at your property.

3 MR. IBRAGIMOV: Correct.

4 MEMBER GOODSSELL: I also looked at your tax card. Now, if I
5 may? It looks like you are actually missing the second floor right
6 now. It's covered with tarps, and there's no second floor.

7 MR. IBRAGIMOV: Right.

8 MEMBER GOODSSELL: What is the status of the building permit?

9 MR. IBRAGIMOV: It's stop work orders.

10 CHAIRMAN MAMMINA: Did you say court orders?

11 MR. IBRAGIMOV: No, stop-work orders.

12 MEMBER GOODSSELL: Stop-work orders.

13 CHAIRMAN MAMMINA: Work orders.

14 MEMBER GOODSSELL: It's an old house. I can see that, and it
15 was probably built before the setbacks were up to code because the
16 setback on your northeast side of the house is so small, 3 feet, 2
17 feet from your neighbor's property line?

18 MR. IBRAGIMOV: Three feet, I believe, 3, 4 feet.

19 MEMBER GOODSSELL: Now, the plans that you would like to build,
20 the plans that we have in front of us, these are the plans that are
21 disapproved; is that correct?

22 MR. IBRAGIMOV: Well, again, it was disapproved because of
23 this -- they wanted us to go on, the second floor, 2 feet setback,
24 which kind of the semi-sphere of the house is going to be awkward
25 with the setback of 2 feet in the top.

26 MEMBER GOODSSELL: Well, you knew this buying the house. I'm

1 sure you knew this buying the house.

2 MR. IBRAGIMOV: Of the setbacks?

3 MEMBER GOODSSELL: Yes.

4 MR. IBRAGIMOV: I was not aware.

5 MEMBER GOODSSELL: It didn't have a certificate of occupancy.

6 Did you -- you bought the house, I'm not going to go there, and I
7 know you bought the house fairly recently in October 2025, is that
8 correct?

9 MR. IBRAGIMOV: Correct, yes.

10 MEMBER GOODSSELL: What was the condition of the house when you
11 bought it?

12 MR. IBRAGIMOV: It was -- it was fine, I mean, the way it was.

13 MEMBER GOODSSELL: Was there a second story?

14 MR. IBRAGIMOV: Yes.

15 MEMBER GOODSSELL: Was it in need of renovation?

16 MR. IBRAGIMOV: It was just an open plan, really, with a
17 bathroom and the closet.

18 MEMBER GOODSSELL: So, has the previous owner done some
19 construction on the property --

20 MR. IBRAGIMOV: Yes.

21 MEMBER GOODSSELL: -- when you bought it?

22 MR. IBRAGIMOV: Yes. I believe H2M Architects did a plan in
23 2013 for work, which I've seen in the records, and I believe they
24 renovated the second floor.

25 MEMBER GOODSSELL: You knew when you bought the house that there
26 was no certificate of occupancy.

1 MR. IBRAGIMOV: Correct.

2 MEMBER GOODSSELL: What we're looking at is something that is
3 very old, is very close to the property line, and what can be done
4 to bring this more into compliance?

5 MR. IBRAGIMOV: Right.

6 MEMBER GOODSSELL: Because without any certificates, without
7 any background paperwork, all I see is a tax card from a long time
8 ago, which the house doesn't look very much like this at all. What
9 can be done to bring this more into compliance, because you're asking
10 us for a variance.

11 MR. IBRAGIMOV: I mean --

12 CHAIRMAN MAMMINA: I'll apologize. Do you recognize or
13 understand what it -- what it means that you're several 100 square
14 feet over the permitted floor area?

15 MR. IBRAGIMOV: That's not what the planning examiner said.

16 CHAIRMAN MAMMINA: Sure it does. It says maximum gross floor
17 area allowed is 2,700 and you're proposing --

18 SECRETARY WAGNER: No, no, I think you're looking at --

19 CHAIRMAN MAMMINA: Am I in the wrong place? I'm sorry. I'm
20 sorry.

21 SECRETARY WAGNER: This is for a front yard setback.

22 CHAIRMAN MAMMINA: I looked at the wrong one too.

23 SECRETARY WAGNER: Front yard paving and side yard.

24 CHAIRMAN MAMMINA: Yes.

25 MR. IBRAGIMOV: We would only be adding about 600.

26 CHAIRMAN MAMMINA: I still had the last case. I apologize.

1 Now, the previous plans that you referred to were those approved
2 by the building department, or they were not approved by the building
3 department?

4 MR. IBRAGIMOV: Which previous plans?

5 CHAIRMAN MAMMINA: You referred to plans by H2M.

6 MR. IBRAGIMOV: That was first. They were doing different
7 work. They were not proposing -- those supposedly --

8 CHAIRMAN MAMMINA: So, those plans were okay?

9 MR. IBRAGIMOV: Right. Those were fine.

10 CHAIRMAN MAMMINA: Do you have copies of those?

11 MR. IBRAGIMOV: No, I don't.

12 CHAIRMAN MAMMINA: We're not required to submit them. I mean,
13 that's okay. I'm just curious what the difference is between them.
14 It may have been -- when did you buy the house?

15 MR. IBRAGIMOV: In October 2025.

16 CHAIRMAN MAMMINA: Less than a year ago. I was just wondering
17 if plans were done in 2013, but that's a long time ago. Never mind.

18 (Whereupon, there was a discussion amongst Board Members.)

19 MEMBER GOODSSELL: So, other than the setbacks, what is the total
20 square footage of the house going to be after?

21 MR. IBRAGIMOV: I believe 16 -- 1600.

22 MEMBER GOODSSELL: It looks long and deep.

23 MR. IBRAGIMOV: We're increasing basically by 600 square feet.

24 MEMBER GOODSSELL: But you're still within the allowable for
25 your lot?

26 MR. IBRAGIMOV: Yes, right, correct.

1 CHAIRMAN MAMMINA: I was reading that incorrectly.

2 MEMBER GOODSSELL: Yeah, I was too, so I apologize.

3 MR. IBRAGIMOV: Yeah, the house was currently 1,000 square
4 feet, so we're adding about 600 and change.

5 (Whereupon, there was a discussion amongst Board Members.)

6 MEMBER GOODSSELL: Did you pave the front yard?

7 MR. IBRAGIMOV: Did I pave the front?

8 MEMBER GOODSSELL: Did you pave the front yard?

9 MR. IBRAGIMOV: No, no, no. I think that's what they were doing
10 2013; that's what the plans were also.

11 MEMBER HERNANDEZ: It's probably the driveway. So, the fact
12 that you have no front yard because you're so close.

13 MR. IBRAGIMOV: Yeah.

14 MEMBER HERNANDEZ: So you have no front yard.

15 CHAIRMAN MAMMINA: So, you quickly reached the maximum
16 permitted percentage because there's nowhere else.

17 MEMBER HERNANDEZ: Exactly.

18 MEMBER GOODSSELL: There's nothing to be done about the side yard
19 setback. It is what it is.

20 MR. IBRAGIMOV: Can I pass -- I don't know if you have a street
21 view of the house to the right.

22 VICE CHAIRMAN FRANCIS: You can submit those.

23 SECRETARY WAGNER: This will be Exhibit 1.

24 MR. IBRAGIMOV: Thank you. The house on the right is a
25 four-family house, I believe. Also, it's an old house that -- I'm
26 not sure how they did it, but.

1 The house was a bungalow-style home. It's just there was a
2 dormer sticking out on the second floor.

3 CHAIRMAN MAMMINA: It's a very old home.

4 MR. IBRAGIMOV: Right.

5 MEMBER GOODSSELL: So, the first picture shows the house that
6 exists today?

7 MR. IBRAGIMOV: Right, with the multi --

8 MEMBER GOODSSELL: At the second floor.

9 MR. IBRAGIMOV: We're at the second floor, and that's the
10 intended --

11 MEMBER GOODSSELL: This is the rendering?

12 MR. IBRAGIMOV: Yes.

13 MEMBER GOODSSELL: What it would be.

14 MR. IBRAGIMOV: Yes.

15 MEMBER GOODSSELL: Thank you.

16 CHAIRMAN MAMMINA: Exhibit 1, as we've marked it. I will house
17 it up to describe it. The house to the right that's wide is the
18 neighbor, but as I saw, you're the smaller house.

19 MR. IBRAGIMOV: Yes, I'm on the left, correct.

20 CHAIRMAN MAMMINA: So, I understand the paving in the front yard
21 now because it's so small in the front yard. So, the parking
22 spaces --

23 MR. IBRAGIMOV: Correct.

24 CHAIRMAN MAMMINA: -- are to the left.

25 (Whereupon, there was a discussion amongst Board Members.)

26 MEMBER GOODSSELL: As with the previous house, it may have been

1 the first one was built, and then everything else built around.

2 MR. IBRAGIMOV: Right. I believe the two houses. The
3 neighbors as well.

4 MEMBER GOODSSELL: When you have pre-existing nonconforming, my
5 question I ask is there anything you can do to bring it into conformity
6 or close to conformity?

7 CHAIRMAN MAMMINA: Could you take out those Five Factors and
8 do your best to go through them?

9 SECRETARY WAGNER: There's a sheet on the podium about the Five
10 Factors which determine a variance. Can you just address that?

11 MR. IBRAGIMOV: Will there be an undesirable change or
12 character in the neighborhood or nearby properties? I don't believe
13 so.

14 Whether the benefit --

15 TOWN ATTORNEY ALGIOS: No, you have to say why. You have to
16 give a conclusory answer.

17 MR. IBRAGIMOV: Why? Oh. We are not -- we're not changing the
18 character of the home. We're sticking to the design of the block
19 to characterize the rest of the architecture.

20 Whether the benefits by the applicant can be achieved by a
21 feasible alternative other than a variance?

22 We could do the setback 2 feet. It's just that house would be
23 unproportionate for the -- just off the second floor will be offset.

24 Whether the requested variance is substantial? I believe it's
25 very substantial.

26 Will the variance have an adverse impact on physical and

1 environmental conditions of the neighborhood? No.

2 Whether the alleged difficulty was self-created? No.

3 CHAIRMAN MAMMINA: That's yes.

4 MEMBER HERNANDEZ: Yes.

5 MR. IBRAGIMOV: Oh, yes.

6 CHAIRMAN MAMMINA: You bought the house.

7 MR. IBRAGIMOV: Yes, I did.

8 CHAIRMAN MAMMINA: You bought it that way.

9 (Whereupon, there was a discussion amongst Board Members.)

10 TOWN ATTORNEY ALGIOS: Reserve on this one.

11 CHAIRMAN MAMMINA: I think we should reserve on this only
12 because this is very out of the ordinary. So, we have to be very
13 careful about any decision that we make. As I said earlier, once
14 we grant something, then somebody else could look at it and say, well,
15 why did you grant this to them, and you know, so. This way -- advice
16 from counsel is valid. So, we will reserve decision on this. I
17 would say we're not going to decide today. May not at the next
18 hearing as well, only because it takes time to write.

19 MR. IBRAGIMOV: Okay.

20 VICE CHAIRMAN FRANCIS: You can check with the BZA office.

21 MR. IBRAGIMOV: Okay.

22 CHAIRMAN MAMMINA: Yes.

23 MR. IBRAGIMOV: Thank you so much.

24 VICE CHAIRMAN FRANCIS: Good job.

25 MR. IBRAGIMOV: Thank you.

26 CHAIRMAN MAMMINA: Yeah, I think we're all moaning and

1 groaning. We've been doing this since 10:00. We're just going to
2 take ten minutes.

3 SECRETARY WAGNER: We're going to take a ten-minute recess.

4 MR. PERROTTA: Ladies and gentlemen, if you're here for the next
5 appeal, which I think a lot of you are, I'm going to hand around a
6 sign-in sheet. Just put your name address and whether or not you
7 support or oppose the application.

8 (Whereupon, there was a recess taken in the proceeding.)
9
10

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

12 SECRETARY WAGNER: Next appeal, Appeal #21850, IONNA, LLC; 1900
13 Northern Boulevard, Manhasset; Section 6, Block 220, Lot 2; Zoned:
14 Parking District.

15 Appeal for determination the Building Department erred in
16 revoking the building permit and electrical permit for the
17 installation of electric vehicle charging stations and for not
18 performing a final inspection or issuing certificates for same.

19 CHAIRMAN MAMMINA: You've heard Appeal #21850, IONNA, LLC. Is
20 there anyone in the room who is interested in the application other
21 than the applicant?

22 (Audience Members raise hands.)

23 CHAIRMAN MAMMINA: Seeing one or two hands up facetiously.
24 Many hands. We'll pass around the sign-in --

25 VICE CHAIRMAN FRANCIS: We did already.

26 CHAIRMAN MAMMINA: So, there we go. I will do it again.

1 You've heard Appeal #21850, IONNA, LLC. Is there anyone in the
2 room interested in the application other than the applicant?

3 (Audience Members raise hands.)

4 CHAIRMAN MAMMINA: Big show of hands, and we'll pass
5 along -- well, I heard it's already been passed along, a sign-in
6 sheet, and everyone will have the opportunity to speak.

7 We do have a three-minute on that. We don't hold it hard and
8 fast. We ask that we try not to repeat one another. Not everyone
9 will have an opportunity to speak, but you know, it's fine, and I'm
10 just making this up, you know, to say I agree with the previous
11 applicant, the bus traffic, considering the school is just not
12 acceptable, and then that's fine, if somebody already put a whole
13 thing, you know, onto the record. You're signed up, so that shows
14 that you're here in opposition, and that also counts.

15 The last thing is that -- well, I guess, the same thing. You
16 don't have to come up in order to be registered as in opposition.

17 So, I think that covers it. Thanks.

18 Good afternoon.

19 MS. DEEGAN DICKSON: Good afternoon. My name is Kathleen
20 Deegan Dickson. Partner in the law firm of Forchelli Deegan Terrana,
21 LLP. 333 Earl Ovington Boulevard, Uniondale, New York. Here on
22 behalf of the applicant, IONNA, LLC. IONNA is the tenant at 1900
23 Northern Boulevard in Manhasset, Section 3; Block 220; Lot 1, in the
24 Parking District of the Town of North Hempstead.

25 We're here this afternoon for a somewhat unusual application.
26 We're here to request a determination from this Board that the

1 building department acted improperly and erroneously in revoking the
2 building permit for six electric vehicle charging stations installed
3 by the applicant in the parking lot behind 1900 Northern Boulevard.
4 They were installed pursuant to a lawfully issued permit, and the
5 building department chose to revoke it after construction was
6 completed and it was ready for final inspections and final
7 certificate.

8 In its revocation, the building department cites a 2012
9 restrictive covenant to which the town was a party and an active
10 participant in putting it in place and in negotiating, and the
11 building department claims that the applicant did not disclose this
12 covenant to the building department, and that the installation
13 violates the terms of that covenant.

14 So, just to be very clear. This is not a zoning hearing. We're
15 not here seeking a special permit for a variance. Everything is
16 fully compliant with zoning. The only reason why we're before this
17 Board at all is because of the building department's unlawful refusal
18 to issue a certificate of completion, and then subsequently, revoke
19 the building permit.

20 As I mentioned, the site is located at the rear of 1900 Northern
21 Boulevard, which is located west of The Gate, which is a road that
22 leads into the neighborhood south of Northern Boulevard, and it's
23 in the parking lot reserved exclusively for the use of the building
24 at 1900 Northern Boulevard. You'll know it as the building with the
25 Apple Store and Flower Designs.

26 In 2012, the rear portion of the property, and I'm talking about

1 the property as a whole, even though the parking lot is in a separate
2 zoning district, and is technically Parcel 2, but the entire
3 property -- or the rear portion of the property, which is the subject
4 for the parking lot was rezoned from Residence A to Parking District
5 in 2012, and that abuts the building and the parking in front of the
6 building, which are zoned Business A, and this was in order to
7 construct a new parking lot to support the building at 1900 Northern
8 Boulevard.

9 One of the conditions of the 2012 change of zone, and then
10 subsequently at the site plan review, included a condition that no
11 building or structure shall be constructed, erected, located or
12 placed, or permitted on Parcel 2. So -- I stand corrected if I said
13 Parcel 1. Parcel 1 is the building. Parcel 2 is the parking lot;
14 other than on-grade parking and accessory structures associated with
15 on-grade parking to be utilized exclusively in conjunction with the
16 operation of a commercial building located on Parcel 1. So, that's
17 the sum and substance of what we're talking about today.

18 So, earlier this year, my client IONNA, LLC built six EV chargers
19 based on, as I said, the legally-issued permits. They filed plans
20 with the building department. They were reviewed by the building
21 department. There were interim inspections. This was a very
22 ongoing, back-and-forth, involved process between the building
23 department and the applicant's construction team. My client spent
24 over \$1 million on construction based on these permits, and as I
25 mentioned, the building department was involved every step of the
26 way.

1 Following the completion of the work, then IONNA was informed
2 that the town would not sign off on the permit to allow for final
3 inspection or a certificate of completion. They would not be issued.
4 The town claimed, at that time, that the EV charging stations did
5 not comply with the 2012 C&R, and then later revoked the applicant's
6 electrical permit and building permit, citing that there was a
7 misrepresentation of a material fact.

8 The fact that they stated was misrepresented was that the EV
9 charging stations would not be used exclusively by employees and
10 customers of 1900 Northern Boulevard. This letter was -- this letter
11 revoking it based on this misrepresentation was issued nearly one
12 month after my letter to the building department of May 15, 2026,
13 in which we confirmed that our client has constructed the EV charging
14 station as an amenity for the tenants and patrons of the businesses
15 located within the commercial building on that one, and that they
16 would be used exclusively in connection with the operation of the
17 commercial building on that lot.

18 In that letter, we offered to install signage to inform users
19 of this fact, and to be responsible for enforcement of this
20 restriction. It turns out there were already signs on the property.
21 I have pictures of some of them here, which, up until now, were
22 sufficient in the town's eyes to demonstrate compliance with the
23 exclusive use requirement of the restrictive covenant. Our
24 construction didn't trigger anything new. The parking lot has
25 always been restricted to the tenants and users of 1900. So, these
26 signs have been there. They continue to be there. You'll see,

1 there's also signs relating to enforcement that illegally parked cars
2 will be towed or booted, and this has been effective and has been
3 sufficient in the town's eyes for the last 14 years.

4 It's quite clear that the EV charging stations installed by
5 IONNA comply with the C&R, and that there was no misrepresentation
6 of facts, which would warrant a revocation. As I mentioned, the 2012
7 C&R has two prongs that must be met. That the structures are
8 accessory to on-grade parking, and two, that it's utilized
9 exclusively in conjunction with a commercial building on Parcel 1.

10 First off, I think there could be no question that EV charging
11 stations are accessory to parking lots. Section 70-203X1 of the town
12 code provides that electric vehicle charging stations shall be
13 permitted in all commercial districts. Then 72-31, which is the
14 definitions part of the code, defines accessory as a subordinate
15 building or use customarily incidental to and located on the same
16 lot. So, EV charging stations can only be installed where a car is
17 parked. So they are merely incidental to the principal use, and they
18 must be on the same lot; otherwise, they can't be used by parked cars.
19 So, they definitely fit the definition of accessory. It's not a
20 separate principal use.

