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TOWN OF NORTH HEMPSTEAD
BOARD OF ZONING APPEALS
PUBLIC HEARINGS

ZOOM VIRTUAL
PUBLIC HEARING
Wednesday, January 19, 2022
10:10 a.m.

BOARD MEMBERS PRESENT:

- DAVID L. MAMMINA, Chairman
- LESLIE FRANCIS, Vice-Chairman
- PATRICIA A. GOODSELL, Member
- DANIEL D. DONATELLI, Member
- JAY HERNANDEZ, Member

ALSO PRESENT:

- ADRIANA DEMIRCIYAN, Town Attorney
- VIRGINIA WAGNER, Secretary
- NICOLE L. BASILE, Reporter

Proceedings

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CHAIRMAN MAMMINA: All right. Thank you, I guess, we'll -- we'll start off with the -- with the Pledge of Allegiance and Vice-Chairman, Francis, would you please lead us.

MEMBER FRANCIS: I will.

(Whereupon the Pledge of Allegiance was said.)

SECRETARY WAGNER: Dan, I think you're still on here twice. There -- okay.

MR. DONATELLI: My apology.

CHAIRMAN MAMMINA: Okay. Good morning, ladies and gentleman and welcome to the Board of Zoning Appeals for the Town of North Hempstead. What I'd like to do before we get started is just give a brief run through of the way we do things in the town, in case you've never appeared before a zoning board before. Which, we'll ask you just to kind of just be calm, relax, whatever, just talk to us or if you've appeared before the zoning boards, but we might do things a little bit differently. So what will happen is that as each case is called, it will be first called by -- by Ms. Wagner and then by myself. And the applicant will be promoted to the -- to the hearing and they will give their name and address, as will everyone who -- who speaks. And at, you know, at that point, the -- the virtual podium will belong to them. And they can put their case onto the record and the Board will ask whatever questions it sees appropriate to ask. And at that point, if there is anyone else who wishes to speak and, excuse me, I'm going to back up a little bit. The Zoom throws me off a bit. So I'll -- I'll apologize. I'm so used to doing this in person. But after the case is -- when -- after Ms. Wagner calls the case, she will also then -- I will ask if there's anyone who is interested in the case, either in support or in opposition and you'll just raise your hand in the chat and then

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3 that way we will know that there are other
4 people that wish to speak. So after the
5 presentation is completed by the applicant
6 and the Board has asked its question, I'll
7 then ask for anyone who wishes to speak,
8 either in support in or in opposition of the
9 application, to be promoted to -- to the
10 hearing and you'll give your name and address
11 as well. And you'll put onto the record
12 whatever you choose to put on the record and
13 the Board will similarly ask questions of --
14 of -- of those persons who are testifying.
15 And when that is completed, the applicant and
16 typically only the applicant gets to speak
17 two times, because they then have the right
18 to either refute or support what was said by
19 anyone else who has spoken. And also at the
20 same time and in my opinion more important is
21 that the Board gets to weigh what has been
22 said by -- by the other persons who are in
23 attendance. And we can then ask questions of
24 the applicant, again, that may give us
25 further insight into -- into the application.
26 When that is completed, the hearing is done
27 at that point. It is -- it is over and
28 typically there -- there is no second
29 hearing. It is very rare when we have a
30 second hearing. And the Board, at that
31 point, then will do -- will do one of four
32 things. We will either approve the
33 application, we will deny the application, we
34 will reserve the application, which basically
35 means that -- that the Board may want to look
36 at the property again, you know, there --
37 there could -- we just may want to weigh it
38 out in our -- in our -- in our minds for our
39 deliberation, you know, what's been presented
40 or we will -- the fourth option is, we will
41 continue the application. And if we continue
42 the application, it may be continued because
43 we might offer some compromise to the
44 applicant and we need drawings. We may
45 request the building department file and, you
46 know, that has to be obtained. There have
47 been times where we just ask, you know, the
48 -- the applicant and, you know, and community
49 members, you know, to -- to maybe get
50 together and, you know, and come on, you

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3 know, on, you know, back with -- with a memo
4 or something to the -- to the Board. There
5 could be any number of reasons why we would
6 continue, but continuous means that we don't
7 have all the documents that -- that we would
8 like yet.

9 So I think I've covered everything.
10 As I said, this throws me a little bit.

11
12 MS. DEMIRCIYAN: Chairman, I would
13 just ask that public speaking is limited to
14 three minutes per person.

15
16 CHAIRMAN MAMMINA: Thank you very
17 much. I appreciate that.

18
19
20 MS. DEMIRCIYAN: You're welcome.

21
22 CHAIRMAN MAMMINA: Okay. The
23 applicant will be able to -- will be able to
24 make their full presentation, which generally
25 can't be done, you know, in three minutes.
26 But anyone else who wishes then to speak,
27 again, either in support, you know, or in
28 opposition, there is a three minute
29 limitation on that. And, you know, what --
30 what I would like to say is that, I like to
31 give everybody a little bit of rope, you
32 know, that's -- that's okay. You know, if
33 somebody has already made a point, you don't
34 need to make that same point the second time.
35 It doesn't make that any stronger because
36 it's on the record two times. You could
37 basically say, you know, I agree with the
38 previous speakers regarding traffic and
39 again, just, you know, point something and
40 that's it. You don't need to go into all of
41 your reasons why, if that's already been put
42 on the record.

43 So I think with all of that said,
44 then, Ms. Wagner, do we have any adjournments
45 on the calender today?

46
47 SECRETARY WAGNER: Chairman, we -- we
48 do not have any adjournments on the calendar
49 today.
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CHAIRMAN MAMMINA: Thank you. Then I
will ask you to call the first case, please.

APPEAL #21173

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SECRETARY WAGNER: Appeal No. 21173, 44 George Street, LLC, 44 George Street, Manhasset, Section 3, Block 83, Lot 7. In the Residence "B" Zoning District. Variances from 70-39(C), 70-100.1(A), 70-100.1(B) and 70-208(F) to construct additions to a non-conforming building, a detached garage/apartment that will be too big, too tall and too close to a side property line.

Mike, can you please promote T.J. Costello to the panelists.

CHAIRMAN MAMMINA: And I will call that. You heard Appeal No. 21173. If there is anyone who is interested in the application, we will ask you to raise your hand, you know, in the -- in the chat so that we can -- we can recognize you at the -- at the appropriate time. Thank you.

So please give your -- please give your name and address.

MR. COSTELLO: Good morning, Mr. Chairman and Board members, this is T.J. Costello from Hierarchy Architects and I'm representing the Boylan family at 44 George Street this morning. And I have both applicants with me today and we'll share the screen in -- in -- in a moment.

So just as a preamble, as a show of hands --

CHAIRMAN MAMMINA: If I -- if I may, Mr. Costello, just so your -- your clients understand, they certainly can speak and we welcome that, but they just have to put their name and address on the record. And if they do wish to speak together, that's also okay. But they have to be able to go one at a time, because the stenographer is taking a record and, you know, can only -- can only put down what one person is saying. Thank you.

MR. COSTELLO: Sure. Understood.

MEMBER HERNANDEZ: Mr. Chairman, before Mr. Costello continues, I know the -- the applicant personally. I think it would

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2

3 be appropriate that I recuse myself.

4

5 CHAIRMAN MAMMINA: Okay. So let --
6 let the record reflect that Member Hernandez
7 is recusing himself on this -- on this
8 application.

9

10 MR. COSTELLO: I -- I respect that
11 decision, but if you wanted to join back in,
12 because I don't know that -- if that may or
13 may not have any bearing in the particular
14 details that we'll go through, but we'll --
15 we'll approach that as it, you know, as it
16 goes.

17 So just as a quick show of hands, has
18 -- have the Board members had the opportunity
19 to go by the property and know it? Okay.
20 Then -- then --

21

22 CHAIRMAN MAMMINA: We go by the
23 properties, yes.

24

25 MR. COSTELLO: Because that just --
26 just tells me what -- what I wouldn't need to
27 waste time on, if you've seen it.

28

29 CHAIRMAN MAMMINA: Listen, make your
30 -- make your record as complete as you would
31 like it to do.

32

33 SECRETARY WAGNER: Mr. Costello, could
34 you just hold on a minute.

35 Jay, if you're going to recuse
36 yourself, you probably should turn off your
37 camera and your microphone.

38

39 MEMBER HERNANDEZ: Okay.

40

41 SECRETARY WAGNER: And then we'll
42 contact you when this appeal is done.

43

44 MEMBER HERNANDEZ: Thank you. Thank
45 you.

46

47 CHAIRMAN MAMMINA: Thank you,
48 Ms. Wagner. I wasn't -- I wasn't sure how to
49 do that.

50

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3 SECRETARY WAGNER: I'm trying to think
4 about how I'm going to contact you. I guess,
5 do you want me to call you?

6

7 MEMBER HERNANDEZ: Yes.

8

9 SECRETARY WAGNER: Okay.

10

11 CHAIRMAN MAMMINA: Okay. Mr.
12 Costello, you have it again.

13

14 MR. COSTELLO: Okay. The -- the
15 property is -- is a large eight -- over 8,000
16 square foot lot. What the -- the application
17 right now is an existing two-story garage
18 with an apartment above it, which has been
19 legalized previously. And the application
20 that we're seeking today, is we're -- we're
21 -- we're attempting to renovate the existing
22 apartment above, as a mother daughter suit
23 and it has not been renovated in many years.
24 The entire first floor second floor siding
25 windows have not been renovated in quite a
26 while. And it's in danger of -- of -- of
27 being dilapidated, unless we handle it at
28 this time. And so while we're doing it to
29 make a livable apartment, we're looking to
30 extend not even 100 square feet. 94.86
31 square feet at the -- at the upper level. So
32 the reason that it is considered above 15
33 feet, which would be the accessible structure
34 -- sorry, the accessory structure maximum
35 height, is because it's already starting on
36 the second floor. So although it's not
37 changing the -- the ridge height and the
38 footprint of the existing building but for
39 that fact it's so called above 15 feet. And
40 that -- that's -- that's one of the aspects
41 of the variance that we're seeking. And the
42 -- the -- the other nonconformity is that
43 we're so called enlarging it. But again,
44 it's a very de minimis request just to square
45 off the front edge of the building.

46

47 Would you like to share a screen for
48 -- for the -- for the plan. Would you like
49 to go through that?

50

CHAIRMAN MAMMINA: Sure.

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4 SECRETARY WAGNER: Are you gonna share
5 your own screen or did you want me to share
6 it?

7
8 MR. COSTELLO: We'll share screen and
9 William will do that from his remote desktop.

10
11 SECRETARY WAGNER: Okay. Before you
12 proceed, I just wanted to clarify something.
13 You said that this is a mother daughter
14 apartment?

15
16 MR. COSTELLO: It's going to be used
17 in that fashion. Correct.

18
19 SECRETARY WAGNER: Because I don't
20 believe that was part of the application.

21
22 MR. COSTELLO: No. It's a tenant --
23 tenant situation. The tenant happens to be
24 their lovely mother.

25
26 SECRETARY WAGNER: Okay. So it's not
27 officially a mother daughter apartment in the
28 eyes of the town regulations.

29
30 MR. COSTELLO: That would correct.

31
32 SECRETARY WAGNER: Okay. I just
33 wanted to clarify that, because the
34 application is not for a mother daughter. I
35 believe you have the -- that that apartment
36 is legal -- was a legal apartment --
37 currently a legal apartment.

38
39 MR. COSTELLO: That is correct.

40
41 SECRETARY WAGNER: Thank you.

42
43 CHAIRMAN MAMMINA: Very good point so
44 thank you.

45
46 MR. COSTELLO: So we're going to share
47 screen right now just so we're -- we're clear
48 about the -- the -- the scope and location of
49 the addition.

50 Can you promote William McGeever from

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Hierarchy Architects?

So this is the four elevations and from the front, this is -- sits 180 feet back from the street. So a lot of people wouldn't even now it's here over -- over the many years. Also, I should point out it's -- it's -- it's dark brown shingle. It's rather unassuming and it's been there for, you know, many, many years. The front elevation where there's a small flat roof area over the garage doors and behind it, are two existing windows and a door. That is the elevation that we are pushing forward towards the street.

The number, William, is how far forward? I'm sorry? 3 foot 11. So just sort of inline with the -- with the door below, which we will switch down to the proposed plan.

So this is the proposed plan. That area is the slice of 3 foot 11 coming forward to the same flat area that's over the garage doors.

CHAIRMAN MAMMINA: Mr. Costello, what -- what drawing are you on, because I've got it up on my screen also.

MR. COSTELLO: Sure. It's A1.

CHAIRMAN MAMMINA: Okay. So we're all the way at the bottom. All right. I just want to make sure that I'm looking at what you're looking at.

MR. COSTELLO: Right.

CHAIRMAN MAMMINA: Because you zoomed it up, which is what I was going to do. Go ahead.

MR. COSTELLO: All right. So -- so the -- the front -- the front portion is what's coming forward 3 foot 11 and everything else of the footprint remains the same. So we believe it's a rather de minimis request. It's not changing the -- the -- the -- the roof or ridge line is not changing the

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3 footprint. We're seeking to make the
4 existing tenant space above more habitable,
5 rather than old fashioned chopped up rooms
6 that it used to have. So that's really what
7 -- what the scope entails.

8 We have four adjoining neighbors
9 letters of support that have been entered
10 into the record, I believe. Is that correct?

11
12 SECRETARY WAGNER: Yes. They have.
13 And they were forwarded to the Board this
14 morning.

15
16 MR. COSTELLO: Very good. Thank you.
17 So if you have them all, I'll save time by
18 not reading them. But they are very
19 supportive and they're the neighbors most
20 directly affected by this, and they are in
21 support of this application.

22 So we believe that -- that is, you
23 know, not going to produce an undesirable
24 affect and this is not a self-created
25 hardship, in that the existing structure is
26 completely outdated upstairs and in need of
27 repair at this time. And this is the most
28 effective way to -- to -- to accomplish that.
29 We don't believe it will have an adverse
30 affect on the neighbors and -- and they are
31 in fact support. And so with that, we -- we
32 believe that -- that this is a request that
33 we would appreciate your consideration and
34 approval.