21 In 2022, the state of New York announced a directive to advance
22 zero-emission vehicles, which included \$175 million in funding to
23 establish an EV charging network throughout the state.

24 In response, in 2023, the Town of North Hempstead Town Board
25 enacted Local Law 6 of 2023, which enacted the Electric Vehicle
26 Charging Stations provisions of the zoning chapter of the town code.

1 The legislative intent of that legislation stated that the Board
2 finds that it is in the best interest of the Town of North Hempstead
3 to require electric vehicle charging station capabilities in certain
4 residential and commercial contexts.

5 Notably, the provisions of this local law made its way into
6 section 70-203, which is the public health, safety and general
7 welfare section of the code.

8 Section 7-203X2, actually requires all new parking lots,
9 commercial parking lots, and expansions of commercial parking lots
10 to install EV charging infrastructure to accommodate the future
11 installation of car chargers. So, it's very clear that the town
12 considers these installations important to the town's
13 infrastructure, and also accessory parking lots. So, I think it's
14 pretty clear that the first prong of the covenant has been satisfied.

15 As for the exclusivity concept, ever since the parking lot was
16 constructed, as I mentioned, signage has existed to inform the public
17 that the parking is for shoppers only, and that it would be enforced
18 by towing or moving their car. No complaints have been received that
19 the landlord or counsel have heard that these signs have been
20 ineffective or insufficient in any way.

21 The sign that provides all illegally parked cars will be towed
22 or booted is, in fact, adjacent to and closest to the EV charging
23 station. The property also has surveillance cameras installed, and
24 that's also noted by signage on the property. So, anybody who
25 chooses to violate this notice that they're going to be watched, and
26 that they are potentially subject to being towed or ticketed for

1 trespassing, or you know, there's plenty of remedies that are
2 available.

3 So, the installation of the chargers did not alter the fact that
4 this parking lot is still for the exclusive use of the building. To
5 ensure that this is fully understood, even though the EV chargers
6 have not been turned on, as I mentioned, they're fully installed
7 they're ready to flip the switch and get going. It's not
8 operational, but there is an app that people with EV, like electric
9 vehicles -- I don't know if any of you have them. I don't drive one
10 yet, but there's an app called Plugshare, which is the app used by
11 EV drivers to locate EV charging stations, and it's not just IONNA
12 chargers, it's Tesla chargers, and it's -- I don't remember all the
13 names of them, but -- so, the app is something that somebody with
14 a car downloads, and then it'll show you all of the charging stations.
15 You click on that, and it'll tell you what the hours of operation
16 are, what the restrictions are, you know, whether there's anything
17 that you need to know, if it's for free, if you have to pay for it.

18 So, I've submitted with the -- I submitted through the portal
19 and to the secretary screenshots of the app page for this location.
20 I also sent in a link, so that if anybody wanted to actually look
21 at it in real time, you can look at it right on your phone. But you'll
22 see that it provides on the -- it says the Manhasset Rechargery is
23 reserved for EV drivers who make use of the businesses at 1900
24 Northern Boulevard, Manhasset. In order to be considerate of
25 neighbors, no charging or parking is permitted between the hours of
26 12:00 A.M. and 5:00 A.M. So, those hours match the hours that are

1 already restricted for the parking lot.

2 MEMBER HERNANDEZ: So, 12:00 A.M. and 5:00 A.M., it's meant to
3 be for people that are using the businesses. Can you tell me which
4 business is open at 5:00 A.M. in the morning and open until midnight?

5 MS. DEEGAN DICKSON: Well, there's different -- there's
6 different uses there. I think there's a Charles Schwab in there.

7 MEMBER HERNANDEZ: There were six businesses there.

8 AUDIENCE MEMBER: They don't know -- (inaudible)

9 AUDIENCE MEMBER: They're not -- (inaudible)

10 CHAIRMAN MAMMINA: Sir.

11 MEMBER HERNANDEZ: Please. Please.

12 MEMBER GOODSELL: You'll get a chance to speak.

13 MS. DEEGAN DICKSON: There may be people who are janitorial
14 staff that might be going in and cleaning overnight. There may be
15 people who are working late to finish what they're doing. I don't
16 know what the hours of operation of the Apple Store are, but I'm sure
17 that there's a pretty extended --

18 MEMBER HERNANDEZ: 8:00. 10:00 to 8:00.

19 MEMBER GOODSELL: 10:00 to 8:00. We did look.

20 MS. DEEGAN DICKSON: But I mean this restriction has been on
21 the property since it was built.

22 MEMBER HERNANDEZ: That's for a parking lot for people that are
23 coming to the businesses. There is no app that directs someone that
24 you can park at this parking lot. There is no app advertising the
25 company.

26 MS. DEEGAN DICKSON: Well, if you look for Crate and Barrel,

1 for instance. Crate and Barrel is in the shopping center across.

2 MEMBER HERNANDEZ: The peninsula, yes.

3 MS. DEEGAN DICKSON: It's owned by a separate owner, and you
4 say, where is Crate and Barrel, and Crate and Barrel says here, this
5 is where we are. You drive to Crate and Barrel, and then you're like,
6 you know what? That parking lot over there is a little shadier.
7 It's a little quieter. I'm going to park over there. Does that mean
8 that Crate and Barrel is now drawing people into other parking lots?
9 It means that somebody is choosing to violate restrictions that are
10 there, and that's an enforcement issue. Enforcement issues are what
11 we have to deal with every restrictive covenant. There's no
12 restrictive covenant that enforcement is not --

13 MEMBER HERNANDEZ: Crate and Barrel has its own parking lot
14 behind that as part of their shopping center, like the Americana has
15 like their own shopping center, and like the Apple Store, and that
16 shopping center has their own.

17 Is there commingling? No doubt in my mind that there is. No
18 doubt in my mind that for some reason somebody parked in one and
19 decided I forgot to -- I need a new head cover for my iPod so I'm
20 going to walk over there although I was parked. I have no doubt it
21 happens.

22 My concern is you have an app. I have a car that needs to be
23 charged. I am someplace else and when I look it up it tells me that
24 I can go there at 11:55 at night and charge my car.

25 MS. DEEGAN DICKSON: And if you are a patron of the shopping
26 center.

1 MEMBER HERNANDEZ: Well, I can't be, the shopping center is
2 closed by definition. Because the shopping center does not stay
3 open. At Christmas time, the Apple Store will stay open until 10:00
4 at night.

5 MS. DEEGAN DICKSON: What you're talking about, Mr. Hernandez,
6 is an enforcement issue. It's not -- it's not an issue of the
7 legality of the use underneath the -- under the covenant restriction.
8 This is an enforcement issue, and we'll concede that it will take
9 some enforcement. We know that the neighbors are very vigilant.
10 I'm sure that we will know if anybody there gets out of their car
11 and doesn't go into one of the stores.

12 AUDIENCE MEMBER: Oh, no -- (inaudible)

13 AUDIENCE MEMBER: No, you -- (inaudible)

14 CHAIRMAN MAMMINA: Everybody, we got a courtesy to the speaker,
15 and you will have courtesy when you are speaking. So, thank you so
16 much. I'm sure you appreciate it.

17 MEMBER HERNANDEZ: I'd like to ask a general question. There
18 are six businesses. One of which is vacant, which is unfortunately
19 the furniture store upstairs, which is a very nice store that are
20 vacant, and you have six fast charging towers. Do they accommodate
21 six cars, or is it two for one?

22 UNIDENTIFIED SPEAKER: Twelve cars.

23 MS. DEEGAN DICKSON: Accommodate 12.

24 MEMBER HERNANDEZ: You have you the equivalent of 12 charging
25 stations, only six towers, but 12 charging stations for what is
26 effectively six businesses.

1 MS. DEEGAN DICKSON: But we have 100 parking spaces. So,
2 you're saying that because we have too many parking spaces --

3 MEMBER HERNANDEZ: No --

4 MS. DEEGAN DICKSON: -- that we must be --

5 MEMBER HERNANDEZ: -- I'm just questioning --

6 MS. DEEGAN DICKSON: -- inviting people to --

7 MEMBER HERNANDEZ: I am -- I am questioning how many
8 charging -- how many of those customers at any given time is IONNA
9 expecting to be using charging stations?

10 MS. DEEGAN DICKSON: I think there's an expectation
11 throughout -- throughout our country now that we're trying to turn
12 to greener energy, and more and more people are buying electric
13 vehicles. More and more people are traveling and shopping, and when
14 they -- when they go to the Apple Store, they go to their financial
15 advisor, they want to plug in while they're there.
16 They -- it's -- it's just a reality, and as time goes on, more and
17 more EVs are being sold in the market.

18 So, to say that just because there's an app that tells people
19 that this is available to -- under certain circumstances, doesn't
20 mean that permits or that we're inviting everybody in.

21 MEMBER HERNANDEZ: That's exactly what it means.

22 MS. DEEGAN DICKSON: It doesn't. It doesn't. I mean, it's
23 restricted right on its face. So, what you're concerned about is
24 enforcement, and enforcement is not the legality of the use.

25 MEMBER HERNANDEZ: How do you -- how do you -- besides posting
26 a sign, how are you going to stop people that are not clients or that

1 don't -- that come at 11:00 at night? Or are you expecting the town
2 to be the one to have a policeman there to ticket someone for violating
3 parking?

4 MS. DEEGAN DICKSON: There's -- there are cameras on site. I
5 don't know what the circumstances are, if they can alert, you know,
6 security if there's somebody that's there. You know, obviously, if
7 somebody is trespassing or doing nefarious things and somebody calls
8 the police, the police would show up, but it's the same thing if
9 anybody parks there now overnight. How do we enforce it and what --

10 AUDIENCE MEMBER: -- (inaudible)

11 MS. DEEGAN DICKSON: I'm sorry, just --

12 What is so much more offensive about having your car plugged
13 in and using clean energy to charge your car than it is to park there
14 and answer your emails in a space where you're not charging your car?
15 I don't -- I don't see any difference.

16 MEMBER HERNANDEZ: You define IONNA as a business now located
17 at the Americana. You basically created a new business space.
18 There are six businesses there right now.

19 MS. DEEGAN DICKSON: It's an accessory to the --

20 MEMBER HERNANDEZ: You defined that as a business.

21 MS. DEEGAN DICKSON: It is a business, but it's an accessory
22 business. It's the way where you have your cafe within -- your
23 Starbucks inside of your Home Depot. It's a business, but it's an
24 accessory.

25 MEMBER HERNANDEZ: When Home Depot's closed, that Starbucks is
26 no longer accessible under any circumstances.

1 MS. DEEGAN DICKSON: If there were gates up that prevented
2 people from entering the parking lot after a certain hour, is that
3 something that would satisfy your concern? Because again, getting
4 back to the fact that you're concerned about enforcement of this
5 because that's really what this is coming down to is enforcement,
6 and it's something that we will commit to enforcing. If we don't,
7 we'd be in violation of the covenant, and it can be enforced by -- it
8 can be enforced by the town.

9 MEMBER GOODSSELL: I have a question then. Is it possible -- and
10 I don't know the answer to this because I do not drive an electric
11 car; is it possible to turn off the charging stations before a certain
12 hour and after certain hours so they become useless?

13 MS. DEEGAN DICKSON: I believe there is. Excuse me one second.

14 AUDIENCE MEMBER: Can you turn your microphone on?

15 AUDIENCE MEMBER: It's hard to hear.

16 AUDIENCE MEMBER: We can't hear. Thank you.

17 MEMBER GOODSSELL: I asked the applicant's attorney if it was
18 possible to turn off the electricity to an EV charging station before
19 a certain hour in the morning and after a certain hour in the afternoon
20 so that it becomes a useless object. She is inquiring to see if there
21 is an answer to that.

22 Again, everyone will get a chance to come up and speak. You
23 don't have to interrupt the speaker, and we will not interrupt you.

24 CHAIRMAN MAMMINA: We want to be certain we can hear everybody;
25 you, them. We have a stenographer whom I compliment constantly.
26 How she could possibly do that job, but she does, and she smiles,

1 so.

2 (At this time, there was a pause in the proceeding.)

3 MS. DEEGAN DICKSON: I'm sorry for the delay. We're just
4 checking with some of the higher ups.

5 CHAIRMAN MAMMINA: No problem.

6 MS. DEEGAN DICKSON: So, that's something that is possible, and
7 that they'd be willing to do to, and even restrict the hours earlier
8 so that it's more in line with the hours of operation of the shopping
9 center. Assuming that, you know, if the Apple Store closes at 9:00
10 or whatever, that there may be employees there. So, we'd be looking
11 for, you know, 10:00 P.M., or so, and then restricted from 10:00 P.M.
12 until 5:00 A.M., but nobody could park --

13 MEMBER GOODSELL: It is possible?

14 MEMBER HERNANDEZ: There is no business --

15 MS. DEEGAN DICKSON: It is possible to do, yes.

16 MEMBER HERNANDEZ: But there's no business -- there is no
17 business that's open at 6:00 in the morning. If your purpose is to
18 service those businesses, why would you be open at 6:00 in the
19 morning?

20 MS. DEEGAN DICKSON: But I'm not sure that employees are not -- I
21 don't know what time the business is open, but if they do open early,
22 especially the office businesses. People sometimes go to work
23 early. I know I can show up at my office at 7:00 A.M., and there's
24 people who have been there already.

25 So, you know, I think it's -- I think the hours are from 5:00
26 A.M. to 10:00 P.M. I think that's something that we could live with.

1 I think it's reasonable. I think it will still serve the people who
2 use the shopping center, and we can have it turned off at that time
3 and then turned back on in the morning.

4 So, I just want to point out just a couple of other legal points.
5 We did submit a Memo of Law to you where it supports our application.
6 It supports -- it cites numerous cases to support our position.

7 I want to make sure that you understand that while we're sure
8 that the language -- I feel very confident that the plain language
9 of the covenant doesn't have any ambiguities in it, but the fact that
10 in 2012, electric vehicles were in their -- in their youth and their
11 infancy, and that EV charging stations nobody really thought about
12 that. So, I'm sure it was not contemplated specifically by that
13 covenant, but in long-standing, case law requires that any covenants
14 and restrictions that are ambiguous must be strictly construed
15 against the parties seeking to enforce it as the law favors free and
16 unobstructed use of real property.

17 So, if there's a question whether this is or isn't contemplated
18 as an accessory structure, or that you know, it's whether -- it's
19 truly exclusive, or it's just -- or it could be exclusive based on
20 hours, those kind of ambiguities have to be resolved in our favor,
21 and that's supported by case law.

22 There's further case law where the courts have held that even
23 if the use did violate a restrictive covenant, which we don't believe
24 this does, the covenant cannot be equitably enforced if doing so would
25 contravene a long-standing public policy, and I already talked about
26 the New York State initiatives and the town initiatives to bring

1 electric vehicle charging infrastructure to parking lots. So, IONNA
2 EV charging stations are supportive of the long-standing public
3 policy of the town and the state.

4 I received a bunch of letters that were forwarded to me and
5 emails by your staff. There were some concerns that were cited that
6 the EV charging stations weren't properly reviewed. That we
7 should've done before this Board to start with, or before the Town
8 Board for site plan review. I want to point out that the Town Code
9 Section 2-10.2, actually requires the building permits for EV
10 charging be expedited by the building department, and it does not
11 require any approval from this Board or the Town Board.

12 Furthermore, it would not be subject to site plan review as it
13 doesn't meet any of the thresholds that would require it. There's
14 no new structure greater than 750 square feet. There's no change
15 of use in the site. There's no change in the parking demand or site
16 access, and those are the things that would trigger a site to be
17 subject to site plan review.

18 CHAIRMAN MAMMINA: Also, the Board has received all of those
19 letters and our staff. I've certainly gone through them. Yet,
20 there are many, many.

21 MS. DEEGAN DICKSON: So, I think I could keep beating that
22 horse. You do have our Memorandum of Law. I do want to reiterate
23 for the -- not just for the benefit of the Board but the benefit of
24 the people who have come out here to speak, that questions of
25 suitability of use or noise or visual, you know, visual -- I'm
26 sorry -- like if people don't like the way they look, people don't

1 like the way they sound, people don't like where they are, they're
2 fully compliant with zoning, and this is not what this conversation
3 is about today. This is strictly about the narrow issue of whether
4 or not what we're doing here complies with the covenants and
5 restrictions that were recorded.

6 With that, I'd like to say we are available for questions, or
7 we can hear from the community, and then I'd just like an opportunity
8 to respond.

9 CHAIRMAN MAMMINA: I think we'll hear from the community and,
10 of course, you'll have the opportunity to respond, and as I've
11 mentioned --

12 MS. DEEGAN DICKSON: Oh, actually -- I'm sorry, Mr. Chairman.
13 I forgot to mention. So, we do have the property owner here. He
14 would like to speak, and his counsel, Paul Bloom, would also like
15 to speak as part of our presentation.

16 CHAIRMAN MAMMINA: Great, that way we'll get that whole side
17 on the record.

18 MS. DEEGAN DICKSON: Yes.

19 MR. TORKAN: Good afternoon, Mr. Chairman, Members of the
20 Board. My name is Kris Torkan. I'm here on behalf of Centre
21 Manhasset, LLC, owners of the shopping center. I'm one of the
22 partners. I'm the managing partner.

23 We have owned this property for over 50 years, and approximately
24 16, 17 years ago, we were approached by the adjacent property, which
25 at the time was a vacant lot, which is subject of this application,
26 Parcel 2, was owned by the family and developer by the name of Belemage

1 (phonetic), and they have owned this property for some 20 years, and
2 I believe it was a very contentious application with the town for
3 construction of commercial or residential or mixed use, anywhere from
4 30 to 50,000 square feet.

5 The property was in very bad condition; vacant land, ugly
6 fencing, weeds growing, water runoff, mud runoff to the west. The
7 properties down the slope. Very unsightly. It was an eyesore for
8 us, and my ownership started about 20 years ago, where I came -- became
9 a partner in the shopping center and decided to fix it and renovate
10 it and improve on it.

11 I brought Apple. The first suburban store, and at the time,
12 there was a tremendous need for parking for Apple. They used to line
13 up and put a big toll on the surrounding and street that's adjacent
14 to us, The Gate. We successfully negotiated to enter into a contract
15 with Belemage with a condition that we're able to obtain a permit
16 from the town strictly for parking use, and we would never build a
17 building on it. That was my approach to the then Supervisor John
18 Kaiman and the planner and the community. We had many meetings. I
19 was able to enter into the contract with the seller subject to my
20 approvals.

21 Everybody thought I'm crazy for purchasing and investing so much
22 on a piece of property and putting a restriction that I will never
23 build on it. I did it because I was a responsible landlord. I knew
24 that Apple would require a lot of parking and would put a toll on
25 the community.

26 We took further advantage to parking lots and parking stalls

1 were all on angles and terrible situation with regard to traffic flow.
2 Cars would come in, and they would circle through the shopping center
3 looking for parking space, and go back to The Gate, and circle back
4 in; illegal U-turns, all kinds of traffic hazards. When we took this
5 property, I had engineers redesign the entire parking lot; larger
6 stalls, double lanes, and added a third egress, so that there is no
7 need for cars exiting and circling around the neighborhood to find
8 parking space. We did this at a tremendous cost, but the vision was
9 to do the right thing for the property and for the surrounding
10 community.