35
36 CHAIRMAN MAMMINA: Mr. Costello, it is
37 self-created. That's not necessarily
38 damming, you know.

39
40 MR. COSTELLO: Correct.

41
42 CHAIRMAN MAMMINA: But just -- just
43 for the record, I mean, it's self-created
44 because you bought the property, you know,
45 and when you bought the property, you know,
46 your expectations might be what your
47 expectations are. But the law of zoning is
48 still a law of zoning. But, you know, we're
49 here to do the balancing test that -- that
50 says, you know, thumbs up, thumbs down. You

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3 know, in terms of reconfiguring the inside of
4 it and renovating it and, you know, all of
5 that, of course that does not fall within the
6 purview, you know, of the -- of the Board,
7 you know. And the -- the obvious question
8 that, you know, that -- that we have to ask
9 is, why do you need to increase that
10 nonconformity by another four feet? By -- by
11 -- by zoning law, nonconformities are
12 supposed to go away, not be -- not be
13 created, you know. So, you know, that again,
14 is not damming. Okay. Those are just --
15 those are just the points of, you know, of
16 law. Because I mean, I see the dotted line
17 where -- where the wall, the exterior wall is
18 now. Okay. So wait. So let me understand
19 though that, because I didn't see -- I saw
20 that other dotted line on the outside has a
21 roof overhang. I thought it was vertically
22 the line -- that one. Yes.

23
24 MR. COSTELLO: That line is the
25 preexisting line.

26
27 CHAIRMAN MAMMINA: That's what I'm
28 saying. So the -- the addition, you know, is
29 to the left of -- of that. So it's the 3
30 foot 11 by the 24 feet?

31
32 MR. COSTELLO: Yes.

33
34 CHAIRMAN MAMMINA: That's the -- the
35 addition?

36
37 MR. COSTELLO: Yes.

38
39 CHAIRMAN MAMMINA: So that's the part
40 that -- that would increase -- would increase
41 the floor area?

42
43 MR. COSTELLO: Yes.

44
45 CHAIRMAN MAMMINA: So I think what we
46 need you to speak to is why this doesn't
47 work, unless you have that. Okay. Because
48 that, you know, that would be, you know,
49 what, you know, what would be one of the
50 factors that we would be looking at.

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MR. COSTELLO: Sure. Well, the existing wall that it is right now, has a header that's caving a little bit. So it's going to have to be replaced, the entire wall.

CHAIRMAN MAMMINA: That doesn't matter though. That doesn't matter. You -- you -- you can take a building -- now look, Mr. Costello, I know you very well. You're an excellent practitioner, you know. And so I'm not doing, like, a tetanus thing with you. Not at all. But I mean -- and -- and you understand you can go get a permit, you can replace that header, you can redo the wall, none of that will matter. I mean, you're -- you're here. One of the -- the -- the major things is increase of floor area. That's something that we look at very carefully, but we look at it on a case by case basis.

MR. COSTELLO: Right.

CHAIRMAN MAMMINA: You know, so it's important that -- that -- that if we approve this, that we can separate this from the next person who comes in, you know, and asks for it, you know. And it's nice that neighbors say yes, you know. They, you know, they -- they like it and I'm not going to say that that -- that that's something that we don't, you know, consider. But, you know, generally, you know, that's not -- that's not within the, you know, the five, you know, the five parameters, which you know. I mean, you -- you -- so if you can try to hit that a little bit.

MR. COSTELLO: Well, I was just going to say that that wall is going to be replaced anyway "while we're are at it", which is a very common phrase we hear as architects. So since that wall was going to be, you know, replaced anyway and the -- the functionality of the room, you know. Looking forward to a few years in the future, where perhaps mom might need, you know, an aid and the ability

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3 to just get around with assistance and the
4 existing floor plan, we tried to open it up
5 as much as possible to allow a multiple
6 verity of -- of furniture arrangements. So
7 that was really kind of the -- the -- the
8 inspiration, to just, you know, do it while
9 we were fixing the whole thing and do it
10 right. And this would -- this would allow
11 just a little bit more space. The existing
12 -- William, if you could go from -- from --
13 from future wall to wall that existing
14 rectangle is what now? Yes. Of the living
15 space. Yeah.

16
17 CHAIRMAN MAMMINA: And also, just for
18 anybody else who is watching the Zoom, if I'm
19 not looking at the screen, it's because I'm
20 looking at the drawings on my -- on second
21 screen so it's not that I'm not paying
22 attention. I am.

23
24 MR. COSTELLO: Yeah. So that's the
25 existing living room, which is rather narrow.

26
27 MEMBER DONATELLI: Sorry. What --
28 what page is that?

29
30 MR. COSTELLO: We are -- William?

31
32 MR. MCGEEVER: D1.

33
34 CHAIRMAN MAMMINA: D1.

35
36 MR. COSTELLO: Demolition Existing
37 one.

38
39 MEMBER DONATELLI: Got it.

40
41 MR. COSTELLO: And we're right now
42 clicking on our (inaudible) to get a real
43 live number for you.

44 No. From the living room wall to the
45 bathroom wall to the future -- to the
46 existing wall and then we'll add four feet.

47
48 MR. MCGEEVER: 14 seven and a half.

49
50 MR. COSTELLO: 14 seven and a half.

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2
3 So it'll go to -- 14 -- 18.7 right. So 14
4 feet across will go to 18 roughly and so when
5 we -- when we did some, you know, proposed
6 furniture plans and layout plans, it -- it
7 just seemed that that would be the time to do
8 it, because that wall is going to be removed
9 and -- and repaired anyway. So that's --
10 that's what I have.

11
12 CHAIRMAN MAMMINA: Is the -- is the --
13 the deck being extended as well?

14
15 MR. COSTELLO: The deck is being
16 extended just to go over -- to cover over the
17 overhang of the garage doors. Again, that's
18 being replaced and the rafters are -- are
19 just going to cantilever further over the
20 door.

21 And that's the existing.
22 And this is the proposed on A2.

23
24 MEMBER DONATELLI: So if -- if I'm
25 reading the plans correctly, it appears that
26 right now you have a very narrow galley
27 kitchen. Is that -- and then it looks like
28 you have a living room to -- on the street
29 side of the kitchen and then, of course, the
30 wood deck. And if I'm looking the at the
31 plans correctly, you are proposing to put the
32 kitchen horizontally rather than vertically.
33 Is -- is that correct?

34
35 MR. COSTELLO: Yes. That's correct.
36 It would be, like, one -- one big -- one big
37 open -- one big accessible space.

38
39 MEMBER DONATELLI: All right. And --
40 and -- and the age of the -- of the tenant?
41 The age of the applicants mother is what?

42
43 MR. COSTELLO: 86 in June.

44
45 MEMBER DONATELLI: Okay.

46
47 MEMBER GOODSSELL: And, Mr. Costello,
48 if I can ask a question. I'm looking at the
49 survey and I see that the immediate adjoining
50 neighbor to this particular structure is the

1 APPEAL #21173

2
3 episcopal church. Is that correct?

4
5 MR. COSTELLO: That's correct.

6
7 MEMBER GOODSSELL: And we were
8 submitted a letter from the episcopal church
9 saying that they had no objection. But there
10 have been several other consents that we've
11 received this morning. Where are those
12 property owners that have consented? Where
13 are they located?

14
15 MS. BOYLAN: Hi, I'm Lauren Boylan.
16 My mother Ann Devlin here.

17
18 SECRETARY WAGNER: Can you just put
19 your address on the record and state your
20 name clearly.

21
22 MS. BOYLAN: Sure. So I live at 44
23 George Street in Manhasset and the building
24 proposed plan is at 48 George Street. It's
25 the garage apartment to the very rear of our
26 building, which has a separate number. A
27 separate street number.

28 So the neighbors that I was able to
29 get signatures from are directly across the
30 street from the main house and then the
31 reverend next store, who is with the
32 episcopal church, who is really the most one
33 -- the one that's most directly affected with
34 the renovation is also one of the letters
35 that you received.

36
37 MEMBER GOODSSELL: What property is
38 directly behind to the south of this
39 building?

40
41 MS. BOYLAN: A cemetery.

42
43 MEMBER GOODSSELL: I'm sure they would
44 consent.

45
46 MS. BOYLAN: They're all in favor.
47 Yes. They're all in favor.

48
49 MEMBER GOODSSELL: I'm the newest Board
50 member. I'm not familiar with this property.

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2

3 So when I looked at it, I realized this is
4 like a little world onto itself.

5

6 MS. BOYLAN: It's, like, a comrade
7 there. So, you know, the main house sits
8 close to George Street and then the reverend
9 next door and our house, we share a driveway
10 that goes up and it goes, like, a Y. So we
11 have two garages at the stop. The garage
12 apartment that we're currently talking about
13 and then right next door is the reverend's
14 garage. And then we have a graveyard in the
15 back so nobody really on George Street is
16 affected at all by this small renovation.

17

18 MEMBER GOODSELL: Thank you for the
19 clarification.

20

21 MS. BOYLAN: You're welcome.

22

23 MEMBER DONATELLI: And, Mr. Costello,
24 again, as I've reviewed the plans and I'm on
25 page (inaudible). I'm looking at the
26 existing configuration which shows the
27 kitchen, which, as I said, is rather narrow
28 it looks like and then there is a counter.
29 Is that a half wall that -- that separates
30 the living room from the kitchen?

31

32 MS. BOYLAN: Yes.

33

34 MR. COSTELLO: Yes.

35

36 MEMBER DONATELLI: Okay. And that
37 will be removed in favor of one larger
38 kitchen, as I say, which will go horizontally
39 rather than vertically?

40

41 MR. COSTELLO: Correct.

42

43 CHAIRMAN MAMMINA: What I'd like to
44 do, if the rest of the Board agrees, I -- I
45 would like to reserve this, because it is a
46 floor area variance.

47

48 SECRETARY WAGNER: Chairman, I think
49 we should see if there's anybody who wants
50 to --

1 APPEAL #21173

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4 CHAIRMAN MAMMINA: I'm sorry.

5

6 SECRETARY WAGNER: -- speak from the
7 audience before we conclude the -- are all of
8 the Board members done with their questions?

9

10 MEMBER DONATELLI: I am.

11

12 MEMBER GOODSELL: I have one other
13 question. I'm looking at the wood deck. I
14 believe I saw on one of the papers that
15 there's a Trex deck. Is that proposed
16 material or is that existing now?

17

18 MS. BOYLAN: No. That's proposed.

19

20 MEMBER GOODSELL: That's proposed. So
21 it's currently a wood deck, correct?

22

23 MS. BOYLAN: Mm-hmm.

24

25 SECRETARY WAGNER: So, Mr. Costello,
26 if you can stop your screen sharing so I can
27 view the --

28 Is there anybody in the audience that
29 would like to speak regarding this appeal
30 raise your virtual hand.

31 Adriana, if you can just confirm, I
32 don't see anybody that's raised their hand.

33

34 MS. DEMIRCIYAN: No. I do not see
35 anyone that is raising their hand either.

36

37 SECRETARY WAGNER: Okay. So,
38 Chairman, you can --

39

40 CHAIRMAN MAMMINA: Thank you,
41 Ms. Wagner, because I jumped the gun.

42

43 SECRETARY WAGNER: That's okay.

44

45 CHAIRMAN MAMMINA: So I don't know
46 that if the Board has asked, you know, the
47 questions that it -- that it has, you know.
48 I -- I suggest just that we -- that we
49 reserve this and, you know, this -- this may
50 or may not be decided, you know, later today.

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MR. COSTELLO: Mr. Chairman, Ms. Boylan just wants to summarize a few points and then -- then -- then you can bring it to closure.

CHAIRMAN MAMMINA: Of course. Certainly.

MS. BOYLAN: So -- so this property is owned by an LLC. My mother and father bought the property in 1976, Anne and Ed Devlin. And we've maintained the property, you know, in really wonderful fashion for all of those years. And the garage apartment in the back is, again, my mother is going to move into. She sold her house in Strathmore Vanderbilt, you know. My mom, god bless her, is going to be 86 in June. She's in great physical shape and everything, but we're just thinking down the road. If she does need an aid, if she needs to have a walker or a wheelchair -- sorry, mom. We just want the living space to just accommodate anything that she might need in the future. It's a very, very small addition on one side of the building only. The footprint will not change. The neighbors are not directly affected and I'd really appreciate your consideration in allowing us to do this very small renovation.

CHAIRMAN MAMMINA: No, and we appreciate that. And what I always like to say is that, I think we have a very unique Board, you know, in that, you know, we -- we weigh all the factors and of course, you know, the -- there is no black and white law, you know, in this. That's why we are here. That's why the state says every municipality has to have a Zoning Board. But we are all family people, we all live in the town, you know. We -- we understand and, you know, we'll, you know, we always try to give the correct decision. And you do have a very unique piece of property here.

MS. BOYLAN: Thank you. Thank you very much.

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CHAIRMAN MAMMINA: Okay. Thank you all. So we'll reserve this and this may or may not be decided later today.

MS. BOYLAN: Okay. Thank you. Thank you all.

MEMBER DONATELLI: You're welcome.

CHAIRMAN MAMMINA: You're welcome.

SECRETARY WAGNER: Chairman, on that note, I think and I'm not sure if Mr. Costello did address this, but I think for the record, it should be noted that this is a very unique piece of property and that the size is sort of an anomaly for that area.

CHAIRMAN MAMMINA: Virginia, you're 100 percent correct. I had that tucked in my head, you know, to say, Mr. Costello, why don't you talk a little bit about the piece of property so.

MEMBER GOODSELL: It's interesting to me that it is one lot -- section block and lot. It is a huge piece of property and it was never -- it must be very old. It was never subdivided into other lots. So hence the different addresses as she pointed out that the actual property is numbered 48, even though she is 44 but it's one lot.

MS. BOYLAN: The house is built in 1905. So it's really, really old and unique.

CHAIRMAN MAMMINA: Thank you. You know, it's a Residence "B". That's, you know, you gotta lot that's bigger than a half an acre. You know, that's -- that's -- that's a big lot.