11 I have sat on similar boards, and I've been a developer for 40
12 years; always wear the same hat; as a planner, as a developer, as
13 a resident, and as a neighbor. I think we've demonstrated over the
14 past 20 years that we have been a good neighbor. We maintain The
15 Gate, the landscaping; we trim the trees with permission of the town,
16 that is not often done. We maintain the sightlines. We keep the
17 parking lot clean. We have numerous cameras that a lot of times are
18 used by the police department to apprehend crimes. I have a
19 full-time parking attendant to make sure that the parking regulations
20 are adhered to.

21 AUDIENCE MEMBER: -- (inaudible)

22 MR. TORKAN: My own car that was disabled was left at the
23 shopping center, got a ticket because my attendant called the police.

24 So, going back to being a responsible landlord. We have been
25 a good neighbor. We have done the right thing. The intention of
26 this -- the restrictions that were placed on this land, I'm not going

1 to bore you with the legal points. It was strictly to prevent a
2 building being built, and our intention was to build a parking lot
3 with all its accessory uses.

4 I built numerous retaining walls. The retaining walls ended
5 at something of a 70-foot buffer that we have to the west with
6 approximately 33 of drop. No requirements by the town. I went in
7 and I put guardrails and wood like the Northern State Parkway, so
8 that it's not unsightly, so it protects if, God forbid, somebody
9 accidentally drives down the hill and hurts the neighbors.

10 We put 40 feet of buffer to the -- what would that be -- that
11 would be the south and where the -- where the charging units are,
12 and I layered it with five or six layers of landscaping that are as
13 high as 30 to 40 feet now to prevent sound and visual impact on the
14 homes that were behind it, which were sold by Belemage. It was a
15 subdivision. We put up light poles with wood shields behind them
16 to prevent light casting into the neighbors' properties. Now, it's
17 again, the trees are so tall, maybe even taller than our light poles.

18 Apple has been one of our best tenants there, and they have
19 approximately 80 employees, all young kids. All of them are
20 constantly asking us for -- whether it's a bike rack or car charging.
21 Opportunity came that we found a reliable, very creditworthy,
22 responsible company, and they're -- you can check their background,
23 and we elected to go with IONNA and provide this charging station
24 to -- in our shopping center. Again, doing the right thing. Green
25 minded, this is the future. I ended up buying an electric car, and
26 I see the need for it, and it's kind of scarce opportunity to plug

1 in during daytime.

2 I have -- I sent you an email yesterday. I copied the
3 transcripts of the meeting that we had, the public meeting, and I
4 also added my own little explanation statement in the email, and
5 attached also affirmation from then Supervisor John Kaiman,
6 attesting to the statements that I made -- the comments that I made
7 in my statements, and what I'm saying today.

8 The parking restriction, the intent was 100 percent don't build
9 a building here. I was one of the neighbors that didn't want that
10 to happen. I offered that myself. Nobody came to ask us. I offered
11 it. It was my discussion, my offer. I will not build a building
12 here, but I built a beautiful parking lot, safe, large parking spaces
13 with proper lighting, proper -- we keep it clean, proper landscaping.
14 I've done it all, and I hear my neighbors' concerns, and I asked the
15 principal of IONNA just a few minutes ago, as Board Member was
16 concerned about the timing. The timing is -- you're right, the -- is
17 not active tenant or customer attending those hours. If you would
18 be satisfied, I will do my part to make our tenant turn them off at
19 night and turn them on in the morning. The tenants, Apple, sometimes
20 stays until 9:00, 9:30, 10:00. Schwab have their own -- by the way,
21 tenants change.

22 The answer to one of your comments was the second floor, Mitchell
23 Gold went bankrupt. It took us a long time to find a suitable tenant,
24 and we have signed a lease with a very creditworthy, suitable tenant,
25 retail tenant. Hopefully within the next couple of months that will
26 make an application for a building permit. We just opened another

1 great store by the name of Tile Bar. Tenants change, so the hours
2 of operation, as you said, is not needed overnight, and the tenant
3 is willing to restrict it -- happy to restrict after tenants close
4 and open early in the morning. The tenants sometimes stay late and
5 come in a little bit earlier. So, if you allow us that little bit
6 of flexibility, it would serve us, and it would not really impose
7 anything, in my opinion, to the surrounding. We're well buffered.
8 If you go to the property, you'll see.

9 Sorry, I spoke too long. I would like to request, if it's
10 permitted, I made copies of my email. If I can submit it as part
11 of the record.

12 CHAIRMAN MAMMINA: Sure.

13 MEMBER GOODSSELL: We have it.

14 MEMBER HERNANDEZ: If you emailed, it's in our record already.

15 MR. TORKAN: You don't need it anymore.

16 MEMBER GOODSSELL: No, we have the letter.

17 MR. TORKAN: Thank you for your consideration. You have any
18 questions for me?

19 CHAIRMAN MAMMINA: Yes. My question is, and I don't own an
20 electric vehicle, yet, but I certainly have friends that do. Let's
21 say just as the charging stations were turned off that -- I'm just
22 making that number up, 9:00, but my car has been plugged in. It's
23 still going to start, you know, when I get there, it's still going
24 to start. So, I'm saying just as a positive, I think that if there
25 was a commitment to turn them off, you know, at a certain time and
26 someone stayed until 11:00 at night and worked for Schwab, they'll

1 still be able to -- they'll still be able to go out and get their
2 car.

3 MR. TORKAN: They'll know --

4 CHAIRMAN MAMMINA: No one knew --

5 MR. TORKAN: There's a restriction that they have to do their
6 car charging by then. Is that -- I will do my part to convince our
7 tenant that -- or make whatever accommodations I have to make to make
8 that work if that eliminates the concern of overnight people coming
9 to charge.

10 CHAIRMAN MAMMINA: We'll see what people think as well.

11 MR. TORKAN: Thank you so much.

12 CHAIRMAN MAMMINA: Thank you.

13 MR. BLOOM: Mr. Chairman, Members of the Board, Paul Bloom;
14 Harras, Bloom & Archer, 445 Broadhollow Road, Melville, New York.
15 Appearing on behalf of the gentleman and his company that just spoke
16 with you.

17 I'm taking a different approach than was mentioned by Kathy in
18 her presentation, but they seem to meld together. Part of her
19 conversation and presentation to this Board dealt with our Memorandum
20 of Law that identified where are the credibility, where is the weight
21 to be given when you have ambiguities, and the fact is, we do have
22 ambiguities here, and we believe that the building department has
23 in fact misinterpreted what was the intent.

24 Now, I understand that the affirmation from the former Town
25 Supervisor was submitted, and you will see in there he points out
26 some of the ambiguities, and what are they? It was mentioned by Mr.

1 Torkan. What was the basis? What was the reason? What was the
2 history with respect to this C&R?

3 It is dealt with and addressed, I believe, in the last two
4 paragraphs of the supervisor's, former supervisor's affirmation, but
5 it is also in the documents themselves. The history of this itself,
6 and what we see, is in a -- in the C&R, the words no building or
7 structure. When you take a look at it, it's all in lowercase. It
8 is not initial capitalized. There is nothing that says building or
9 structure as defined under the village code -- under the town code,
10 and by the way, it doesn't mention that in any of the resolutions.
11 In all the resolutions, it's lowercase B and lowercase S, and never
12 is it indicated that those words mean anything else other than their
13 common usage.

14 Well, I'm looking out the window, and I see a building structure.
15 At what point do we understand why these C&Rs were included as part
16 of the resolution. Mr. Torkan has already really put his finger on
17 it.

18 From day one, having a structure, a building structure, on Lot
19 2 was the problem and the issue that took us years to be able to
20 overcome. So, if we look, just very briefly at the history, it's
21 been somewhat mentioned before, but we have a situation where in the
22 1940s, and I guess this is now a Bill Levitt. Levitt organization,
23 Bill Levitt, other than building his other smaller houses later on,
24 in the late 40s, built under the tag name of Strathmore, and
25 Strathmore and a Levitt house, when you say, oh, it's a Levitt house,
26 we first think of Levittown. Frankly, Levitt houses were

1 magnificent structures for the period, at that time, with amenities
2 associated with a very, very high end. That's what we have here,
3 and from -- though I've never seen it, though, I've been told about
4 it, there were in the dining room buttons on the floor under the table
5 so you could push that button so that somebody would come out and
6 then serve you.

7 Now, I will tell you, it may be hearsay, but I was told this
8 by a person who lives in a Levitt house. So, in 19 --

9 AUDIENCE MEMBER: What does -- (inaudible)

10 MR. BLOOM: In 1940, this was part of the Levitt Strathmore
11 development, run by Levitt, and it included a bathhouse. That's the
12 way it was referred to, which was a structure that had a pool. I
13 believe it had a small gym. There was tennis courts. There was
14 parking all associated. This was all part of -- part of Lot 2. In
15 Lot 1, it was zoned for Business, and that was owned and is owned
16 by Mr. Torkan and his company.

17 The zoning at that time was originally residential, Residential
18 A, but you could not put a recreational facility in a Residential
19 A property, and so at that time, the zoning was changed to a parking
20 district, which at that time, included the ability to have a
21 recreational facility, and so, from 1940 to 1992, plus minus, this
22 property is zoned as a parking for a parcel of land.

23 Mr. Belemage -- and reading through the records, everybody was
24 saying, may his soul rest in peace, was not necessarily somebody who
25 made friends easily. I'm sorry for speaking such, but I think that
26 is an accurate statement.

1 CHAIRMAN MAMMINA: Very.

2 MR. BLOOM: Bought the property. Actually developed the four
3 houses behind Lot 2, south of Lot 2, and then at some point in time
4 because of either non-use, abandonment, or otherwise, the bathhouse
5 was demolished, and what was left there was a disgrace in terms of
6 the condition of the property, the demolition, et cetera. But in
7 1992, Mr. Belemage, came up with an idea of making an application
8 to the Board, the Town Board to rezone the property from parking to
9 Business A zone. His intention was to build, at that time, untold
10 and looking through the record, an office building on that site. The
11 Town Board received a bit of concern, much more than the concern that
12 you see behind me, at that time, with respect to the possibility of
13 a building structure being built on that site, and the Town Board,
14 on its own motion, rezoned the property from parking to Residential
15 A, and the property has been in effect in my words that I -- I presented
16 to the Board back in 2011, 2012, was that this property by the creation
17 of a residential parcel in that location sterilized the property,
18 but it sterilized the property in a horrendous condition.

19 What was the intent? No building structure on that site.

20 How did they achieve that? By changing the zoning, and it's
21 been that way ever since. Until in 2011, when Mr. Torkan and his
22 group looked at that property. Understand, they had owned Parcel
23 1. He says --

24 MR. TORKAN: 50 years.

25 MR. BLOOM: -- 50 years. Well, easy 50 years. He, at that
26 time, wanted to make a small addition to the shopping center in the

1 front. He was able to do that without the benefit of any variance.

2 Why? Because he was able to build it within the bulk and also
3 parking on Lot 1 alone. He did not need this Board's approval. Even
4 after he added on to that structure. So, at the beginning, he had
5 a parking lot that was over-parked for the building, put an addition
6 on, and was still over-parked, but as he just indicated, he saw that
7 piece of land behind him. He too was concerned about a building
8 ultimately put back there, just as the people behind me, and the
9 people who appeared at the hearings in 2011 and 2012.

10 And what did he do? I'm going to now buy that piece of property.
11 As he indicated, he entered into lease first with the condition,
12 ultimately bought that property.

13 And what did he do? He added more parking and said from day
14 one, there will not be a building on that property, and we agreed
15 to have a covenant and restriction that says there will not be a
16 building on that property.

17 As you go down, we needed no FAR; we needed no parking
18 requirements. We met them all.

19 If you take a look at the language of the two resolutions, the
20 site plan resolution, and also the zone change resolution, in the
21 site plan resolution on October 2, 2012, the second item under resolve
22 is there shall be no accessory buildings habitable or otherwise
23 permitted on the premises. That's what was the intent. Keep that
24 property without a building.

25 If you go back to May 29, 2012, in the resolve, it says, no
26 building or structure shall be constructed other than an accessory

1 structure associated ongoing parking exclusively in conjunction with
2 the operation commercial building located adjacent, and then it goes
3 on to say, parking available on Lot 2, the empty lot, shall not be
4 considered off-street parking in accordance with the applicable
5 codes. Again, indicating what is the concern?

6 Are we talking about an EV charging? Are we talking about a
7 shed? Are we talking about a light pole? We're talking about the
8 concern of the community as expressed through the years and the
9 concern of the town; no building on the property.

10 Is there a misuse of saying building or structure? The answer
11 is in colloquial language; we will be talking about building a
12 structure, does that mean the structure that is a circus tent, which
13 is defined under the code of the town, or a gospel tent? That's under
14 the code. That's what is a definition of structures. They have
15 examples and things such as.

16 Was the thought in the minds of the people in the town and in
17 the neighborhood, oh, my God, we need to have this word in here. We
18 need it -- because we have to make sure we don't get an EV charging
19 station in this lobby in 2011.

20 Now, I've had an electric car for over ten years. I know when
21 I purchased that car, and it took me a long time -- this is the third
22 one I have -- a long time to make that decision because I was concerned
23 about what the distance would be, and also where to be charged. And
24 if I tell you that for the first number of years I owned that first
25 car, I was very cautious mapping out where I was going and how far
26 it was going to take me to go there and to come back and looking to

1 see where I can hopefully find an EV charger. Not that easy. So,
2 I can tell you without question 2011, 2012, there was no concept of
3 this whatsoever, but what was the concept is we don't want a building
4 on this property.

5 I took a look at the transcripts of those hearings. I have on
6 one page here, and I believe it might have been also sent to you the
7 transcript of 7/19, page 26. I don't know by the way, if these people
8 or anybody that I'm going to mention is here this afternoon, but a
9 Ms. Samella, who I believe was, at that time, the president of the
10 Strathmore Village Civic Association, puts on the record, "I spoke
11 with the developers last week and I was under the impression that
12 any change in the ownership of this property, there would be a
13 restriction on the deed limiting additional building at the site."

14 Now, that was responded to by the supervisor, Mr. Kaiman at that
15 time. "Well, I understand that that's been told, but I don't know
16 whether or not that was going to be in effect."

17 We also have on page 30 of the same transcript, and I hope I'm
18 pronouncing correctly, Primosch, P-R-I-M-O-S-C-H, a Marie Primosch,
19 at 34 Mill Spring Road talking about the proposal for the change of
20 tone and for the C&R, and she ends her statement by saying, and this
21 is now referring to her son. So, he points to the lot where they
22 want to change the zoning, and he said, "you know, what the next thing
23 is going to be? Another big building over there."

24 Consistent.

25 What are we looking for? These are buildings, not accessory
26 structures.

1 At the hearing of May 8, 2012, we have a Mr. Ralph Giordano who
2 lived at 149 Rockcrest Road. He states in his presentation to the
3 Board, "but my master bedroom window's face the parking."

4 Going down.

5 "I don't want to look at anything other than open space, you
6 know. I don't want a house of worship. I obviously don't want a
7 commercial office building, and I certainly don't want any more
8 stores. I support this plan because it gives exposure to the risk
9 for something will ever be on this property."

10 What's this something to be on this property? A building, not
11 an accessory structure.

12 "I don't want to leave it up to fate that our luck might
13 eventually run out and someone builds something on this property."

14 I don't know whether or not this person who was here but had
15 a brief grasp on the history and he fully abandoned.

16 Guillain-Barre put on the record most of where I was able to
17 obtain the history of what occurred here with respect to what goes
18 here. What's the zoning in? When did it happen and why? And what
19 he says in part of his presentation; the requested rezoning. That
20 rezoning, being to Business A, referring to Mr. Belemage, would allow
21 officers or, in this case, other commercial uses to encroach on the
22 residential neighborhood, and would alter the character in the
23 residential neighborhood. You don't have a building there because
24 of Mr. Torkan.

25 A Mr. Larre, who lived at 137 Rockcrest Road. "In terms of the
26 commercial encroachment is very important to me as a resident. Just

1 about a couple of hundred feet away from the property that there is
2 no building structure that is on the property." A building
3 structure. A building, not a kiosk.

4 I think the plan will provide final resolution to that. So,
5 to provide that the protections are incorporated into the rezoning
6 and will ultimately protect the community from the further building
7 on the property, increasing the square footage of the existing space
8 beyond what is currently there as-of-right into those conditions
9 incorporated.

10 We're talking about a community that I think with all due respect
11 have a serious concern about what was going to be there.

12 Were they concerned about an EV charger? No. They were
13 concerned about one thing, which then resulted in a C&R being adopted,
14 which I say was not -- I have to also admit I was part of it, not
15 very well drafted, but it was used in the same context as it was being
16 intended. It was being intended to be that which is colloquial, not
17 as per the code -- not the definition of the code is.

18 Now, in addition, at the end of that, there was some discussion
19 about a possible religious use for the site, et cetera, and other
20 uses that were theoretically contemplated. Supervisor Kaiman said,
21 "there's been applications for a number of different things over the
22 years. At one point, they wanted to put some stores back there, and
23 another point they wanted to put houses. I think there were some
24 other variations of this over the years, but they were all rejected."

25 They were rejected because the town listened to the community.
26 They said we don't want a building on this site. Well, frankly, you

1 don't have a building on the site. And so, they got exactly what
2 they wanted. They're now looking to expand this to something which
3 has nothing to do with the history of this site.

4 But let me then also read something into the record. This is
5 the May 8, 2012, record, and unfortunately, the counsel for the
6 opposition was not available that evening. Mr. Migatz was otherwise
7 engaged or ill or maybe -- I don't know.

8 MR. MIGATZ: I was tired of listening to you babble on. That's
9 why I --

10 MR. BLOOM: That's it. There you go. That is good.

11 (Applause from Audience Members.)

12 MR. BLOOM: I am complimented by that comment.

13 AUDIENCE MEMBER: It's not a compliment --

14 AUDIENCE MEMBER: -- (inaudible)

15 MR. BLOOM: He then had somebody from his office come, and when
16 it came to the question of the C&R, I will quote, "and as Mr. Bloom
17 has pointed out, the applicant has represented that no part of the
18 parking area, if it's rezone should be used to compute the required
19 parking, so the gross floor area would not be increased by using that
20 area."

21 AUDIENCE MEMBER: -- (inaudible)

22 AUDIENCE MEMBER: -- (inaudible)

23 MR. BLOOM: What are we talking about? Where do you get gross
24 floor area? Where do you get parking? I mean this is what this Board
25 does.

26 There, it was even noted that what we were talking about the

1 entire time was what was going to be on the site, and the town and
2 the residents got exactly what they were promised.