MS. BOYLAN: We are very fortunate to live here.

CHAIRMAN MAMMINA: I'm picturing a carriage house back there and --

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MS. BOYLAN: I think it was. I think actually, right, the garage was originally a carriage house and sometime in the early 1900's it moved to a regular garage.

CHAIRMAN MAMMINA: It was also not unusual to have a caretaker, or a groundskeeper, or whatever, you know, live above that garage, you know, so. But the garage is legal already -- excuse me -- the garage is already legalized as an apartment so that's not what's before us today.

MS. BOYLAN: Yes. Yes. Right.

CHAIRMAN MAMMINA: You know, it's that -- that one four foot piece in the -- in the front that's being popped and, of course, the height, but that preexists and the side yard, but the preexists so.

MS. BOYLAN: Right.

CHAIRMAN MAMMINA: You know, the building department denied everything correctly, you know. So, you know, it's -- it's pretty, you know, it's pretty clear cut, you know, what the case is that's on the table. Okay. So we'll reserve this and, you know, as I said, we may or may not decide it later today.

The Zoom hearing is live for the, you know, for the whole day and anyone is welcome to listen, you know, later on, you know, whatever -- whatever you would like.

MS. BOYLAN: Okay. Thank you.

CHAIRMAN MAMMINA: Okay. Thank you.

SECRETARY WAGNER: Thank you.

Proceedings

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3 SECRETARY WAGNER: So before the
4 next appeal, I'm just gonna get in touch with
5 Mr. Hernandez.

6 He may be back on.

7 Member Hernandez is rejoining the
8 hearing.

9
10 MEMBER HERNANDEZ: Okay. I'm back.

11
12 CHAIRMAN MAMMINA: There he is.
13 Welcome back.

14
15 MEMBER HERNANDEZ: Thank you.

16
17 CHAIRMAN MAMMINA: Okay. So I guess
18 then we'll -- we'll call the -- the next
19 case.
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1 APPEAL #21175

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3 SECRETARY WAGNER: Appeal No. 21175,
4 Yifan Wen and Jenny Tsui, 138 Rockcrest Road,
5 Manhasset, Section 3, Block 223, in the
6 Residence "A" Zoning District. Variances
7 from 70-100.1(A) and 70-100.2(D) to construct
8 a pergola, outdoor kitchen, BBQ and fireplace
9 in a side yard, and the fireplace being too
10 tall.

11
12 CHAIRMAN MAMMINA: You heard Appeal
13 No. 21175, Yifan Wen and Jenny Tsui. If
14 there is anyone who wishes to speak, other
15 than the applicant, please raise your hand in
16 the -- in the chat and we will then recognize
17 you after the applicant has made their
18 presentation. Thank you.

19
20 SECRETARY WAGNER: I don't see anyone
21 right now, but we'll check again at the end
22 of the presentation.

23
24 CHAIRMAN MAMMINA: Okay. Do we have
25 the applicant?

26
27 SECRETARY WAGNER: That would Mr.
28 Costello once again.

29
30 CHAIRMAN MAMMINA: Okay. Did you tell
31 him the rule, that each applicant can only do
32 one case a day?

33
34 MR. COSTELLO: Well, you know what,
35 I've actually got two more tonight. Today --
36 today is four.

37
38 MEMBER GOODSELL: Today is Mr.
39 Costello day.

40
41 CHAIRMAN MAMMINA: Good for you. Good
42 for you.

43
44 MR. COSTELLO: Yeah. I'm in Flower
45 Hill. I'm everywhere today.
46 So thank you for hearing this
47 application. I am T.J. Costello from
48 Hierarchy Architects, representing Mr. and
49 Mrs. Tsui at 138 Rockcrest. And the -- this
50 is an application to do work in the so called

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3 side yard. This is a corner property and as
4 you walk around the property, the existing so
5 called backyard, it's apparent to anyone that
6 -- that this is the so called backyard and
7 this is where the patio is but for the fact
8 it's a corner lot. It's defined as the side
9 yard. So if you look at the existing
10 property, William McGeever from Hierarchy
11 Architects is going to pull up on his screen
12 -- if you can promote him, please -- to -- to
13 show the site plan and what we'll demonstrate
14 is the existing plan right now where his
15 mouse is shows the existing patio.

16 Can you do existing photos too,
17 William?

18 We want to show you how it's treated
19 right now. This is the rear -- rear of it
20 right now.

21 Do you have the one with the existing
22 skip laurels?

23 And the -- the existing rear yard is
24 -- is open to -- to the -- to the grade. And
25 so we have approved in our building permit to
26 have French doors, which they are now where
27 the skip laurels are. We removed those. The
28 wall was failing and we removed those and we
29 just were able to get more daylight into the
30 basement or the cellar.

31 This is the existing patio as it is
32 now and we were looking to replace it in
33 time. And, you know, as Mr. Mammina pointed
34 out, I've been doing this a long time and
35 even myself, it escaped me, because it didn't
36 even occur to me that this wasn't the rear
37 yard. So it just -- it just -- no one
38 wouldn't think it's the rear yard is my
39 point. So we're -- we're here to try -- and
40 we thought we would try to maintain the patio
41 and again, while we're at it, since we're at
42 it, we decided we would -- we would renovate
43 it. These existing retaining walls are past
44 their useful life. Some of them are -- are
45 falling and there was not an adequate amount
46 of weep holes built into the them at the
47 time. So it's really -- they're kind of
48 nonfunctional. So we went about redesigning
49 it and we resubmitted it, and were denied for
50 the fact that this is in the side yard. So

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3 we're here today to rectify that and see if
4 we can get this variance approved so that
5 this can be legal -- legal -- a legally used
6 so called side yard as their backyard.

7 In the design we have a pergola, which
8 would be considered a structure and we have a
9 fireplace that would exceed the height of the
10 required five feet which --

11
12 MEMBER HERNANDEZ: Can you please put
13 up the drawing showing --

14
15 MR. COSTELLO: That's coming up right
16 now.

17
18 MEMBER HERNANDEZ: Thank you.

19
20 MR. COSTELLO: So the other -- so
21 that's the fireplace at the -- at the -- at
22 the end and the pergola is the dotted line
23 above it. So that's what we're looking for
24 approval for as well.

25 If you'll notice, know there's a
26 dotted line running parallel --

27
28 MEMBER HERNANDEZ: Mr. Costello, the
29 pergola and fireplace, the fireplace would
30 have its back directly to what is essentially
31 legally in the front yard of the house,
32 correct?

33
34 MR. COSTELLO: That is correct.
35 However --

36
37 MEMBER HERNANDEZ: It is really
38 legally the side yard, but functionally the
39 backyard of the house. Because the house
40 faces in the wider side of the block rather
41 than the narrow side of the block.

42
43 MR. COSTELLO: That is correct. That
44 is correct. I wanted to point out, however,
45 that the existing topography has a gigantic
46 hill there. So even though it faces, you --
47 you really can't see it from the street.

48
49 MEMBER HERNANDEZ: Okay. That was
50 going to be my next question. So it will not

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3 be -- that hill will not be removed and
4 opened up into a lawn into the street?