3 As I indicated --

4 AUDIENCE MEMBER: One more page.

5 MR. BLOOM: EV charges as accessory use was never considered
6 back at that period of time.

7 But I'll leave you with this story.

8 AUDIENCE MEMBER: Finally.

9 AUDIENCE MEMBER: Yay.

10 AUDIENCE MEMBER: -- (inaudible)

11 MR. BLOOM: Were we to get a permit for a valet shed, maybe it's
12 even weatherized, in the same location as the EV chargers, where the
13 valet is paid by the user, same situation as me not collecting any
14 money, would that -- would that be something that would create the
15 issue with the building department as this has? They have totally
16 misconstrued what the intent -- what the history is, and have
17 complicated and combined an issue, which is not an issue, and that
18 is, is this a building? And if it's a structure, it was meant to
19 mean a building at that time.

20 (Applause from Audience Members.)

21 SECRETARY WAGNER: That's the applicant. We will call from the
22 audience. Doug Dreyer?

23 AUDIENCE MEMBER: We want to have the attorney --

24 AUDIENCE MEMBER: We have an attorney.

25 AUDIENCE MEMBER: Yeah, we have an attorney.

26 SECRETARY WAGNER: Oh, I'm sorry.

1 AUDIENCE MEMBER: He's being paid.

2 MR. MIGATZ: May I go first?

3 AUDIENCE MEMBER: He's on the clock.

4 MR. MIGATZ: Am I okay?

5 SECRETARY WAGNER: Yes. Deborah?

6 TOWN ATTORNEY ALGIOS: Okay.

7 MR. MIGATZ: Bruce W. Migatz, law firm Albanese & Albanese, 1050
8 Franklin Avenue, Garden City. I may need more than three minutes.
9 If you can indulge me.

10 I, too, was involved in drafting that restrictive covenant with
11 Mr. Bloom, and when I used the term structure, I did not mean a
12 building. I meant a structure, and to go far-fetched to say, well,
13 it's in a small S, not a capital S.

14 If this Board remembers, the building department considers a
15 swing set a structure that requires a permit, and is not allowed in
16 a front yard setback, and I said to Mr. Norjen, well, that's not
17 defined in your structure. You have a circus tent; you have this
18 tent, but you don't say a swing set, and he said, well, structure
19 is defined in the code as a combination of materials, and a swing
20 set is a combination of materials and is a structure, and that is
21 what is in the restrictive covenant. I helped draft it. It was
22 revised many times, and I don't know what Mr. Bloom's intent was,
23 maybe it was this, but my intent on behalf of the residents at that
24 time was not to have any building, not to have any structure; period.

25 Now, if a swing set is a structure, are you going to tell me
26 a \$1 million set of EV batteries is not a structure?

1 And it's not really the restrictive covenant that is at issue
2 here.

3 The building department's letter revoking the building permit
4 refers to the change of zone was subject to a condition. The
5 restrictive covenant just really puts that out there for the record
6 for people to see, so they're on notice. That was one of the concerns
7 of the civic group at that time.

8 Another concern was that down the line the code may change, and
9 we want to be so grandfathered in without covenant that also
10 protections.

11 And forget about the covenants. Forget about the resolutions.
12 The town code that regulates parking. This is zoned parking
13 district. Forget about the restrictive covenant.

14 The parking district zone says, 71-05, "the property included
15 in the parking district shall be used for any purpose set forth in
16 this park and for no other; open air, ground level parking of
17 automobiles or other vehicles. In no case shall the storage,
18 servicing, dismantling of automobiles or other vehicles be
19 permitted."

20 Mr. Hernandez took the words out of my mouth. This is a
21 business. They're leasing to a business that is servicing
22 automobiles. They spent \$1 million to service automobiles because
23 electricity -- it's a business that's servicing automobiles. Forget
24 about the cognitive, forget about the resolutions, forget about
25 testimony. The code says you cannot service automobiles in a parking
26 lot.

1 Let me correct some errors that I say were errors that were
2 spoken. It was not meant personally. Believe me I understand.
3 Attorneys advocate for their client, as do I.

4 CHAIRMAN MAMMINA: Everyone has a job to do.

5 MR. MIGATZ: But Ms. Dickson said that the permit was lawfully
6 issued, but not according to the building department. That's why
7 they revoked it. If it was lawfully issued in their minds, they would
8 not have revoked it. So no, they allege it was lawfully issued. The
9 building department says it was issued in error.

10 She said that their use is fully compliant with zoning. Not
11 according to the building department. They revoked the building
12 permit because they said it's not complying with Department of
13 District Zone; not complying with changing zone resolution. So,
14 that's their allegation.

15 This hearing could've been ended a long time ago because the
16 applicant went into issues not before this Board. The issue before
17 this Board is was the building permit properly revoked? And that
18 goes back to what occurred when they revoked the building permit.
19 Not what they are saying now, what they're going to do, but what was
20 on that application, and the building permit letter does not say they
21 misrepresented. They cited the section of code that refers to that,
22 but the building department letter revoking says that they were
23 misled. That they were not informed that this charging station is
24 not limited to the customers of the building, and it also says,
25 another ground is, if we made a mistake, we can revoke it, and they
26 say issued in error we can revoke it.

1 I was at a meeting with Mr. Bloom, your attorney, Ms. Algios,
2 and Mr. Nicollelo when the residents complained, and a stop-work
3 order was issued. At no time in that meeting did Mr. Bloom say that
4 this is restricted to the customers of the building. We had a long
5 discussion about charging stations put in at the New Hyde Park behind
6 Eddie's restaurant that had been -- we talked about it. It's a
7 disaster, and I said, people come from all over the place. They're
8 taking up all the parking spaces. It's a mess. Mr. Bloom didn't
9 say, well, we're not going to have that. They're just coming from
10 1900. We talked about the fact that it's on their website. We
11 talked about the fact that anybody can locate this, but that was the
12 information in front of the building department when they revoked
13 the building permit. So, it was revoked on information that this
14 is not limited to 1900 Northern Boulevard, and therefore it was issued
15 improperly.

16 End of story. Once a building permit is revoked -- I'm
17 surprised Mr. Norjen is here to defend himself, but. My
18 understanding is you submit a new building permit application. This
19 one is revoked. So, submit a new application, and -- I was born at
20 night, but not last night. But if you want to convince everybody
21 that you're going to enforce -- you're going to stop people from all
22 over North Hempstead from coming in and using this charging station;
23 good luck.

24 That's a different fight. They would have to submit that a new
25 permit application. This is what we're doing. This is how we're
26 going to control it, and then we'll be back here; no doubt.

1 But the issue right now is based upon the information the
2 building department had, was the permit revoked correctly? The
3 answer is yes, and I'm sure Mr. Bloom is not going to deny the
4 conversation we had with your attorney was there, where we talked
5 about everybody coming on the app, and by the way, if you go to Plug
6 In, they do have that, that restriction. They say 5:00 A.M. to
7 12:00 -- from 5:00 A.M. --

8 AUDIENCE MEMBER: Midnight to 5:00 A.M.

9 MR. MIGATZ: No, they say it's available. 12:00 A.M. to 5:00
10 A.M. On their presentation, their addendum, they say, well, we'll
11 make it 7:00 A.M. to 10:00 P.M., so they're contradicting what they
12 have, and Plug In says, this is based on information that we received
13 from IONNA, but if you go to IONNA's website, they don't have that
14 limitation. They say coming soon. Manhasset and they don't
15 have -- I'll submit this as an exhibit. On their website, they don't
16 have any restriction. They can only be used by customers in Northern
17 Boulevard. No restrictions. This is on IONNA's website.

18 MR. PERROTTA: This will be listed as Opposition Exhibit 1.

19 MR. MIGATZ: Again, I have my own recollection of what
20 transpired way back when. But it's not relevant. What's relevant
21 now is what does the code say, and what the code says is only accessory
22 parking only for the adjacent building.

23 If they want to make an application, new application for new
24 building permit and try to convince the building department that
25 we're going to use this just -- only can be used by the people in
26 the building, they can make that application.

1 Again, nothing personal, but for Mr. Torkan to say he'll use
2 his best efforts, I think you said, to convince the tenants to turn
3 off the machine. Last one leave, turn the lights off. That doesn't
4 happen in my office. Turn off that copy machine. I come the next
5 day, the copy machine's still on. Come on. Come on. Again, I was
6 born at night, but not last night. Nor were you. That's not going
7 to happen.

8 And the police. You can't get the police to give tickets to
9 these crazy kids on EV-bikes. What's that? Oh, he's charging his
10 car. Okay, I'll be there when I get there. The police aren't going
11 to enforce that. Nobody's going to enforce that. The residents are
12 going to be the ones. But again, that's not part of this application.
13 That's going to be the next application here before the Board. But
14 right now, there's nothing presented to this Board that said, at the
15 time that permit was revoked, the building department acted on false
16 information. They acted on what they were told by the meeting with
17 the town attorney, the deputy town attorney, and the attorney for
18 the property.

19 Thank you for allowing me to speak more than three minutes.

20 (Applause from Audience Members.)

21 CHAIRMAN MAMMINA: Okay, we will move to our list.

22 SECRETARY WAGNER: Doug Dreyer?

23 CHAIRMAN MAMMINA: Again, I will say, we limit to three minutes.

24 MR. DRYER: I'll try to limit it. I'll go very quickly.

25 SECRETARY WAGNER: Hold on for a second.

26 CHAIRMAN MAMMINA: We limit to three minutes, but we're not,

1 I like to say chopping anybody's head off.

2 MR. DRYER: Play music.

3 CHAIRMAN MAMMINA: And we just asked that we try not to repeat
4 each other because if it's on the record ten times or one time, it
5 has the same --

6 MR. DRYER: Makes sense.

7 CHAIRMAN MAMMINA: I'll underline try.

8 MR. DRYER: Doug Dryer, 176 Dover. I've been a Manhasset
9 resident for over 30 years. So, I was also personally involved in
10 2012, and back then Apple came in, and we had more traffic than the
11 parking lot could handle; with The Gate, with Crate and Barrel, with
12 the loading lanes, we had real problems. So, the landlord, as he
13 said, he proposed bringing on additional parking spaces to relieve
14 congestion, traffic congestion. So, that green space that was the
15 bathhouse was brought in and made parking spaces. The entire parking
16 lot was re-construed, re-flowed traffic plans, and it worked well.
17 So, Godspeed, that was good.

18 Now, interesting to this is The Gate access brings all the
19 residents from the community out to Northern Boulevard. So, this
20 is a very unique situation. We're talking about Parcel 2, the
21 property that was added to the parking. Parcel 1 are the retail
22 stores, just from Apple down to Charles Schwab. That's Parcel 1.
23 Parcel 2 is the parking.

24 So, this was stated, as mentioned, "no building or structure
25 may be constructed, erected, located, or placed on Parcel 2."

26 Now, this morning in one of the other appeals, it was mentioned

1 about a bench, and someone said a bench is considered a structure.
2 So, if a bench is a structure, what the hell is \$1 million investment
3 with 12 mega chargers, lined up 40 or 50 feet from the four residences
4 that are right behind the parking lot? It's absurd.

5 This proposed IONNA facility is fundamentally different from
6 accessory parking use. It is a new commercial fee-based electric
7 vehicle charging facility that provides energy to the general public.
8 If you look at their website, they are backed by the eight largest
9 EV manufacturers in the world. Their intent is not to service those
10 six or seven buildings in 1900 on Parcel 1. It is a public access
11 charging system. That's what it is. It's reasonable to assume it
12 will have significant effect on not only parking availability,
13 internal traffic, and vehicle queuing, which has never been discussed
14 or diagnosed in any of these meetings.

15 Now, and I'll move to my end here. The other thing that the
16 Board should consider, finalizing this approval, despite the
17 restrictions that are clearly stated, would undermine public
18 confidence in the negotiated zoning conditions and established
19 precedent suggesting recorded land use protections may be
20 circumvented through inadvertent issuance of a permit or other forces
21 to be construed.

22 So, we have to be very careful. So, that the justification
23 presented for the rezoning and additional parking to reduce the
24 overall congestion, initially in 2012, reducing those parking spaces
25 and adding this additional traffic, that we don't even know what it
26 is, works directly against the reasoning of why 2012 occurred, why

1 the property was added, why the parking spaces were added, why the
2 covenant was introduced.

3 (Three-minute timer rings.)

4 MR. DRYER: So, I would just ask you to consider that.

5 One final note, if you look at the website, the IONNA website,
6 they have amenities, restrooms, and food listed here. Where are the
7 restrooms? As I said to Jen DeSena the other day, we have pictures
8 of one of the guys pulling up with the tees in the license plate,
9 they're already peeing in the God damn woods right there looking at
10 the chargers, and they're not even open. That's the restrooms.
11 There are no restrooms.

12 So, just be careful because New Hyde Park behind Eddie's and
13 Willis Avenue with CVS, they're disasters, and we're going to open
14 up and have more volume against this IONNA than they have. It will
15 be a nightmare. Thank you for your consideration.

16 CHAIRMAN MAMMINA: Thank you, sir.

17 (Applause from Audience Members.)

18 SECRETARY WAGNER: Rosa Troia?

19 CHAIRMAN MAMMINA: Please give your name and address.

20 MS. TROIA: Good afternoon, Members of the Board. My name is
21 Rosa Troia. I live at 76 Dorchester Drive, Manhasset. I am a
22 27-year resident and co-vice president of the Strathmore Village
23 Civic Association.

24 I am here today to respectfully request the Board deny IONNA,
25 LLC's appeal and leave in place the building department's revocation
26 of permits for the level-three fast-charging installation at 1900

1 Northern Boulevard.

2 This is not about EV charging. This is about one parcel and
3 the promises made about it. In 2012, the landlord, residents, and
4 the town agreed under Resolution 338-2012 that this parcel would
5 function only as a parking lot, memorialized in a covenant.
6 Permitting no structure beyond an on-grade lot serving the adjacent
7 commercial building.

8 What sits there now is not that. Equipment, pedestals,
9 cabinets, transformers, and conduit now occupy the site. These are
10 affixed structures, not parking. In a separate income-generating
11 charging business on a land protected by covenant for 14 years.

12 Members of the Board just this afternoon, as mentioned, a bench
13 or a small statue is considered a structure. A bench was in need
14 of a structural variance just this afternoon.

15 It's public network cannot in practice be 100 percent limited
16 to the customers of 1900 Northern Boulevard. 100 percent
17 enforcement is not enforceable or feasible.

18 Why is the onus of enforcement on the town and on the residents
19 now?

20 Other level-three sites show vehicles arriving solely to
21 charge, producing turnover, and queuing well beyond retail parking.
22 For residents, drivers likely routed through Strathmore streets to
23 dodge signals and congestion on Northern Boulevard and Searingtown
24 Road.

25 High-powered electrical equipment next to homes also raises
26 emergency access concerns. Exactly the kind of impact that belongs

1 to the town's public site plan review, where residents receive notice
2 and a chance to be heard.

3 This installation does not qualify as a minor modification, and
4 no permit can extinguish a covenant that runs with the land.

5 The building department was right to revoke these permits, and
6 this Board has the authority and the responsibility to require the
7 review this project always should have; site plan, traffic and safety
8 review, and a real accounting for the neighborhoods next door.

9 This concern is not limited to a handful of Strathmore
10 neighbors.

11 (Three-minute timer rings.)

12 MS. TROIA: A change.org petition opposing this proposed DC
13 fast-charging facility in Manhasset -- excuse me, has already
14 gathered more than 855 independent signatures.

15 My questions from today, the one -- the one question that we
16 all have is, why was Parcel 2 selected if it was already serving as
17 its purpose of a parking lot? Why not keep all of the businesses
18 including the IONNA fast-charging facility together on Parcel 1?

19 Also, request to know what are the plans with the placement of
20 its parking lots snow from the landlord? Parcel 2 was where the
21 removed snow melted slowly through the winter. The answer was
22 received this past winter. It was piled 10 feet high on the islands
23 between 1900 Northern Boulevard and the next commercial tenant.
24 Residents were left to take our lives into our own hands multiple
25 times a day over the course of a month due to our extremely harsh
26 winter.

1 What guarantees of enforcement can we stand on based on this?

2 The residents are asking for one thing, that the protections
3 promised in 2012 meant what they said they meant. We respectfully
4 request the Board uphold the revocation, deny reinstatement, and
5 withhold any certificate of completion until it confirms that the
6 installation complies with resolution number 338-2012 --

7 CHAIRMAN MAMMINA: Ma'am, with all due respect, can you give
8 it --

9 MS. TROIA: Yes, I'm almost done.

10 CHAIRMAN MAMMINA: Because also, you can submit those
11 documents --

12 MS. TROIA: Yes, I'm done. I'm done. I'm sorry.

13 CHAIRMAN MAMMINA: Thank you. Because we know how important
14 that is.

15 MS. TROIA: Yes.

16 And that the written covenant to which Town of North Hempstead
17 was a party.

18 Thank you all for your time, and for weighing these concerns
19 in this extremely important matter.

20 (Applause from Audience Members.)

21 SECRETARY WAGNER: And just so everyone knows, all the letters
22 that were submitted were submitted to the Board, so they do have
23 everything in writing.

24 CHAIRMAN MAMMINA: Yes, we do. We have a whole chunk of them,
25 and I've read each of them.

26 SECRETARY WAGNER: Next person is John Teutonico? Louise

1 Teutonico?

2 (No response given.)

3 SECRETARY WAGNER: Maria Pescatori?

4 MS. PESCATORI: Good afternoon. My name is Maria Pescatori.
5 I live at 97 Dorchester Drive in Manhasset. I'm here today to
6 strongly oppose IONNA's appeal and urge you to uphold the building
7 department's revocation of the electrical permit.

8 CHAIRMAN MAMMINA: Just slow down one little bit, as I
9 mentioned.

10 MS. PESCATORI: Please deny the appeal and require removal of
11 the charges.

12 The landlord himself had just stated I agreed with the town to
13 use the parking only. He did not state anything of a business or
14 a structure.

15 A row of green giant trees was removed as a barrier to the new
16 homes that are existing there to place a large electrical structure
17 to how, you know, to provide service to those 12 units. This is still
18 what is there today. There's only one row of a barrier preventing
19 any noise to the neighbors. Thank you.

20 CHAIRMAN MAMMINA: Thank you so much.

21 (Applause from Audience Members.)

22 CHAIRMAN MAMMINA: We think everyone should come because we
23 think it's important.

24 SECRETARY WAGNER: Corrie Klimerman?

25 AUDIENCE MEMBER: She had to leave.

26 SECRETARY WAGNER: Daniel Torkan and Kris Torkan? You already

1 spoke?

2 MR. TORKAN: I already spoke.

3 SECRETARY WAGNER: Connie Bryno?

4 MS. BRUNO: Bruno.

5 SECRETARY WAGNER: Bruno, sorry.

6 MS. BRUNO: Can I just say I agree with the opposition?

7 VICE CHAIRMAN FRANCIS: Of course.

8 MS. BRUNO: Thank you. 25 Norgate Road.

9 CHAIRMAN MAMMINA: What was your address again?

10 MS. BRUNO: 25 Norgate.

11 CHAIRMAN MAMMINA: Again, just for everybody that carries the
12 same weight as everything that was said.

13 SECRETARY WAGNER: John Misinikos?

14 MR. MISINIKOS: I agree. Opposed.

15 SECRETARY WAGNER: Kristen Connolly?

16 MS. CONNELLY: Can I just stand?

17 SECRETARY WAGNER: If you want to speak you have to come up?

18 CHAIRMAN MAMMINA: Come on up. TV cameras are on.

19 MS. CONNELLY: Kristen Connolly, 20 Albemarle Road, and I
20 oppose the installation of the chargers. I'm here also on behalf
21 of my husband who's a New York City chief in the New York City Fire
22 Department. He has some strong opposition to this due to a different
23 fact. That the lithium-ion battery fire -- I'm sorry, I'm terrible
24 with this.