5

6 MR. COSTELLO: That's correct. The
7 hill would not be removed. Yeah. The hill
8 would not be removed, not only on the side
9 but on the rear as well where it's down. So
10 it's really hard to see this patio.

11

12 MEMBER HERNANDEZ: So although we -- I
13 drive by that coming back from the Americana
14 shopping center. I live back there. So
15 although the chimney is 15 feet high, what
16 would be visible from the street would not be
17 all 15 feet. It would be some number less
18 than that?

19

20 MR. COSTELLO: That's correct.
21 Probably just the top third let's call it.

22

23 MEMBER HERNANDEZ: Okay. I'm sorry.
24 Go ahead.

25

26 CHAIRMAN MAMMINA: Mr. Costello, do we
27 have any kind of a section through that, that
28 would show what the relationship to grade is
29 or I didn't see any elevations -- any spot
30 elevations on the survey so we can get some
31 kind of an idea of, you know, what -- what
32 are you going to see, you know, from the
33 street. I mean, I recognize this is, you
34 know, down in -- at an elevation lower than
35 what that street is, but I'm sure you
36 understand the question that I'm asking.

37

38 MR. COSTELLO: Sure. I do understand
39 the question and that's a drawing we don't
40 have but for these details that are on the
41 fireplace page at sheet number A2 and the
42 existing photographs that we screen shared a
43 moment ago shows that it's down low. And but
44 we -- we could absolutely produce one and I
45 think that would, I think, demonstrate our
46 case rather well.

47

48 CHAIRMAN MAMMINA: Yeah. I think it
49 would be important, you know, to see the
50 relationship of the pergola and the -- and

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3 the, you know, and the chimney, you know, to
4 the street probably, you know, I don't know
5 if you have different -- a different opinion,
6 you know, and if you do, you know, please --
7 I'd just like to see what it looks like. And
8 this is unique. Okay. And part of zoning is
9 unique -- uniqueness. But again, we just
10 want to, you know, we want to make sure
11 because it does face, you know, the street,
12 you know. How much we are going to see and,
13 you know, how much is going to be hidden.
14

15 MR. COSTELLO: Right. Yeah. Also,
16 the owner has engaged a reputable, you know,
17 landscape architect and there will be dense
18 and beautiful plantings all around. In
19 addition to the fact that this has a fairly
20 large berm that would obscure anyway.

21 Do you have that? Can you share that?
22 Google street? Okay. Fine. That's the
23 Google street image. So coming around the
24 corner, you can't even see the backyard and
25 it's -- the whole house is kind of up -- so
26 where that mouse is right there --
27

28 MEMBER HERNANDEZ: You're way past the
29 area of discussion now. It's the other
30 direction. It's coming down that side.
31 Correct.
32

33 MR. COSTELLO: There.
34

35 MEMBER HERNANDEZ: That's it.
36

37 MR. COSTELLO: Yeah. So thank you,
38 William. That is good.

39 So in addition to that, those are
40 existing mature plantings at the street line.
41 So they will be adding additional plantings
42 at the new constructed area as well. So
43 there will be almost double -- double
44 screening.
45

46 CHAIRMAN MAMMINA: Great.
47

48 MR. COSTELLO: So I started to point
49 out also that the diagonal line that is
50 parallel with the existing property line is

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3 currently drawn at 15 feet. The code
4 requires it only to be 10. So we are five
5 foot better than that trying to just keep
6 everything within that side yard. So, you
7 know, in terms of that, it's all well in
8 conformance. In fact, we've improved the
9 staircase coming down from the upper portion,
10 which -- which wondered into the 10 foot
11 setback. So now we are improving that. So
12 really, the aspects that are causing us to be
13 here today is the height of the chimney, the
14 structure of the pergola and the fact that
15 this is in the side yard.

16 To put in perspective, I would like to
17 show you what would be the required
18 conformity area that we could be building in,
19 which is the so called rear yard and we'll
20 put up that screen and show you how -- how
21 constructive that would be, if that were the
22 only place we were allowed to build.
23 Currently coming out there's a family room
24 that juts out, which is 18 by 14 and then
25 there's an existing patio. You would have to
26 converse the patio 14 feet to walk over to
27 this pink area. That would be the so called
28 buildable rear yard, which is directly on the
29 end of the driveway. Which isn't a very, you
30 know, aesthetic pleasing place to be sitting
31 and having a family, you know, outdoor dining
32 experience, you know, in nice weather. And
33 as you know from COVID and so on, the idea of
34 living outdoors has become so much more
35 important. And so we wanted to have a much
36 nicer experience in the rear where -- where
37 -- where -- where we believe the rear, you
38 know, patio ought to be. So we -- we believe
39 that it -- it's a reasonable request. That
40 it is not going to materially change the
41 appearance of the patio as it is now, as it
42 would be in the future. There have, you
43 know, up till this point, there have been no
44 complaints about it and it exists in that
45 fashion for many years. And we're just
46 looking to replace it, you know. Sometimes
47 the term is called same for same. We'd like
48 to believe it's same for better and -- and
49 that is -- that's the -- that's our -- our --
50 our presentation today.

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MEMBER HERNANDEZ: One more question,
Mr. Costello.

MR. COSTELLO: Yes.

MEMBER HERNANDEZ: You are now showing
what is in existence and you mentioned the
stairs that are encroaching into the --

MR. COSTELLO: Yes.

MEMBER HERNANDEZ: -- the back is being
moved close to the house so it doesn't
encroach.

MR. COSTELLO: Yes.

MEMBER HERNANDEZ: It also appears
from the drawings that you did, that if the
-- that missionary patio is not going to
remain the same size. It's going to become
longer, for lack of a better term. How much
more? How much longer will it be? How close
-- will it go past that house for example?

MR. COSTELLO: Not really. It matches
the far line of the -- a third of the way
through the rear of the den, but it's
skinnier. It's narrower and longer.

MEMBER HERNANDEZ: Okay. So if you
could back to the previous photograph,
please. Okay. So it's a little bit longer,
but it's not going past the house. So
therefore, it will not be more visible from
the street.

MR. COSTELLO: That is correct.

MEMBER HERNANDEZ: Okay. Fine.

MR. COSTELLO: And that is the area
where the large berm is.

MEMBER HERNANDEZ: Okay.

CHAIRMAN MAMMINA: Okay.

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4 SECRETARY WAGNER: I just wanted to
5 also ask, Mr. Costello, did you receive an
6 e-mail from us this morning with some
7 correspondence that was submitted?

8
9 MR. COSTELLO: Let's see. Let me
10 check my e-mail right now.

11
12 SECRETARY WAGNER: And while he's
13 checking that, Chairman, can you just clarify
14 what you requested from the applicant to
15 provide additional information on?

16
17 CHAIRMAN MAMMINA: Unless Jay has a
18 different opinion, I think we'd like to see,
19 you know, what that's going to -- how much of
20 that -- of that chimney of that fireplace is
21 going to be sticking up, you know, in that
22 area, you know. Both as a simple section,
23 you know, cut through it. Here's the grade
24 up here where the dirt is and here's the, you
25 know, the chimney and the pergola, you know,
26 down here, you know. And, you know, from --
27 from the street, you know, what -- how much
28 of that will they, you know, will be seen.

29
30 MEMBER HERNANDEZ: Right.

31
32 CHAIRMAN MAMMINA: And I think also,
33 if there is new landscape plan, you know,
34 that -- that would be appreciated if you --
35 if -- if that exists, just if you can pop
36 that into that, you know, to then just
37 further demonstrate what screening would be
38 there.

39
40 SECRETARY WAGNER: Thank you.

41
42 CHAIRMAN MAMMINA: Okay. Okay.

43
44 MR. COSTELLO: Sure. We'll be happy
45 to provide those additional documents and
46 then we'll -- we'll see you next time.

47
48 CHAIRMAN MAMMINA: Okay. That sounds
49 -- that sounds good.
50

1 APPEAL #21175

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3 SECRETARY WAGNER: Did you receive the
4 e-mail, Mr. Costello?

5

6 MR. COSTELLO: I just did now. Yes.
7 Thank you. I hadn't seen it before.

8

9 SECRETARY WAGNER: Okay.

10

11 MR. COSTELLO: When they say directly
12 across in the front or the rear, I guess the
13 -- which -- which is the address? Okay. 137
14 Rock Crest. It's behind.

15 Can you bring that up, William, on
16 Google earth?

17 So 137 Rock Crest apparently has
18 written a letter this morning saying that
19 they are not in favor.

20 Across the street in front. Yeah. I
21 would think so.

22

23 MEMBER HERNANDEZ: Is it across the
24 street the -- the functional front of the
25 house or --

26

27 MR. COSTELLO: Correct. So they
28 wouldn't even be able to see behind the
29 house.

30

31 MEMBER HERNANDEZ: Well, I said it is
32 the functional front of the house, in other
33 words --

34

35 MR. COSTELLO: Correct.

36

37 MEMBER HERNANDEZ: Not because we have
38 a legal front and we have a functional front.

39

40 MR. COSTELLO: That is correct.

41

42 MEMBER HERNANDEZ: Okay. So they
43 would not even see this improvement.

44

45 MR. COSTELLO: That's correct.

46

47 CHAIRMAN MAMMINA: All right. Yeah.
48 It would be seen from Rock Crest.

49

50 MEMBER HERNANDEZ: They are both Rock

1 APPEAL #21175

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3 Crest that's the problem. So this house is
4 on the corner of Rock Crest and Rock Crest.

5

6 CHAIRMAN MAMMINA: Jay, you would
7 think that you live in that neighborhood.

8 That's a joke for the record.

9 Okay. Mr. Costello --

10

11 SECRETARY WAGNER: We do have somebody
12 that would like to speak. They have their
13 hand raised.

14

15 CHAIRMAN MAMMINA: Okay. Wonderful.
16 Great. Great.

17

18 SECRETARY WAGNER: Mike Tamburello, if
19 you could just allow Sophia Giordano to
20 speak. We can find out whether she --

21

22 MR. GIORDANO: Hi, everyone. Can you
23 hear me?

24

25 CHAIRMAN MAMMINA: Yes. We can.

26

27 SECRETARY WAGNER: Put your name and
28 address on the record, please.

29

30 MR. GIORDANO: Hi. I'm Ralph
31 Giordano. I live at 149 Rock Crest.

32

33 CHAIRMAN MAMMINA: Good morning.

34

35 MR. GIORDANO: Good morning. Thank
36 you everyone for allowing me to speak.

37

38 I just heard the application for the
39 appeal and, you know, I live directly across
40 from the front of the house. I would not be
41 able to see the pergola or the fireplace from
42 the front of my house, but I can tell you, I
43 don't need an elevation plan to let you know
44 that a fireplace on that side of the house,
45 which is the north side of the house is very
46 visible from Rock Crest Road. The other Rock
47 Crest Road, which continues around the
48 corner. There really isn't a berm and the
49 images that we saw are summer images with
50 leaves on all of the foliage. And I kind of
object to the back of a fireplace being seen

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2
3 from that section of the neighborhood, you
4 know. The only, you know, there's only one
5 house in the entire neighborhood that would
6 see it directly and I'm not sure if they're
7 on the call or not, or if they have their
8 hand raised, but I'm looking at the house
9 right now, and I can tell you there is not a
10 large enough berm to truly aesthetically, you
11 know, cover what the applicant is appealing.

12 So that's my objection to it. I'm
13 objecting to the fireplace. Basically the
14 height of the fireplace, because we are going
15 to be looking at the back of it no matter
16 what foliage they decide to plant.

17
18 MEMBER HERNANDEZ: Mr. Giordano,
19 that's the reason why we have asked the -- if
20 the deck in the back of the house is from
21 street level. Basically it's lower than
22 grade, because of the way the hill -- the
23 hill drops on that side of Rock Crest and
24 that's the reason why the Chairman asked for
25 the -- for the calculations. To see how much
26 of the fireplace would be visible assuming
27 that there is no foliage whatsoever. Because
28 in the winter, the foliage does fall away and
29 we recognize that you can see through it.
30 That is exactly the reason why we ask for
31 that information.

32
33 CHAIRMAN MAMMINA: Correct. Thank
34 you, Mr. Hernandez. Okay. So I think that
35 answers the question.

36
37 SECRETARY WAGNER: I -- I don't think
38 -- I don't see any other hands raised.
39 Is there anybody else that wishes to
40 speak regarding this appeal, raise your hand
41 in the virtual chat. Nope.

42
43 CHAIRMAN MAMMINA: Okay.

44
45 SECRETARY WAGNER: No one else.

46
47 CHAIRMAN MAMMINA: Okay. And at the
48 risk of being redundant, but I do want the
49 neighbor to understand that what
50 Mr. Hernandez said is spot on, you know. In

1 APPEAL #21175

2
3 that the Board wants to see what that's going
4 to look like. So there will be a separate
5 drawing that will be put together that will
6 demonstrate that for us.

7
8 SECRETARY WAGNER: So this appeal will
9 be continued then?

10
11 CHAIRMAN MAMMINA: Yes. This will be
12 continued. Thank you, Ms. Wagner.
13 Okay. Let's see. No one to speak.
14 Mr. Costello, thank you very much.

15
16 MR. COSTELLO: Thank you, committee.

17
18 CHAIRMAN MAMMINA: And, you know, get
19 that drawing back to us, you know, as soon as
20 you can so that we can, you know, take a look
21 at it.

22
23 MR. COSTELLO: What would be a
24 convenient drop dead deadline?

25
26 MEMBER HERNANDEZ: Whatever is
27 convenient to you.

28
29 CHAIRMAN MAMMINA: Your call.

30
31 MR. COSTELLO: We'd like to be able to
32 get onto the next committee. So we'll get it
33 to you as quickly as we can.

34
35 CHAIRMAN MAMMINA: Yeah. And I guess
36 one thing that's -- that's -- to that is that
37 unfortunately, for the people on our last
38 hearing, you know, we -- we had to adjourn
39 the entire hearing, you know, because of the
40 COVID decision to change. So we'll be
41 meeting two more times this month, I think.