25 The possibility of lithium fire. So, and the Manhasset Fire
26 Department is not equipped to deal with these type of fires. He said

1 it takes about 3,000 gallons of water to extinguish a fire, and
2 there's no guarantee even after that that the fire is not going to
3 reignite. The smoke that is released from these lithium batteries
4 is also extremely toxic, and as we are all here for that purpose,
5 we all live here, and live right behind these stations.

6 I oppose.

7 (Applause from Audience Members.)

8 SECRETARY WAGNER: Maria Aliventi?

9 AUDIENCE MEMBER: She's not here. She had to leave.

10 SECRETARY WAGNER: Theresa Larre?

11 MS. LARRE: I'll put these -- read with my thoughts here as I
12 know they have already been said.

13 SECRETARY WAGNER: You have to put your name --

14 CHAIRMAN MAMMINA: Name and address.

15 MS. LARRE: Okay, I will.

16 My name is Teresa Larre, and I live at 137 Rocks Road in
17 Strathmore Village. I was president of the Strathmore Village Civic
18 Association when we negotiated with Kris Torkan, the current
19 landlord, the future of this piece of property, Parcel 2.

20 After many hours of discussion and analysis regarding traffic
21 patterns, light effects, air and noise pollution, it was agreed that
22 we would change the zoning of this piece of property from residential
23 to parking along with strict enforceable covenants.

24 These covenants were stated and written to protect our
25 neighborhood and our community from future situations just like this.
26 These covenants must be enforced.

1 I strongly oppose the appeal that IONNA has regarding the
2 revocation of this permit. This property was never intended to be
3 used to conduct business. Although this is not a brick-and-mortar
4 commercial business, this is almost in fact -- this is in fact a
5 profitable business, probably worse than the consequences than a
6 brick-and-mortar building business.

7 An electric charging station to be open 24 hours a day, seven
8 days a week is not classified as an accessory to the Apple Store.
9 This is a business open to the public for Uber drivers, Lyft drivers,
10 and all people owning electric vehicles.

11 Allowing IONNA to continue this project on this piece of
12 property negates all of the covenants that we compromise and work
13 so hard to get into place. The increased traffic, the increased risk
14 of robbery, the increased danger, the increased chance of extreme
15 fire, which we are not equipped to handle, the increased evening
16 light, the increased noise, the increased trash, and worse, the
17 display of public urination that will be brought along with this type
18 of business is not acceptable here.

19 This is a business which has been advertised on the internet
20 as a huge electric charging station open to Uber drivers, Lyft
21 drivers, and basically anyone owning an electric car, who can charge
22 their vehicle all night long, all day long, seven days a week, et
23 cetera.

24 We do not want any of this business on this parcel. We are
25 asking you to enforce and to continue to enforce these covenants that
26 we all fought so hard to have to protect our neighborhood.

1 Again, let's not be fooled by what they're trying to convince
2 you to -- convince this Board what this is. This is not an accessory
3 to Apple employees. This is an advertised business on their website.
4 A full-blown electric charging vehicle station that will accompany
5 anyone and everyone at all times of the day.

6 I strongly oppose this. Thank you very much.

7 (Applause from Audience Members.)

8 CHAIRMAN MAMMINA: Thank you.

9 SECRETARY WAGNER: Lucy Pulma?

10 AUDIENCE MEMBER: She had to leave.

11 SECRETARY WAGNER: Angela Dooley?

12 AUDIENCE MEMBER: She had to leave.

13 SECRETARY WAGNER: Jeanne Sylvia?

14 MS. SYLVIA: I'm here. I oppose.

15 SECRETARY WAGNER: Serafin Cammano?

16 CHAIRMAN MAMMINA: Good afternoon, name and address, please.

17 MR. CAMMANO: Good afternoon, Serafin Cammano, 71 Rockcrest
18 Road. I live directly behind the lot, and I won't repeat what
19 everyone else has said, but I don't think it's safe, and I 100 percent
20 oppose.

21 I walk past that installation every day, and there's a
22 high-pitched whistling sound that's emitted. I don't want that
23 directly behind my house, especially under the questionable
24 circumstances on which it was built, so I oppose.

25 CHAIRMAN MAMMINA: Thank you very much.

26 (Applause from Audience Members.)

1 SECRETARY WAGNER: Ting Dai?

2 MS. DAI: My name is Ting Dai, and my husband, James Wong, living
3 at 81 Rockcrest Road.

4 Those charges are just below my window. The lady said that the
5 big -- it is a building. Big transform things just right there, and
6 I can hear the sound. So, I -- if I open the window, I can hear those
7 sounds, and it really bothers me. I bought that house and not expect
8 I'm living in the commercial area. This is a residential area. I
9 want to have a peace and a nice environment. So, I'm strongly
10 opposed. Thank you.

11 (Applause from Audience Members.)

12 CHAIRMAN MAMMINA: Thank you, ma'am. We appreciate it.

13 SECRETARY WAGNER: Elizabeth Procaccino?

14 MS. PROCACCINO: I concur with everybody. I live in Manhasset.
15 I've been a resident for the past 35 years.

16 MEMBER GOODSELL: Put your name and address on the record.

17 MS. PROCACCINO: Oh, 179 --

18 MEMBER GOODSELL: Come on up here.

19 VICE CHAIRMAN FRANCIS: Come up to the --

20 MEMBER GOODSELL: Put your name and address --

21 MS. PROCACCINO: No, I don't want to --

22 CHAIRMAN MAMMINA: No, no, no. Just your name and address.
23 That's all, and say I'm opposed. That's all.

24 MS. PROCACCINO: Elizabeth Procaccino, 179 Aldershot Lane,
25 Manhasset, New York.

26 I concur with all my fellow residents that have done such a great

1 job at presenting, and I disagree with a lot of the facts of the
2 history that we heard about Levitt and the building of our community,
3 but that's a whole other story.

4 So, I oppose. Thank you.

5 (Applause from Audience Members.)

6 CHAIRMAN MAMMINA: We appreciate everyone coming.

7 SECRETARY WAGNER: Leonard Wolf?

8 MR. WOLF: Hi, my name is Leonard Wolf. I live at 95 Dover Road.

9 CHAIRMAN MAMMINA: Good afternoon.

10 MR. WOLF: So, I apologize, I don't -- I didn't have a prepared
11 statement. So, these are some random thoughts after listening to
12 what I've heard.

13 CHAIRMAN MAMMINA: That's absolutely fine.

14 MR. WOLF: Okay.

15 CHAIRMAN MAMMINA: I work mostly off of random thoughts.

16 MR. WOLF: So, the first thing, my quick comment on it, it was
17 mentioned that this is long-standing -- it was mentioned that this
18 was long-standing policy, and I don't think the definition of
19 long-standing policy fits here. This is new policy about EVAs and
20 new cars. So, I don't think we have a long-standing policy that was
21 mentioned previous. I think this is something that's very new.

22 Another comment that was made was that this was supposed to be
23 a new parking lot, one of the people here said. This is not a new
24 parking lot. So, another comment, and answer to that.

25 With all due respect and apologies, Kris, I think is the owner,
26 he doesn't even take care of the landscaping on the property. If

1 you have been there and you compare the landscaping on one side and
2 the other side, there are weeds, there are dead bushes. They do not
3 take care of the landscaping on the property at all. They
4 don't -- they clearly don't care how it looks. So, I
5 don't -- expecting them to monitor this situation and control who's
6 there and who's not there and what hours, is kind of a joke. Sorry.

7 Clearly, these are structures. I don't think we need to argue
8 about that anymore. There was a long -- it went on and on and on
9 about how these aren't structures. These are clearly structures.
10 It doesn't have to be a building to be a structure.

11 Traffic. Were any traffic studies done at all? In some of
12 these other places that were referred to that are disasters. Traffic
13 down Village Road is already bad. People speed down that road as
14 it is. People cut through as it is. Once these chargers go into
15 effect, it's just going to get ten times worse.

16 This whole thing about use for people shopping and stuff, and
17 then it was mentioned that employees matter also. So, we're going
18 to -- we're going to care about -- no offense, but we're going to
19 care about a few Apple employees versus all the people that live there
20 that have invested their life savings and homes, and -- but we're
21 going to take care of the Apple employees that may show up early or
22 Charles Schwab people that may work late, and ignore all the people
23 that live in Strathmore, and you know, and that are there going back
24 and forth every day.

25 (Three-minute timer rings.)

26 MR. WOLF: Oh, and then, we went -- another person went on and

1 on about what people said without those people being here to represent
2 themselves, and I would like all those people that you mentioned that
3 made --

4 CHAIRMAN MAMMINA: Sir, it's got to be to us.

5 MR. WOLF: Sorry.

6 All those people that were --

7 CHAIRMAN MAMMINA: The three-minute bell rang, but I'm not
8 telling you have to --

9 MR. WOLF: I'm almost done.

10 All those people that were mentioned that made comments
11 previously, I would like all those people to be brought back in again
12 and asked what they think about these chargers today.

13 And then finally, what -- where's the power coming from, and
14 how is it going to affect the neighborhood? Has anybody done studies
15 on that? Because we already have power issues in the neighborhood.

16 So, anyway, that's it. Thank you for your time.

17 CHAIRMAN MAMMINA: We appreciate it. We do.

18 AUDIENCE MEMBER: You did a good job.

19 (Applause from Audience Members.)

20 SECRETARY WAGNER: Laurie Dermott?

21 MS. DERMOTT: Again, I feel like I've been here all day.

22 Laurie Dermott. 95 Dover Road.

23 So, just to reiterate a little bit. I agree with what everyone
24 said and the concerns about trash, pollution, air pollution, noise
25 pollution, et cetera, et cetera.

26 I also want to comment just about the current flow of traffic

1 there because it was mentioned that back in 2012, which we were also
2 a part of that hearing that everybody was so concerned about the
3 traffic, and that's just not true. The reality every day in that
4 just flowing between Strathmore to Northern Boulevard is somebody
5 is always driving up the wrong side of the road, coming at you, turning
6 across between the two lots, having to slam on your brakes, constantly
7 paying attention to what everybody else is doing because people do
8 not know what they're doing in those parking lots or between those
9 parking lots, and also can't even begin to tell you how many times
10 when you get to the light you also offer somebody the opportunity
11 to come from the front of the other side, only for them to do a U-turn
12 in front of you, so that they can get to this parking lot.

13 So, the flow of traffic is already chaotic as it is, and that's
14 for people who generally live in the area, not randoms who come into
15 the area because they want to charge their vehicle.

16 And then back to the power comment. We essentially lose power
17 often, and I know we're on a super tight grid, but this is kind of
18 insane how often we lose power, and if there is a potential for these
19 to be also feeding off of that same power, that is very alarming and
20 concerning. Thank you.

21 CHAIRMAN MAMMINA: Thank you so much.

22 (Applause from Audience Members.)

23 SECRETARY WAGNER: James Pelzer?

24 MR. PELZER: My name is James Pelzer, 91 Dennis Street in
25 Manhasset, New York.

26 I rise -- if it please the Board? I rise on behalf of the Civic

1 Association. We're one of the member associations of the Council
2 of Greater Manhasset Civic Association. I'm a past president of the
3 Greater Council. We oppose this because we think zoning is real and
4 important, and it should be enforced, and I just want to make a couple
5 of points.

6 The owner in his presentation said, and I quote, that the
7 covenants and restrictions were intended to limit its use strictly
8 to parking.

9 This doesn't limit it strictly to parking.

10 His lawyer made to me a strange argument that the
11 words -- because the words building or structure contained in the
12 covenant and restriction are not capitalized, that means that the
13 word structure really means building. I just point out to you that
14 the words in the phrase are in the disjunctive. There's an or there
15 and it means something. There are two different things, and this
16 is a structure. That's been explained over and over again.

17 Again, IONNA is advertising -- well, let me -- let me back up.
18 To say my experience with EVs. I own an EV. EVs take you -- they
19 have a little map on their -- EVs take you to the charger. They
20 don't -- you don't go to the store to get to the charger. The EV
21 takes you there. So, that's the reason why this is going to be a
22 problem because it isn't associated with the businesses. It's
23 associated with the fact that you have an EV.

24 Last, I don't think -- I'm not sure whether this is raised, but
25 I would mention it. I don't see that there's a vested right argument
26 here because the owners were not -- the IONNA, was notified that there

1 was a huge public protest, and it was while construction was going
2 on, and they continued with construction anyway. So, they -- they
3 kind of took the risk that completion was subject to revocation of
4 the permit.

5 So, for all these reasons, and for all the reasons expressed
6 by others, the Civic Association, I personally would ask you to deny
7 this application.

8 CHAIRMAN MAMMINA: Thank you.

9 (Applause from Audience Members.)

10 CHAIRMAN MAMMINA: It's been a long time since I've heard the
11 word disjunctive. So, I think we probably went to school about the --

12 MR. PELZER: Same time.

13 CHAIRMAN MAMMINA: Me too.

14 SECRETARY WAGNER: Paula Gaccione?

15 MS. GACCIONE: That's me, and I live at 5 Eton Crest in
16 Strathmore Village. I don't have much to say so I wasn't going to --

17 MEMBER GOODSSELL: That's okay.

18 CHAIRMAN MAMMINA: That's okay.

19 AUDIENCE MEMBER: You're a lawyer.

20 MS. GACCIONE: No.

21 CHAIRMAN MAMMINA: You can give your name and address if you'd
22 like to or --

23 MS. GACCIONE: Paula Gaccione. I live at 5 Eton Crest in
24 Strathmore Village, and I think that -- I am opposed to this, and
25 I think that there are a number of really great arguments made today,
26 so no need to repeat them. Many of them seem grounded in legal

1 precedent, but beyond just the legal precedent, these are not being
2 put in, you know, in Macy's and Christopher Morley and other lots
3 which might have been more appropriate. So, the Board, I think, does
4 have a duty to also consider the adjacent residential homes, as I'm
5 sure they will, but basically nothing new. I just agree with all
6 of my colleagues on this side of the room.

7 AUDIENCE MEMBER: Nice job.

8 MS. GACCIONE: Thank you.

9 (Applause from Audience Members.)

10 SECRETARY WAGNER: Jodi Mondiello?

11 MS. MONDIELLO: I guess I'll just step up to go on record.

12 My name is Jodi Mondiello. I live at 114 Payne Whitney Lane.
13 I have lived there for 20 years, very happily. I strongly oppose
14 these building structures. I sat through this meeting diligently
15 taking notes on points that I would like to have made, and every single
16 point was made by my very brilliant neighbors. Clearly, they picked
17 up on everything. From the capitalization, to building structure,
18 which is silly, to the hazards, the traffic, the random population,
19 the you know, visual aesthetics of it, but one thing that I just
20 thought of as I was actually walking up here, the applicant's counsel
21 made the point that it was a matter of enforcement in terms of, you
22 know, not allowing individuals to be charging there that were not
23 patrons of those businesses because there are six of them, I think
24 he said.

25 But I mean, I don't see how that could even effectively be done.
26 I mean, even if one were coming in from the app in, you know, seeking

1 a charging station, clearly, they can just browse the App Store, and
2 you know, portray themselves or any of those businesses as a patron.
3 So, I don't even see that as an option that can effectively be
4 enforced.

5 And moreover, I would like to go on record as saying I do not
6 support even minimizing the hours of operation of these building
7 structures.

8 (Applause from Audience Members.)

9 MS. MONDIELLO: I oppose them doing this. Thank you.

10 CHAIRMAN MAMMINA: Thank you.

11 SECRETARY WAGNER: Tom Schmitt?

12 MR. SCHMITT: Can I submit these here? (Handing)

13 SECRETARY WAGNER: These will be Opposition Exhibit 2.

14 MR. SCHMITT: Two separate pieces. Four copies of each.

15 MR. PERROTTA: Opposition Exhibit 2 and 3.

16 CHAIRMAN MAMMINA: Let me know when you're ready. When you
17 have them -- tell me when you have the documents.

18 VICE CHAIRMAN FRANCIS: In the meantime, you can give your name.

19 MR. SCHMITT: Sure. Tom Schmitt, 110 Sussex Drive, Manhasset.
20 I'm here in opposition of six supercharging EV stations that are
21 larger than every NBA basketball player, and a transformer, electric
22 transformer that emits a ringing sound that I can hear when I walk
23 my dog off of the property, that's larger than the average shed sold
24 by Home Depot. Not a swing set. You know that's a structure.

25 I'm here today in strong opposition to the IONNA appeal. I ask
26 this Board to uphold the building department's revocation of the

1 electrical permit and deny this application in full.

2 IONNA claims these charges are an accessory use tied to the
3 operation of the building. Elon Musk would disagree. They don't
4 operate buildings. They service cars.

5 Their own materials prove otherwise. On their own website, as
6 you can see, I handed it to you and printed out. Evidence I'm
7 submitting today shows that IONNA says their chargers -- are the IONNA
8 chargers open to everyone? Yes, IONNA chargers, all EVs, including
9 vehicles that do not come from our founding auto brands. The more
10 the merrier. Come one, come all.

11 That's not exclusivity. It's a narrow term. That's public.
12 Inclusivity. Inclusive. These commercial chargers are marketed to
13 every EV driver in the region. IONNA for further advertises this
14 location as a destination charger, a relay station. Their app
15 promotes nearby restaurants on the printout that I handed to you and
16 stores that are not located on the parcel. Those stores, names of
17 top places to visit advertised by IONNA, are Benihana, Cartier,
18 Talbots, Cipollini, La Coquille, and the Americana Manhasset.

19 What are we talking about here folks? They list distances and
20 encourage drivers to charge here and then visit there. This is not
21 accessory parking or charging for the tenants, and it's certainly
22 not servicing the operation of the building.

23 Back in 2012, the concern was Verizon Towers, ATM machines, and
24 drive-up McDonald's. Today, it's EV superchargers larger than an
25 NBA player. A hundred years from now, it may be rocket launchers
26 to Mars. None of them will go on this property. Unlike a backup

1 generator, a loading dock, or other true accessory equipment that
2 serviced the operation of a building, not the operation of the
3 employees' cars.

4 These are part of IONNA's national network. They appear on
5 Plugshare, which basically is a worldwide Google Maps for EV drivers.
6 Apple Maps and navigation systems of BMW, GM, Hyundai, Kia,
7 Mercedes-Benz, and my Tesla self-driving vehicle that takes me
8 directly to those chargers, not to 1900 Northern Boulevard, Parcel
9 1.

10 The 2012 Declaration of Covenants restrictions exist to protect
11 the character of this area and to limit uses to those that genuinely
12 service the property, to operate the building.

13 (Three-minute timer rings.)

14 MR. SCHMITT: A public EV charging station that is open to
15 everyone and actively marketed as regional destinations does not meet
16 this standard. Granting this appeal would effectively rewrite New
17 York State's Land Covenants through a backdoor process and set a
18 precedent that you do not want to set as a Board.

19 In my personal opinion, this project under construction is the
20 result of either really poor due diligence from a very young company
21 that's less than three years old or a rush job or gross negligence,
22 which would really concern me. I respectfully urge you to decline
23 this. The 2012 Declaration of Covenants restricts all of this.

24 Their recent advertisement on Plugshare tells you that they're
25 advertising to the -- to the Plugshare worldwide network that this
26 is coming soon. Just wait for us. Just wait here. We'll be there.

1 We'll backdoor it.

2 Give me an absolute break.

3 (Applause from Audience Members.)

4 CHAIRMAN MAMMINA: Thank you.

5 SECRETARY WAGNER: Christine Arella?

6 AUDIENCE MEMBER: She had to leave.

7 SECRETARY WAGNER: And that's the end of the list.

8 Anybody else here that wanted to speak?

9 CHAIRMAN MAMMINA: Was there one other person?

10 SECRETARY WAGNER: John Larre?

11 MR. LARRE: Bruce spoke on my behalf.

12 SECRETARY WAGNER: Okay.

13 MR. MIGATZ: I forgot to put my appearance on the record. Can
14 I state that?

15 CHAIRMAN MAMMINA: Yes, please.

16 MR. MIGATZ: So excited. Mr. Bloom got me excited.

17 (Laughter.)

18 MR. MIGATZ: Bruce W. Migatz, Albanese & Albanese. Appearing
19 for John Larre, 137 Rockcrest Road, Manhasset. Thank you.

20 CHAIRMAN MAMMINA: Okay, thank you.

21 MR. PERROTTA: Is there anyone who hasn't spoken that would like
22 to?

23 (No response given.)

24 CHAIRMAN MAMMINA: Thank you.

25 AUDIENCE MEMBER: So, what happens now?

26 CHAIRMAN MAMMINA: We're not done yet.

1 MEMBER HERNANDEZ: It's her turn.

2 MS. DEEGAN DICKSON: I will try and be quick because --

3 CHAIRMAN MAMMINA: The applicant has the opportunity to speak
4 a second time.

5 MEMBER HERNANDEZ: Yes.

6 CHAIRMAN MAMMINA: And only the applicant.

7 MS. DEEGAN DICKSON: I know you still have two more
8 applications.

9 CHAIRMAN MAMMINA: That's all right.

10 MS. DEEGAN DICKSON: So, I think one of the things that's been
11 lost a little bit in the discussion here about structure versus
12 building, which I agree wholeheartedly with Mr. Bloom's distinction
13 between the two. But I think what the community members fail to
14 appreciate is the fact that some structures are permitted here as
15 long as they are accessory to surface parking, and I think it's pretty
16 clear throughout all of the Town of North Hempstead and throughout
17 all of the modern world these days that EV charging stations are
18 accessory to surface parking. They don't go in parking garages
19 because of concerns, I guess, and I know that I've had -- I've had
20 this Board actually had me remove them out of parking structures
21 because of the unknown. But the covenant does permit them -- does
22 permit accessory structures to parking, and that's -- we'll
23 acknowledge that it could be considered a structure, but it certainly
24 is an accessory structure. A permitted accessory structure.

25 Just to clarify some -- or to correct some things. There are
26 no batteries. No lithium batteries in these chargers. They are a

1 direct source of electricity from LIPA, from PSE&G.

2 Also, a concern about the chargers turning off automatically
3 or having to be turned off. The last one out, shut the lights. They
4 do turn off automatically if they're programmed to be. So, if we
5 do agree on hours of operation, we can program them to shut off
6 automatically.

7 Mr. Migatz said that the building department was not aware of
8 our commitment to restrict the hours of -- the use of this to patrons
9 of the shopping center. But that's absolutely untrue. There's not
10 a place on the building permit application to say, you know, who can
11 use different things.

12 But we did clarify it in the letter to the Town of North Hempstead
13 to Stephen Haramis, Commissioner of Buildings, dated May 15, 2026,
14 and this was during a time when we were not getting -- we weren't
15 getting any reaction from the building department. We were
16 demanding final inspections. We were demanding that the certificate
17 of completion be issued, and it was still sort of in limbo. We had
18 requested a meeting with Mr. Migatz and his clients, and I was told
19 that was not something that would be fruitful because there was going
20 to be no discussion about it. So, we sent a letter then on May 15,
21 2026, to the commissioner demanding that final inspections take
22 place, and in that letter, we stated very clearly that per the
23 agreement with the property owner, our client has constructed the
24 EV charging stations as an amenity for the tenants and patrons of
25 the businesses located within the commercial building on Lot 1. As
26 such, the EV charging stations will be and are intended to be used

1 exclusively in conjunction with the operation of the commercial
2 building on Lot 1. This clearly satisfies the terms of the
3 restrictive covenant. So, despite this letter on May 15th, we
4 had -- the building permit was revoked on June 10, 2026. So, three
5 and a half weeks later.

6 So, the statement that there was a misrepresentation that the
7 building department had just become aware of or wasn't aware of is
8 not true. So, they had the information when they revoked it and stand
9 on my firm belief that it was properly issued. The building permit
10 was properly issued. That there was full knowledge or at least
11 constructive knowledge of the fact that there was a C&R on this
12 property. It's something that, again, the town has been involved
13 in from day one.

14 My experience with the building department is when there are
15 building permit applications that there's a historical review
16 conducted of the file. So, it's not any, you know, random building
17 clerk will issue a permit. There's always a, in my experience, a
18 building permit review -- a building file review.

19 I do understand community pressure. I understand political
20 expedience. I understand neighborhood fears. But it's not a
21 justification to take an improper action or to justify or to condone
22 an improper action that causes an applicant millions of dollars. I
23 know people here are impatient. They don't want to hear the lawyers
24 drone on and on, but we have a client that has expended millions of
25 dollars in reliance on a building permit issued by this town. A town
26 that has full knowledge -- had full knowledge of the covenants, and

1 the town that prior to revoking the building permit improperly, also
2 had knowledge, and had it clarified that this was going to be used
3 exclusively in connection with this property.

4 There's no question that this was improperly revoked, and it
5 needs to be reinstated. The damages to my client are extreme and
6 the, you know, I have sympathy for the neighbors who are concerned
7 about the fact that they live in a popular area where there's a lot
8 of traffic and cars cut through the neighborhood. That's a problem
9 that everybody who lives in a good area has when they're -- when
10 they're accessible to major thoroughfares. That's what happened.
11 That's not caused by my client. It's not caused by my client's
12 landlord. It's not caused by anything other than the fact that
13 modern technology now has GPSs that take people the shortest, most
14 direct route.

15 I just urge the Board to direct the building department to
16 reinstate the lawfully issued building and electrical permits, to
17 direct them to issue the final -- to schedule the final inspections,
18 and to issue the certificate of completion, so that my client's
19 million dollar-plus investment is not --

20 AUDIENCE MEMBER: He took a risk.

21 MS. DEEGAN DICKSON: -- is not destroyed.

22 AUDIENCE MEMBER: You guys took a risk. That's what happened.

23 CHAIRMAN MAMMINA: Please.

24 MEMBER HERNANDEZ: Sir.

25 CHAIRMAN MAMMINA: That's inappropriate.

26 MEMBER HERNANDEZ: You just mentioned that the building

1 department knew about the hours and about everything else, but
2 Plugshare, Plugshare right here says that the Manhasset relay is on
3 hold as we address ongoing issues with the city, and it goes on to
4 say other things. It doesn't matter what it says, but right above
5 it, it says open 24/7.

6 MS. DEEGAN DICKSON: So, that's something that's a glitch on
7 the system. We've had them to --

8 AUDIENCE MEMBER: -- (inaudible)

9 AUDIENCE MEMBER: -- (coughing)

10 AUDIENCE MEMBER: Bullshit.

11 MS. DEEGAN DICKSON: -- to fix it. Should we call an ambulance?

12 AUDIENCE MEMBER: -- (coughing)

13 MS. DEEGAN DICKSON: Are you okay?

14 AUDIENCE MEMBER: Sorry.

15 AUDIENCE MEMBER: John Belushi's in the room.

16 MS. DEEGAN DICKSON: I would ask that people respect the
17 speakers the way I respected them as well.

18 CHAIRMAN MAMMINA: Absolutely.

19 MEMBER HERNANDEZ: Of course.

20 CHAIRMAN MAMMINA: Inappropriate as well.

21 MS. DEEGAN DICKSON: And this is factual because when I went
22 to Plugshare, I called it out to my client. I said, hey, you know,
23 this says 24/7; we have to -- you have to change that. They went
24 to change it. They couldn't change it because there's a glitch with
25 the -- or a bug in the Plugshare. Plugshare is aware of it. They're
26 fixing it.

1 You know, I need to reiterate. These are not open yet, and it
2 says clearly on there that they're not operational. So, these things
3 that are limiting --

4 MEMBER HERNANDEZ: It says that it's not open. It says it's
5 not open.

6 MS. DEEGAN DICKSON: No, I know.

7 MEMBER HERNANDEZ: I'm just saying.

8 MS. DEEGAN DICKSON: But it's limiting for us.

9 MEMBER HERNANDEZ: It gives information.

10 MS. DEEGAN DICKSON: Yes, and it's limiting for us.

11 MEMBER HERNANDEZ: That contradicts what you just said it was
12 message. That's all I'm pointing out. Right?

13 MS. DEEGAN DICKSON: Well, no, no, no, it doesn't. It doesn't.
14 It does say that the hours are limited between --

15 MEMBER HERNANDEZ: It says 24/7 right here.

16 MS. DEEGAN DICKSON: But right below that it says --

17 MEMBER HERNANDEZ: No, it just says 24/7. Nothing else. It
18 has a disclaimer that it's not open yet. That's all.

19 MS. DEEGAN DICKSON: It says the -- that might be old. Is that
20 the one that I submitted?

21 MEMBER HERNANDEZ: I don't know who submitted it.

22 MS. DEEGAN DICKSON: Oh, so, it may be -- it may be old.

23 AUDIENCE MEMBER: I printed it over the weekend.

24 AUDIENCE MEMBER: Printed over the weekend.

25 AUDIENCE MEMBER: I submitted it and printed over the weekend.

26 CHAIRMAN MAMMINA: Sir. Please.

1 MS. DEEGAN DICKSON: That's old news.

2 AUDIENCE MEMBER: -- (laughing)

3 MS. DEEGAN DICKSON: It's updated --

4 CHAIRMAN MAMMINA: These are emotional issues, and we just ask
5 for respect for one another.

6 AUDIENCE MEMBER: I apologize.

7 MS. DEEGAN DICKSON: So, just to reiterate. I urge you to
8 reverse the building department's determination, which I believe was
9 made erroneously, and at great cost to my client. Thank you for your
10 time.

11 MEMBER HERNANDEZ: Just one more related to the hours of
12 operation.

13 MS. DEEGAN DICKSON: Sure.

14 MEMBER HERNANDEZ: What is the standard IONNA's business model?

15 MS. DEEGAN DICKSON: The standard business model?

16 MEMBER HERNANDEZ: Yes. IONNA is a company that operates
17 multitudes of businesses, I assume. What is the standard business
18 model?

19 MS. DEEGAN DICKSON: I'm not sure that they have a single
20 standard business model. There's not a lot of them here on Long
21 Island, and --

22 AUDIENCE MEMBER: It's not on Long Island. This will be the
23 first one.

24 AUDIENCE MEMBER: 24/7.

25 MEMBER HERNANDEZ: You cannot make comments.

26 CHAIRMAN MAMMINA: Sir, come on.

1 AUDIENCE MEMBER: Except --

2 MEMBER GOODSSELL: Stop.

3 CHAIRMAN MAMMINA: I really don't want to ask you to leave the
4 room.

5 MS. DEEGAN DICKSON: So, it is generally 24/7, but it is
6 possible to limit it, and that's something that we have committed
7 to, and are willing to commit to be compliant with the covenant.

8 TOWN ATTORNEY ALGIOS: Kathleen, is it limited in any of the
9 other locations?

10 MS. DEEGAN DICKSON: As far as I know, I don't -- I don't know
11 that, but I don't think so.

12 TOWN ATTORNEY ALGIOS: How many locations do they have
13 nationwide?

14 MS. DEEGAN DICKSON: Approximately 117. But just because it
15 isn't anywhere else, doesn't mean that it can't be here, or that it
16 won't be here. Again, an enforcement issue. It's not a substantive
17 issue about the covenant.

18 TOWN ATTORNEY ALGIOS: So, let me just ask a question about
19 enforcement that's come up a bunch of times. What are some proposals
20 for enforcement? How would it look? How would we enforce -- how
21 would you guys enforce it?

22 MR. TORKAN: May I?

23 MS. DEEGAN DICKSON: Yes.

24 MR. TORKAN: Good evening. Kris Torkan, again. May I address
25 the enforcement aspect? I got up earlier as to raise concern about
26 the hours of operation. With regard to the EV chargers, it would

1 be turned off automatically. It would be programmed to be turned
2 off and turned on. The lights would go off, and on their website,
3 it will say that these are the hours of operation, as it relates to
4 the enforcement of the hours of operation for the EV.

5 For the shopping center itself, we regulate it. We have
6 cameras, we have a parking lot attendant, and it is also collectively
7 with Americana and all properties. Nassau County Police Department
8 frequently watches the area.

9 Since I have your ear, one more thing. Two comments were made
10 that were, in my opinion, wrong. There was no row of trees removed.
11 There was one plant removed by PSE&G with plans to replace it and
12 add to it.

13 I have no problem mitigating the concerns. I just stand by the
14 fact that we own the property. We agreed to certain conditions with
15 our neighbors, and one of our neighbors stood up here and said we
16 allowed it. It's not that they allowed it. We agreed with a
17 covenant, with the Town Board, after hearing the concerns of the
18 community to restrict this use of this land for parking and accessory
19 structures. I have a lot of structures on that property. I have
20 guardrails. We have drainage. We have a lot of improvements that
21 we put in there. Light poles. These are part of it.

22 This is not strictly for the use of the tenants, employees,
23 businesses. Apple has -- all of our tenants have a website, and they
24 state the hours of operation, and they want people to come, and this
25 is assistance to the stores. When I go to charge my car in the
26 shopping center from TJ Maxx, I end up going in TJ Maxx while my car

1 is being charged. I'm hoping that will happen here as well, but it
2 is for use of our shopping center as intended.

3 TOWN ATTORNEY ALGIOS: Mr. Torkan, I just want to follow up on
4 that.

5 MR. TORKAN: Yes.

6 TOWN ATTORNEY ALGIOS: So, Eddie's was also mentioned here as
7 an example because apparently there's a line of cars there.
8 Oftentimes during the day backed all the way up.

9 So, let's say, you said you're going to have a parking attendant.
10 So, the parking attendant is going to be there seven days a week during
11 the operation of the --

12 MR. TORKAN: Six days a week. We have a full-time attendant.

13 TOWN ATTORNEY ALGIOS: So, the full-time attendant is there,
14 and now it's 2:00 in the afternoon, and there's a line of cars. What
15 is the parking attendant going to do?

16 MR. TORKAN: So, the parking issues that arise in shopping
17 centers, and that's the reason we purchased this property to provide
18 ample space for cars to circulate, cars to have space. I'm
19 over-parked by 50 to 75 cars. All these spaces are empty. It will
20 never be, in my opinion, there will never be -- and I just wanted
21 to let you know, this is nothing in comparison to the -- as a tenant
22 for us, comparison to Apple and Schwab, and all the others. I'm not
23 going to jeopardize our business for car charging. This is an
24 amenity to our businesses. There will never be an issue like that.
25 Most shopping centers are under-parked.

26 TOWN ATTORNEY ALGIOS: All right, well, just entertain me then.

1 Let's just say there is an issue. Let's say there are cars now that
2 are waiting for these chargers, is the attendant going to go up to
3 the cars and knock on the window, and say, are you here to go into
4 the Apple Store?

5 MR. TORKAN: They will park in empty slots until the space is
6 open. That's what I do when I go to TJ Maxx Shopping Center. I park
7 another space. I'm not going to stop traffic. I'm going to park --

8 TOWN ATTORNEY ALGIOS: So, now they go -- they wait in their
9 car. Now, they go to -- I'm just trying to play this out.

10 MR. TORKAN: Yes.

11 TOWN ATTORNEY ALGIOS: So, they go up to the charger, they plug
12 in their car, and now they're sitting, and they're on their phone.
13 So, what does the attendant do?

14 MR. TORKAN: They charge and leave. It's a -- this is fast
15 charging.

16 TOWN ATTORNEY ALGIOS: So, now they just leave.

17 MR. TORKAN: The car. The cars will leave.

18 MS. DEEGAN DICKSON: I think, Deborah, to your point, if there's
19 an attendant that sees somebody misusing it, not being a patron there,
20 they'll knock on the window and say this is for people patronizing
21 the shopping center.

22 TOWN ATTORNEY ALGIOS: So, but Kathleen, what if they don't
23 leave? I mean, what -- what -- do they call police?

24 MR. TORKAN: Correct. They're going to have to call the
25 police, yes. We have people parking illegally. They sit there and
26 play music. Sometimes eat their food. They're not customers of the

1 shopping center, with the trunk open, and they're doing skateboarding
2 or other things, and we ask them to leave. We take this business
3 very seriously. We have big tenants there, and we are not
4 jeopardizing the shopping center.

5 TOWN ATTORNEY ALGIOS: Yeah, but right now, you don't have a
6 draw, right? You don't have a draw to the parking lot, like these
7 EV chargers, so right now --

8 MR. TORKAN: I will --

9 TOWN ATTORNEY ALGIOS: Let me just finish. Somebody that's not
10 going to patronize. Somebody that's just going there to park, and
11 I go there regularly, probably once a week.

12 MS. DEEGAN DICKSON: To park or to shop?

13 TOWN ATTORNEY ALGIOS: To shop, and I'll park, so I'm there,
14 and I know there's a lot of extra parking there. But the charging
15 stations are not open, so why would somebody right now, because you're
16 saying you're attending regularly, but -- I never see anybody just
17 sitting in their car. I mean, because people right now are using
18 it, and they're going to shop. They're parking and shopping.

19 MR. TORKAN: We get people come on weekends, we get people come
20 in the afternoons that they're not supposed to be there, and we ask
21 them to leave. And we have also asked the police department to come.
22 You've probably seen them parked there for that purpose to make sure
23 that the place is safe and that --

24 TOWN ATTORNEY ALGIOS: I never seen --

25 MS. DEEGAN DICKSON: You're making my point for me that this
26 is an enforcement issue. This is not fundamentally about the

1 covenant.

2 TOWN ATTORNEY ALGIOS: I'm not saying -- I actually do think
3 it's about the covenant, but I also think it's impossible to enforce.

4 MS. DEEGAN DICKSON: It's not impossible.

5 TOWN ATTORNEY ALGIOS: And that's why I'm bringing it up.

6 (Applause from Audience Members.)

7 TOWN ATTORNEY ALGIOS: I do not know how you would enforce --

8 (Applause from Audience Members.)

9 CHAIRMAN MAMMINA: Please.

10 TOWN ATTORNEY ALGIOS: I don't know how you would enforce this.
11 I just think that anybody could come, they could pull in their car,
12 if in fact the attendant's there, and goes up to them, they'll leave,
13 and they'll just walk to the -- walk into the Apple Store for a few
14 minutes while they're charging.

15 MS. DEEGAN DICKSON: Now, that's a benefit for our tenant
16 because now somebody's going into the Apple Store and buying the
17 charger or --

18 TOWN ATTORNEY ALGIOS: If they want to buy something.

19 MS. DEEGAN DICKSON: But -- but -- Deborah, you understand that
20 zoning cannot be -- and that -- that contracts cannot be invalidated
21 because somebody's afraid that in some hypothetical situation that
22 it won't be enforced. That's a -- that's not the basis of contract
23 law. That's not the basis of zoning law. That's not the -- that's
24 not the purpose of this Board. So, what you're saying may or may
25 not be true, but that cannot be a basis to deprive my client of a
26 very basic property right that has been denied improperly.

1 TOWN ATTORNEY ALGIOS: Whether that's true or not, a
2 restrictive covenant can, and you have the problem of the language
3 in the covenant. Everybody's talking about -- about accessory use
4 to the parking lot, but you're forgetting the other section of that
5 sentence.

6 MS. DEEGAN DICKSON: We're not forgetting.

7 TOWN ATTORNEY ALGIOS: It just says exclusively, and I don't
8 know how -- how -- how that's going to be exclusive. I don't know
9 how. I don't know how, when you have a company that has a business
10 model that markets nationally is open 24/7, and now on the website
11 they're going to have in small print there that this is open during
12 certain hours, but an app in a car is going to come up, and somebody
13 needs to charge and show that station and take them there. I don't
14 know how --

15 MS. DEEGAN DICKSON: And we have signage on the site and --

16 TOWN ATTORNEY ALGIOS: To me that -- to me the two are connected.

17 MS. DEEGAN DICKSON: That may be, but -- so, you're going to
18 deny my client a property right because of some hypothetical, where
19 we don't know if -- whether or not it is enforceable, so you're going
20 to assume that it's not. I would submit to you that is an improper
21 basis for denying my client his property.

22 TOWN ATTORNEY ALGIOS: I think the practicality here is that
23 it's just not exclusive. You can print that on there. You can say
24 it as much as anybody would like, but the truth is, it's not exclusive.

25 MS. DEEGAN DICKSON: I disagree. So, thank you.

26 (Applause from Audience Members.)

1 AUDIENCE MEMBER: Excuse me. Excuse me. There is no --

2 VICE CHAIRMAN FRANCIS: No, no, no. We're not --

3 TOWN ATTORNEY ALGIOS: Stop. Stop.

4 CHAIRMAN MAMMINA: One bite at the apple. Sorry.

5 AUDIENCE MEMBER: There's no parking --

6 VICE CHAIRMAN FRANCIS: Sir.

7 CHAIRMAN MAMMINA: Sir, please.

8 AUDIENCE MEMBER: There's no parking --

9 CHAIRMAN MAMMINA: Please. There's one other time that I've
10 had to have somebody removed from the room, and that was a really
11 long time ago. So, please.

12 VICE CHAIRMAN FRANCIS: What was the thinking with regard to
13 the placement of the charges that far away from the building? It
14 would seem to me that this whole issue disappears if the charging
15 station stations were closer to the building and existing parking
16 spaces.

17 MS. DEEGAN DICKSON: I'm not sure that that changes anything
18 about this application. It wouldn't change the community's fears
19 about traffic in the neighborhood, doesn't change whether or not this
20 is accessory and exclusive for the parking lot.

21 VICE CHAIRMAN FRANCIS: The only reason I raise that is because
22 if I pull in to get my car charged, I'm not walking from the back
23 of the parking lot into the Apple Store. I'm just not doing that.
24 If I am, I'm not going to buy anything. I'm just going to hang out
25 until my car is charged.

26 MS. DEEGAN DICKSON: But if you're going to the Apple Store,

1 and you have an EV, you're going to plug in, and you're going to go
2 to the Apple Store, or maybe you'll choose not to park -- not charge
3 and you'll park in a different parking space.

4 MEMBER HERNANDEZ: Kathleen, can I get some clarification on
5 the covenant? Does the covenant apply to the complete parking lot,
6 or only to the extension that was added in 2012?

7 MS. DEEGAN DICKSON: Just the extension that was added.

8 MEMBER HERNANDEZ: Just the extension?

9 MS. DEEGAN DICKSON: Yes.

10 MEMBER HERNANDEZ: Then I hate to correct you, but his comment
11 of having moved it to the front would have at least gotten the covenant
12 out of the way.

13 MS. DEEGAN DICKSON: To the front of what?

14 MEMBER HERNANDEZ: Meaning closer to the Apple Store.

15 MS. DEEGAN DICKSON: On the other side of the building?

16 MEMBER HERNANDEZ: It would have at least gotten away from the
17 covenant issue.

18 VICE CHAIRMAN FRANCIS: Right, the covenant wouldn't apply
19 if --

20 MEMBER HERNANDEZ: Yeah.

21 MR. TORKAN: I can answer that.

22 MS. DEEGAN DICKSON: Okay.

23 MR. TORKAN: Forgive me, again, I interrupt Kathy. I'm the one
24 that insisted I wanted it closer. I want them not to have cars that
25 stay more than a few minutes for the front. People going in and out
26 of the store. They drop off things. They put up things. So, we

1 try to keep the tenants, and in my vision was this would be out of
2 the way. I'm the one that restricted them to park in the back.

3 So, Deborah, can I call you? Answer your question, not from
4 the legal standpoint. We would protect this asset, an important
5 asset of ours, against people that come and sit there. We'll
6 definitely ask them to remove themselves, and if my one parking
7 attendant, which is actually two, and it's not a lie. We have a
8 payroll, and it's a person that's there, and every employee of the
9 building knows the tenant -- the employee. We can add. If we need
10 to, we will add additional security. I have no problem. In fact,
11 I am right now upgrading the security system there.

12 CHAIRMAN MAMMINA: I've done more listening than talking, which
13 is atypical for me, but I guess what I took away in the beginning
14 parts of this was that this was here to service those retail stores.
15 So, I don't understand when you just said, well, you know, if I put
16 them up there, you know, then that's going to take away parking spaces
17 from those people who would then otherwise be shopping, you know,
18 in those stores, you know, albeit for as long as it takes to charge
19 the car.

20 MS. DEEGAN DICKSON: So, I want to just step back a little bit.
21 The charging stations could go wherever they would like them to go
22 for whatever reason because they comply with the restrictive
23 covenant, and because they comply with the zoning. So, regardless
24 of where they are on the site, when the application to the building
25 department was made and granted, it was because it complies with the
26 restrictive covenant. At some point, when the neighborhood went

1 crazy, they said, oh, no, we're going to hang our hat on something,
2 and I understand why sometimes that happens.

3 This Board is supposed to be there to be the safety valve, the
4 relief when -- between the politicians and the people who are subject
5 to pressure from -- for whatever reason. I understand it. It's hard
6 for you guys to sit here and listen to 30 people stand up and say
7 the same thing. It doesn't alleviate your responsibility to look
8 at this very narrow issue and decide this on the facts and on the
9 law.

10 CHAIRMAN MAMMINA: That's the way I'd like to believe --

11 VICE CHAIRMAN FRANCIS: Yeah, exactly. That's the way we
12 handle it.

13 CHAIRMAN MAMMINA: Yeah, appreciate it.

14 MS. DEEGAN DICKSON: Thank you.

15 CHAIRMAN MAMMINA: Okay, well, I will say, thank you all very
16 much. We do appreciate it. Very good presentations on both sides,
17 and we'll reserve decision on this.

18 MS. DEEGAN DICKSON: The public hearing is closed?

19 CHAIRMAN MAMMINA: Yes, public hearing is closed.

20 MS. DEEGAN DICKSON: Thank you very much.

1 SECRETARY WAGNER: Next appeal, Appeal #21851, 1285 Northern
2 Blvd LLC (BMW Signs); 1285 Northern Boulevard, Manhasset;
3 Section 3, Block 53, Lot 38; Zoned: Business A.

4 Variances from 70-196.J(1)(f), 70-196.J(1)(b),
5 70-196.J(2)(b), 70-196.J(2)(d) to install a wall sign that is too
6 tall, and too high above the ground, a wall sign that is too tall,
7 too big, and too high above the ground and a ground sign with no
8 clearance between the bottom of the sign and the ground that is too
9 tall, and too big.

10 CHAIRMAN MAMMINA: You heard Appeal #21851, 1285 Northern Blvd
11 LLC (BMW Signs). Is there anyone in the room who has interest in
12 the application, other than the applicant?

13 (Audience Members raise hands.)

14 CHAIRMAN MAMMINA: Okay, seeing three hands up, and you will
15 have the opportunity to speak.

16 MR. GOMOKA: For 1285 Northern Boulevard, Christopher Gomoka,
17 G-O-M-O-K-A, 59 Bellmore Avenue, Bellmore, New York. I'm the
18 attorney for the applicant, 1285 Northern Boulevard. They also see
19 an interest in Lucky Bayside, a tenant at that location.

20 At this time Chairman, due to the fact that the day has gone
21 on so long, the Civic Association has been expressing concerns with
22 two of the signs, and my client has agreed, if it's acceptable to
23 the Board to withdraw his application at this time regarding sign
24 2 and sign 3.

25 CHAIRMAN MAMMINA: Why don't we go through -- let's go through
26 the signs so that we understand what they are.

1 And if you could, I think that the town should just be buying
2 like a longer microphone thing or whatever.

3 MR. GOMOKA: I'll try. So, today we just proceeded with the
4 one ground L sign in the south elevation of the building, which is
5 the Northern Boulevard side, and if you have the --

6 SECRETARY WAGNER: Sir --

7 CHAIRMAN MAMMINA: You can leave it there --

8 MR. GOMOKA: The only sign we'd like to proceed on today in
9 recognition of the community's concern. With regard to the other
10 two signs, we'd be happy to revisit to perhaps modify prior to coming
11 here. However, we do have an obligation under our franchise
12 agreement with BMW to put some type of signage on there, as well as
13 some type of recognition that Nassau County Fire Marshals asked us
14 to put on the building because they're still going to recognize due
15 to technology being great, they still receive that call as the Sunset
16 Monuments building, which was the previous owner and the funeral home
17 several years ago, which had, again, a pylon sign at that location,
18 as well as an old illuminated sign on the south elevation on Northern
19 Boulevard.

20 So, with regard to sign 1, which is the Northern Boulevard sign,
21 which is on the south elevation of the building, as you're aware,
22 the building is on the north side of Northern Boulevard at its
23 intersection with Norgate Road, and it's approximately 300 feet west
24 of Northern Boulevard intersection and Plandome Road.

25 CHAIRMAN MAMMINA: I see you have a site plan there.

26 MR. GOMOKA: We have a plan.

1 CHAIRMAN MAMMINA: You pop that up there, and the young lady
2 can point or whomever.

3 MR. GOMOKA: The young lady is Ms. Burns. She's the principal
4 and third-generation cardinal and a resident of Nassau County. Her
5 brother who's also a principal in both of the entities and a doctor
6 here in the Town of North Hempstead on Herricks Road.

7 CHAIRMAN MAMMINA: When I was in school, I was always afraid
8 of heights.

9 (Laughter.)

10 MR. GOMOKA: They're all principals in this operation as well,
11 so. All their businesses are located here in the county, and they
12 have a few in Suffolk County as well, but Ms. Burns has been kind
13 enough to meet with the Civic Association throughout the day and
14 indicated that she would withdraw the application for sign 2 and sign
15 3, and we would just proceed to attempt to gain some type of approval
16 on sign 1 to placate the fire marshal as well as BMW of North America
17 pursuant to the terms of our contract and franchise agreement with
18 them.

19 The sign that's in question, which will be designated SP2500231
20 is 7.25 feet of vertical measurement, and we were only permitted 4.5
21 maximum, so a variance is required for that, and due to the contour
22 of Northern Boulevard at this location, which I'm sure the Board is
23 familiar, it heads in a descending manner down on Northern Boulevard
24 from Plandome Road, consistently all the way down to what they call
25 Manhasset Valley at the bottom. So, this site is not a hundred
26 percent level type site. So, the 26-foot aggregate is not quite just

1 flat site on Northern Boulevard, where would be 26 feet, where we
2 could accommodate the 18. The one side of the building is
3 approximately 14, on the higher side, it's about 29.

4 So, in line with the windows and everything that we were asked
5 to do for the fire marshal and access from the front of the building
6 and continue to have that as a point of access and control on their
7 part so they can gain access to any of the windows, we agreed to place
8 a sign in that location and at that size and due to the fact that
9 it is 26 feet, 7.25-square-foot sign is not out of the ordinary, so.

10 Due to the height and its location on Northern Boulevard, the
11 south neighbors are all commercial at that location, the Norgate
12 Civic Association has indicated that they will support this
13 application as part of our working with them to resolve the other
14 two signs.

15 I can just note that Ms. Burns and her father worked with us
16 originally on Norgate Drive, and they designated a very large portion
17 of land approximately 30 by 20. It's kind of a strange-shaped piece
18 of property, but they have designated that as green property, and
19 as part of their prior approval from this Board, that has remained
20 green, and they agreed to plant 12-foot arborvitae there,
21 approximately 16-foot now, all the way around the perimeter of the
22 site. So, this sign will be totally out of the sight of any of the
23 residential neighbors, and the two that are possibly in question,
24 like I said, Ms. Burns made the immediate decision this morning when
25 they brought that up, was to remove those signs and withdraw and
26 resubmit after meeting with the community and try to come to some

1 resolution as we did with the green area in the back.

2 I can tell you that the Burns family; John, Junior, and his
3 brother, also a principal, he's a personal client of mine, and have
4 significant investment in this county, and everything that moved this
5 operation over the years from the city side to Nassau County to its
6 service center that's state of the art. We worked with the fire
7 marshal for five years in Great Neck down on Shore Road at the old
8 Waldbaum's facility, and it's the first of its kind in terms of having
9 a very safe setup for flammable materials, and otherwise it's kind
10 of a model that industrial divisions in Nassau County Fire Marshal
11 uses for service centers going forward, so. We did do that as a
12 state-of-the-art facility, and then we just completed the Honda
13 facility to Grumman Center, where there's a very, very similar
14 mindset for. The fire marshal's across the street from OEM, so they
15 do use that facility for some of their training as well.

16 MEMBER HERNANDEZ: So, this sign is the one facing --

17 MR. GOMOKA: South elevation, which would be facing the other
18 car dealership.

19 MEMBER HERNANDEZ: The other car dealership.

20 MR. GOMOKA: Correct.

21 MEMBER HERNANDEZ: Honda across the street.

22 MR. GOMOKA: Correct. And their pylon is differently
23 configured. It's approximately 11 square feet.

24 MEMBER HERNANDEZ: But for the moment, you're removing the
25 application for the pylon and to the other sign?

26 MR. GOMOKA: That's correct. They will make a new application

1 when we come up with something suitable to the community.

2 CHAIRMAN MAMMINA: And that's one we sincerely love when people
3 get together with the community, come to some type of an agreement
4 when that's possible. It's not always possible.

5 MR. GOMOKA: We work very hard at that, Chairman. I think you
6 know, from my prior appearances before the Board, I always try to
7 do that. Take the path of least resistance.

8 CHAIRMAN MAMMINA: We certainly appreciate it.

9 MR. GOMOKA: Thank you, Chairman.

10 SECRETARY WAGNER: So, you're still seeking a variance for that
11 sign for being too high and for being too large?

12 MR. GOMOKA: Correct.

13 MEMBER GOODSELL: How much higher than allowable is it, and how
14 much bigger than allowable is it?

15 MR. GOMOKA: Approximately 3 square feet is approximately.
16 Due to the contour of the street, it's 8 feet higher than what's
17 actually permitted.

18 MEMBER HERNANDEZ: It's not an exact location because that's
19 effectively the third floor of the building.

20 MR. GOMOKA: Correct.

21 MEMBER HERNANDEZ: Two stories on the --

22 MS. BURNS: Yeah, the average grade was here.

23 MR. GOMOKA: It's a steep decline on Northern Boulevard. So,
24 I believe in the building department, and we went back and forth,
25 and had to get an amended denial. It was based upon the average,
26 which became very difficult, Chairman, to --

1 VICE CHAIRMAN FRANCIS: If it was 8 feet lower, I mean, it would
2 be like -- it wouldn't even be -- it would be a useless sign at 8
3 feet.

4 MR. GOMOKA: Well, due to the way they built that building, it
5 would be right in the middle of the window.

6 VICE CHAIRMAN FRANCIS: Right, which is ridiculous.

7 MEMBER HERNANDEZ: When you're driving east on Northern
8 Boulevard, you can see that sign.

9 MR. GOMOKA: Correct. And it's -- it's -- heading east is where
10 Company One, Manhasset Fire Department response from, so when there
11 is the confusion of the BMW dealership versus the Sunset Memorials,
12 it is somewhat a prominent BMW sign that they can recognize very
13 easily.

14 VICE CHAIRMAN FRANCIS: Right.

15 CHAIRMAN MAMMINA: Rather go to BMW than Sunset Memorials --
16 (Laughter.)

17 MEMBER GOODSELL: In any capacity.

18 CHAIRMAN MAMMINA: In any capacity.

19 VICE CHAIRMAN FRANCIS: For any reason, yes.

20 CHAIRMAN MAMMINA: Laying down --

21 MR. GOMOKA: And the GPS won't direct you to the sign, Chairman,
22 trust me.

23 (Laughter.)

24 CHAIRMAN MAMMINA: We have some -- does anyone wish to speak?

25 MS. BURNS: May I --

26 VICE CHAIRMAN FRANCIS: Please, go ahead.

1 MS. BURNS: My name is Gina Burns, from BMW of Manhasset. We've
2 tried very hard and so has the Norgate community. We've worked
3 together, and we appreciate them so much. They give us great,
4 valuable feedback. Helped us proceed through the Greater Manhattan
5 Civic Association, so -- I hope you can hear me.

6 MEMBER HERNANDEZ: Yes.

7 MS. BURNS: They expressed their concern this morning. It's
8 our desire to try and work with them. We do still need those two
9 other signs, so we'll be back.

10 MEMBER HERNANDEZ: Sure.

11 MS. BURNS: But hopefully, there's things we can do to make them
12 feel better about them.

13 MEMBER HERNANDEZ: Of course.

14 CHAIRMAN MAMMINA: In the meantime, you have something up there
15 to get yourselves recognized.

16 SECRETARY WAGNER: Just to clarify to the committee, if you make
17 the signs compliant with zoning, they won't be back here with the
18 Board.

19 MR. GOMOKA: Correct.

20 SECRETARY WAGNER: They would only require a building permit
21 approval.

22 MR. GOMOKA: We'll see where our discussions end up.

23 CHAIRMAN MAMMINA: So, is it fair to say that we have three
24 people who have no objection?

25 Sir, come on forward. Please give your name and address.

26 MR. MITSINIKOS: My name is John Mitsinikos, 28 Norgate Road.

1 I am right behind the BMW dealership. I'd just like to talk about
2 one sign.

3 May I look at number two?

4 VICE CHAIRMAN FRANCIS: Well, two is not before us.

5 MEMBER HERNANDEZ: They're only here for number one.

6 VICE CHAIRMAN FRANCIS: We're only here for number one.

7 MR. MITSINIKOS: Number one is beautiful. Green light. Go.

8 SECRETARY WAGNER: They're withdrawing the variance
9 application for number two.

10 MR. MITSINIKOS: Okay.

11 MS. BURNS: We can meet separately and talk.

12 MR. MITSINIKOS: Thank you.

13 CHAIRMAN MAMMINA: You'll get to sit with them, and then it's
14 all good.

15 SECRETARY WAGNER: Anybody else wish to speak?

16 MR. PELZER: I'm trying to hold the huddle here for a second.

17 CHAIRMAN MAMMINA: Just remembering that two and three are off
18 the table.

19 MEMBER HERNANDEZ: There's only one now.

20 CHAIRMAN MAMMINA: That's the only one that's on the table.

21 MR. PELZER: We understand that. We do not oppose that.

22 SECRETARY WAGNER: Come up to the microphone.

23 MEMBER HERNANDEZ: If you want to speak, you go to do it at the
24 microphone, please.

25 MEMBER GOODSSELL: Give us your name and address.

26 MR. PELZER: My name is James Pelzer. I'm the treasurer of the

1 Norgate Civic Association. We've had very good relations with the
2 Burns family. They're excellent operators of their business.

3 We were surprised. There's been some changes in the lighting,
4 and that's the reason we're concerned about signs 2 and 3. We'll
5 work that out. We believe that can be done, and so the -- as to the
6 sign that faces to the south, we don't have an objection. We're not
7 for it or against it, but we have no objection, and we -- it probably
8 is needed, and you've seen that, so.

9 CHAIRMAN MAMMINA: Yeah.

10 VICE CHAIRMAN FRANCIS: Right.

11 MR. PELZER: Do your stuff. Thank you so much.

12 MS. BURNS: Thank you.

13 MEMBER HERNANDEZ: That sign faces south, but you can easily
14 see it when you're traveling east, so it serves a very good purpose
15 that it can identify the dealership. My wife's favorite. She
16 shopped when you were in Bayside.

17 MS. BURNS: Okay, great.

18 MEMBER HERNANDEZ: That's where she started.

19 CHAIRMAN MAMMINA: With all of that said, unless counsel feels
20 otherwise?

21 MR. GOMOKA: We rest, Chairman.

22 MEMBER HERNANDEZ: I make a motion that we approve sign 1.

23 CHAIRMAN MAMMINA: Okay, we have a motion by Member Hernandez.

24 MEMBER GOODSSELL: I will second.

25 CHAIRMAN MAMMINA: Seconded by Member Goodsell. Please poll
26 the Board.

1 SECRETARY WAGNER: Member Hernandez?

2 MEMBER HERNANDEZ: Aye.

3 SECRETARY WAGNER: Member Goodsell?

4 MEMBER GOODSSELL: Aye.

5 SECRETARY WAGNER: Vice Chairman Francis?

6 VICE CHAIRMAN FRANCIS: Aye.

7 SECRETARY WAGNER: Chairman Mammina?

8 CHAIRMAN MAMMINA: Aye. Application is granted. I will say
9 I had a 1997 BMW M3. I think it was the James Bond car.

10 VICE CHAIRMAN FRANCIS: Same car too.

11 CHAIRMAN MAMMINA: Same car. Five speed. That's pretty much
12 the tip-top condition. It runs like a top. Except I'm having a
13 problem. The convertible top.

14 MEMBER HERNANDEZ: There's a great service center.

15 CHAIRMAN MAMMINA: Convertible top is giving me a hard time.
16 When I brought it to the only place that I could find, which was in
17 Newcastle, and when I drove it in with the top down, the guy said
18 to me, oh, my God, a '97, and a five speed. Said nobody makes a five
19 speed anymore.

20 MS. BURNS: There might be a place in Southampton that can help
21 you called Davenport Motors.

22 CHAIRMAN MAMMINA: I know where it is. I'll give that a try.
23 Right now it's -- it's been a great car. I love it. It's got about
24 70,000 miles on it. That's about 3,000 miles a year.

25 VICE CHAIRMAN FRANCIS: Wow.

1 MS. BURNS: Thank you very much.

2 CHAIRMAN MAMMINA: I appreciate it. Thank you, and thanks for
3 working with the neighborhood. Makes everybody's life so easy.

4
5
6 SECRETARY WAGNER: Next appeal, Appeal #21852, Wheatley Plaza
7 Associates, LP (Uncle Giuseppe's Signs); 130 Wheatley
8 Plaza, Greenvale; Section 19, Block A, Lot 591; Zoned: Business A.

9 Variances 70-196(J) (1) (a), 70-196(J) (1) (b), & 70-196(J) (1) (f)
10 to install more wall signs than permitted on a single wall, signs
11 that are too large in area and vertical height, and signs that are
12 too high above the ground.

13 CHAIRMAN MAMMINA: You've heard #21852, Wheatley Plaza
14 Associates, LP (Uncle Giuseppe's Signs). Is there anyone in the room
15 interested in the application other than the applicant?

16 (No response given.)

17 CHAIRMAN MAMMINA: Seeing no one.

18 MS. GONZALEZ: Taylor Gonzalez with the law firm Forchelli
19 Deegan Terrana, 333 Earle Ovington Boulevard, Uniondale, New York.
20 Here with me today to answer questions you may have is Mark Banuchi
21 from North Shore Neon, Marty McQuire, and Duha Muhammad from Uncle
22 Giuseppe's.

23 The application before you today is first-time lease related
24 to the Uncle Guiseppe grocery store. The 55,861-square-foot Uncle
25 Giuseppe's is located within the Wheatley Plaza Shopping Center which
26 is operated since the 1980s with a mix of retail stores and

1 restaurants.

2 This Board previously granted the conditional use permit for
3 the seating area within the Uncle Giuseppe's in July 2025. I
4 actually think it's a year to the date today, or very close to it.

5 The application is proposing five wall signs for the store to
6 hopefully make this a little less confusing because four are called
7 Uncle Giuseppe's signs. I'm going to go through each facade and take
8 questions as I go through those facades.

9 So, I'm going to start with the western facade, which is the
10 one on Glen Cove Road, and if you're looking at your package it should
11 be --

12 CHAIRMAN MAMMINA: Sign 4, I think.

13 MS. GONZALEZ: Yes, so it'll be pages 10 and 11 and 12 --

14 Oh, I'm sorry, it's 11 and 12. Just 11 and 12, and then you
15 can see it here as well. It's this sign.

16 VICE CHAIRMAN FRANCIS: Right.

17 MS. GONZALEZ: So, the Uncle Giuseppe's sign, which is the only
18 sign to the store, which is located on a roadway, needs relief only
19 for heights. The top of the sign is 21 feet above the mean level
20 of the ground, where maximum height of 18 feet is permitted. The
21 location gives motorists going southbound on Glen Cove Road the most
22 optimal view to allow adequate time to maneuver into the turning lane
23 to enter into the parking lot.

24 If you're familiar with the shopping center, and as can be seen
25 a little bit on the pictures here, there is a row of trees that are
26 located directly above -- directly below that sign. Due to these

1 trees, which have grown over the years, they currently cover that
2 former Stop & Shop sign, or where it used to be located. So, this
3 sign was placed a little bit higher so those trees can be maintained,
4 won't have to be completely topped off, while still making that sign
5 visible to motorists.

6 This sign being placed at a higher elevation will not impact
7 the commercial character of the neighborhood, especially as the
8 business at 13 Glen Cove Road across from the property has a wall
9 sign at an even greater elevation.

10 Before I proceed, I'd like to ask if there's any questions about
11 this western elevation?

12 CHAIRMAN MAMMINA: I would say regarding the west, this
13 specific sign, that kind of that upper tail of the Giuseppe's, G,
14 is really the thing that pushes it to 21 feet. I would guess that
15 the majority of the Uncle and the rest of Giuseppe's is probably
16 around that 18 feet, but I would also say that I think the location
17 physically is appropriate, but the owner of that shopping center
18 is -- name slips my mind.

19 AUDIENCE MEMBER: -- (inaudible)

20 CHAIRMAN MAMMINA: Thank you. They maintain that shopping
21 center so meticulously, and since my hair was black, I always admired
22 as an architect the layout of that shopping center, and that being
23 able to put all of the parking in the back, and to attract the proper
24 users that -- retailers, you know, to make that center as successful
25 as it is.

26 So, I have no reason to believe those trees will ever go away,

1 and those reduce the scale of the sign.

2 MEMBER HERNANDEZ: That sign only faces this large commercial
3 in an intersection with a lot of businesses, not houses looking at
4 it.

5 MS. GONZALEZ: Yes, businesses. There's a traffic light.
6 Nothing really impacted there.

7 MEMBER HERNANDEZ: No problem.

8 MS. GONZALEZ: Okay, great. I'm going to proceed to the
9 southern facade, which is going to be this sign right here. It's
10 actually located within the drive aisle, not within any parking,
11 although it does need height. It does need relief from the size
12 because it's considered to be within a parking lot.

13 So, it's 59.54 feet and has a height of 19.5 feet. Again, a
14 lot of that is because of that little script design G. The sign while
15 technically considered to be facing the parking lot due to its
16 location within the shopping center's drive aisle, is mostly visible
17 to motorists traveling northbound along Glen Cove Road. Like the
18 westerly sign, there's existing vegetation directly below the sign.
19 There's also vegetation to the left of the sign.

20 CHAIRMAN MAMMINA: I see it as a way-finding sign really for
21 people coming north, and very honestly, it'll kind of let people who
22 may not be familiar with the center or even, oh, yeah, there's the
23 center.

24 MS. GONZALEZ: That's exactly -- I'm going to skip a lot of what
25 I'm going to say.

26 MEMBER GOODSSELL: So, that would be on your plan, sign 3; is

1 that correct?

2 MEMBER HERNANDEZ: Yes.

3 MS. GONZALEZ: Yes.

4 CHAIRMAN MAMMINA: And that's directly across from commercial.

5 MS. GONZALEZ: Yes. That's going to be on pages 9 and 10, if
6 you're looking through your plans as well.

7 As the Chairman was saying, this is a way to find the shopping
8 center. We've moved it up, and we've made it a little bigger than
9 that former Stop & Shop sign. If you're familiar with the area, you
10 know there's the canopy for the gas station, there's a fence, there's
11 some utility poles, a lot of that can obstruct you. So, we wanted
12 to make it a reasonable size that motorists can identify the location
13 prior to and result in any traffic hazards.

14 That's all I have for that sign. If there's no questions, I'll
15 proceed.

16 So, then lastly, it's the eastern facade, which is what we'll
17 call the front facade. It's the front of the building, or where you
18 enter through.

19 So, there's three signs proposed two Uncle Giuseppe's signs and
20 then a Marketplace sign.

21 The central Uncle Giuseppe's sign, which is going to be this
22 sign right here, it's going to be our central Uncle Giuseppe's sign
23 is 266.56 square feet with a vertical height of 7 feet, and a maximum
24 height of 21.3 feet. The entrance and exit to the store are located
25 directly below that sign, which is why it was made kind of large.
26 It's supposed to be your way to identify where you're entering and

1 exiting.

2 Much of the relief for this sign results from the lack of facade
3 space at the front of the store. This is due to windows, both on
4 the lower level, as well as at the first-floor roof line, and those
5 actually, if you're familiar with the shopping center, slant.
6 They're not a flat line of windows. So, that slant resulted in us
7 having to do a pretty large background to support the sign. This
8 background is more of an architectural feature. It has faux brick
9 around it, and if you're familiar with Uncle Giuseppe's on Long
10 Island, most of them have a similar design, and their signs are
11 usually significantly larger. This one's been pared down because
12 of the code restrictions as well.

13 CHAIRMAN MAMMINA: Because it's North Hempstead.

14 MS. GONZALEZ: We just want to make you guys happy. I'm always
15 here to make you happy.

16 CHAIRMAN MAMMINA: But in the Town of Hempstead --

17 MS. GONZALEZ: In the Town of Hempstead, I have 400 square feet.

18 (Laughter.)

19 CHAIRMAN MAMMINA: Right across the street on Jericho Turnpike,
20 I've see --

21 MS. GONZALEZ: Yes. So, due to those unique features of the
22 eastern facade, Uncle Giuseppe's created this sign, which matches
23 their aesthetic and other locations, without requiring significant
24 facade work, which would be costly and disruptive to those
25 residential neighbors that abut to the east and the south.

26 Those signs are large in size and need height relief. It is

1 proportional to the storefront, which has a maximum height of almost
2 30 feet and is over 8,500 square feet in total size.

3 Further, as the anchor tenant to the shopping center, it is not
4 unprecedented to have a larger, more notable sign for visibility.

5 Further, there are several other signs within the shopping
6 center, including signs for Two-World Dance and Fitness and Fast
7 Fitness and Athletic Skills Training, which have heights greater than
8 18 feet as well.

9 Directly below that large Uncle Giuseppe sign is the Marketplace
10 sign, which is affixed to the façade; does not need any height relief.
11 It's strictly relief for this size, and that size is a de minimis
12 1.23 square feet larger than the 24 square feet permitted.

13 The Marketplace sign is another signature feature of all Uncle
14 Giuseppe's signs. While rarely mentioned, the proper name of the
15 store is Uncle Giuseppe's Marketplace. So, this is -- it's pretty
16 much attached to the large Uncle Giuseppe's, but they've been broken
17 up because of that weird facade in the front.

18 MEMBER GOODSSELL: The only time the word Marketplace appears
19 is on this sign; is that correct?

20 MS. GONZALEZ: That's correct. All the others are just plain,
21 yes. So, this is the only place where you'll see Marketplace aside
22 from their website and other marketing-related things. As for the
23 store, everything else is just a plain Uncle Giuseppe's sign.

24 And then lastly, we have a second Uncle Giuseppe's sign, where
25 the former Stop & Shop sign was. This sign needs relief for height
26 and size as well. This is going to be this sign right here, and

1 formerly the Stop & Shop sign was there.

2 MEMBER HERNANDEZ: By the loading docks, right?

3 MS. GONZALEZ: Yes. So, they're loading dock's here. This
4 used to be their kind of entrance and exit area that's been kind of
5 shifted in Uncle Giuseppe's.

6 CHAIRMAN MAMMINA: Just curiosity?

7 MS. GONZALEZ: Yeah.

8 CHAIRMAN MAMMINA: Any idea of size-wise how that compares to
9 what Stop & Shop had?

10 MS. GONZALEZ: I don't have it off the top of my head, but I
11 do have their former building department permit.

12 UNIDENTIFIED SPEAKER: It's the same.

13 MS. GONZALEZ: Someone already knows the answer for me.

14 CHAIRMAN MAMMINA: It looked like that to me, and I asked that
15 only because they're way far away. We've never had a neighbor back
16 there come out and say, oh, my gosh.

17 MS. GONZALEZ: Yeah.

18 CHAIRMAN MAMMINA: Everything's always been done very
19 tastefully.

20 MS. GONZALEZ: Yes. So, this sign was actually done -- so when
21 they removed that former Stop & Shop sign, they saw a bunch of divots
22 in the brick. As I mentioned, replacing the brick and doing facade
23 work was going to be noisy and costly. You don't want to disrupt
24 the neighbors like that. They've kept the work mostly internal for
25 a reason. So, they chose to replace the sign, even though that would
26 put us at three signs on the front facade, just to kind of make it

1 look better. The divots were ugly. They were unsightly, and that's
2 not something you want.

3 So, again height. There are other signs that are at a higher
4 height above that 18 feet that's permitted, and although three signs
5 may feel a little unnecessary, again, we are the anchor tenant, so
6 we are given a little bit more signage. You do want to be visible,
7 and on a 9.5-acre property with a number of landscape islands that
8 do kind of obstruct your view in some places, two signs gave those
9 motorists coming in a little bit better identifier to the store.

10 Also, I'd like to point out that our total signage for the front
11 facade is 396.01 square feet. That means the signage takes up less
12 than 5 percent of the front facade.

13 CHAIRMAN MAMMINA: I was going to say a similar observation.
14 I like about this signage package is that it's not some ridiculous --

15 MS. GONZALEZ: Very proportional.

16 CHAIRMAN MAMMINA: -- or something that's so big, you know,
17 hoping that we're only going to reduce it a certain amount, you know.
18 Come out and ask us what you really need.

19 MS. GONZALEZ: We tried to keep it very proportional, and I
20 would say that front picture doesn't even really do it justice. If
21 you look at the second page of your package, you see that the front
22 facade is 300 feet long. These signs are very proportional.
23 They're about 38 feet long in comparison.

24 And then as for impact to the neighbors. There are residential
25 homes. These do technically face residential homes, but if you know
26 the shopping center, there's significant vegetation that blocks most

1 views into the parking lot.

2 CHAIRMAN MAMMINA: It's heavily treed.

3 MS. GONZALEZ: It is heavily treed.

4 With that, I complete my presentation. If you have any
5 questions, I'm happy to answer them. Thank you.

6 MEMBER GOODSSELL: I really don't. This is sort of a -- what
7 you would call? A very distinctive sign that all the other
8 Giuseppe's have. I honestly didn't realize the word marketplace was
9 considered a separate sign. I'm looking at this, and I didn't
10 realize it was a separate sign, and I don't feel that any of the signs
11 are out of proportion, and I make a motion that we grant the
12 application.

13 CHAIRMAN MAMMINA: We have a motion for approval by Member
14 Goodsell.

15 MEMBER HERNANDEZ: Second.

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

18 SECRETARY WAGNER: Member Hernandez?

19 MEMBER HERNANDEZ: Aye.

20 SECRETARY WAGNER: Member Goodsell?

21 MEMBER GOODSSELL: Aye.

22 SECRETARY WAGNER: Vice Chairman Francis?

23 VICE CHAIRMAN FRANCIS: Aye.

24 SECRETARY WAGNER: Chairman Mammina?

25 CHAIRMAN MAMMINA: Aye. The application is approved.

26 MS. GONZALEZ: Thank you.

1 S E Q R A

2 SECRETARY WAGNER: Somebody want to move to adopt SEQRA?

3 VICE CHAIRMAN FRANCIS: I move it.

4 MEMBER GOODSSELL: Second.

5 SECRETARY WAGNER: All in favor?

6 (Chorus of ayes.)

7 (Whereupon, the Proceedings concluded at 5:55 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 9th day of August, 2026.

A handwritten signature in cursive script that reads "Mariesel Berrios". The signature is written in dark ink and is positioned above a horizontal line.

MARIESEL BERRIOS