42
43 SECRETARY WAGNER: We're meeting on
44 the 26th next week and then we're meeting on
45 February the 9th.

46
47 MEMBER DONATELLI: So, Mr. Chairman,
48 we just got a chat that someone is trying to
49 raise her hand.

50

1 APPEAL #21175

2

3 CHAIRMAN MAMMINA: Okay. I see it
4 right there. Right. Theresa.

5

6 CHAIRMAN MAMMINA: Theresa. Right.
7 And that may have been the person that
8 submitted via e-mail.

9

10 MS. DEMIRCIYAN: I believe it was the
11 person that submitted the letter.

12

13 SECRETARY WAGNER: So do you see her
14 in the participants?

15

16 CHAIRMAN MAMMINA: She said she's on
17 the phone. So I think on the phone -- what
18 do you press star nine?

19

20 MR. TAMBURELLO: I have her here under
21 the attendees. I can allow her to talk right
22 now.

23

24 CHAIRMAN MAMMINA: Please. That's
25 great.

26

27 SECRETARY WAGNER: That would be
28 great. Thank you.

29

30 CHAIRMAN MAMMINA: Hello? Maybe not
31 --

32

33 SECRETARY WAGNER: Ms. Laray, can you
34 hear us?

35

36 MS. DEMIRCIYAN: You're on mute, Ms.
37 Laray.

38

39 SECRETARY WAGNER: Mike, can you
40 un-mute her? There you go.

41

42 MS. LARAY: Can you -- can you hear me
43 now?

44

45 SECRETARY WAGNER: We can. If you can
46 just state your name and address for the
47 record.

48

49 MS. LARAY: Absolutely. My name is
50 Theresa Laray, I live at 137 Rock Crest Road.

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2
3 Directly across from the proposed agenda.
4 This is my issue; as I look out my
5 family room window, which T.J., if you go
6 back to your street view, you can see that I
7 have an extension to my home that is a family
8 room. At this moment, I am looking out my
9 family room window and not only do I see
10 directly into their very yard, which is their
11 proposed side yard that you would like to put
12 a pergola and a chimney, that is, you know,
13 over the allowed height, not only do you see
14 it from my window and my home, this is the
15 entrance to our deer Strathmore Village area.
16 This house, the old Toughy house is a
17 beautiful tremendous -- it -- it -- the
18 property, like, the property flows
19 beautifully. The house -- you enter
20 Strathmore Village from the Americana and you
21 feel like you're in a serene beautiful place.
22 This proposal to extend what is already a
23 tremendous patio, yes, it is in their back
24 yard, it's a tremendous patio to go into
25 their whatever yard we're calling it. Their
26 side yard or their proposed front yard,
27 because it's a corner property. I, my
28 friend, had the same problem when I wanted to
29 put something on my side yard, which was
30 considered my front yard. Which I was not
31 allowed to do, because others there -- I
32 don't care what kind of proposed landscaping
33 you do. I will directly view into their side
34 yard. The neighbor across the street, as
35 Mr. Giordano said, on the other side of Rock
36 Crest, they may or may not be on this call
37 right now, their driveway and their -- even
38 out of their house is directly in this view
39 of this proposed pergola. I am not against
40 extending your patio. Quite frankly, I think
41 there's plenty of room in their back patio to
42 have a pergola and fireplace as it exist. I
43 don't understand why we need to extend it
44 even more towards the street, towards the
45 view of the entrance of Strathmore Village.
46 I just don't see the need for it. It's,
47 like, a prime residence. It's our entrance.
48 Bad enough we have the Americana right there.
49 Now we're entering Strathmore Village and the
50 first thing to the right that you will see is

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1
2
3 a pergola. You will see it. You will see
4 the extension of the fireplace, a chimney.
5 You will see it. Although you are not
6 extending it beyond the house, which was an
7 extension already back in the day, if that
8 extension wasn't granted, that would be way
9 beyond their back yard -- beyond their house.
10 So in my opinion, I think there is enough
11 room behind that actual -- behind the house
12 for them to build a chimney, a fireplace, an
13 outdoor area. To extend it, I think that's
14 above and beyond what's necessary. I think
15 it's going to ruin our entrance. I think
16 it's going to -- and T.J., I know you do
17 beautiful work and I'm not denying that, but
18 this is our entrance to our neighborhood.
19

20 MS. DEMIRCIYAN: Ms. Laray, I do just
21 want to remind you that you're about three
22 minutes and 35 seconds. So just wrap up your
23 thoughts.
24

25 MS. LARAY: Okay. Perfect. I oppose
26 this completely and very strongly. I oppose
27 this.
28

29 CHAIRMAN MAMMINA: Okay. Thank you
30 for putting your views out there and we will
31 look very carefully, you know, at, you know,
32 at this, because we are concerned as well
33 that we keep the character in the
34 neighborhood in a form that is acceptable.
35 So thank you.
36

37 MS. LARAY: No problem. Thank you so
38 much for your time.
39

40 CHAIRMAN MAMMINA: You're welcome.
41 Okay. If we -- if we don't have
42 anyone else, then we will continue the -- the
43 application and look for those additional
44 drawings from, Mr. Costello.
45

46 MR. COSTELLO: Thank you.
47

48 SECRETARY WAGNER: And, Mr. McGeever,
49 if you can stop your screen sharing. Thank
50 you.

Proceedings

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Okay. So the appeals continued.

SECRETARY WAGNER: Where did the

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Proceedings

chairman go? Did he -- he disappeared.

MEMBER GOODSELL: He disappeared from my screen too. He pushed a button he should not have.

SECRETARY WAGNER: Chairman Mammina, you went into --

MS. DEMIRCIYAN: The abyss.

SECRETARY WAGNER: -- a portal. He's coming back.

MEMBER DONATELLI: Perhaps he has the same bug on his computer that I have on mine.

SECRETARY WAGNER: Dan, are you still on your phone or are you back on your computer?

MEMBER DONATELLI: Phone.

CHAIRMAN MAMMINA: Okay. Somehow or another I got muted and video stopped, but that's okay.

Michael, you're doing a great job for the first go around of doing it.

MR. TAMBURELLO: Thanks. Appreciate it.

CHAIRMAN MAMMINA: I couldn't do it.

MR. TAMBURELLO: I just learned it last night. So there you go.

SECRETARY WAGNER: Mike, you didn't do that though, did you?

MR. TAMBURELLO: I might've accidentally done that. I might've.

SECRETARY WAGNER: All right. All right. Let's --

CHAIRMAN MAMMINA: It doesn't matter.

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MR. TAMBURELLO: Sorry.

CHAIRMAN MAMMINA: We're here.

SECRETARY WAGNER: Mike has the ability to make people disappear.

MR. TAMBURELLO: I'm a magician.

CHAIRMAN MAMMINA: I got a guy, you know.

MEMBER GOODSELL: Where was Michael when I had teenagers?

SECRETARY WAGNER: Okay. Are you ready, chairman, for the next appeal?

CHAIRMAN MAMMINA: Yes. Yes, please.

SECRETARY WAGNER: And, Mike, this would be Mark Anthony Munisteri as the applicant.

APPEAL #21167

1
2
3 Appeal No. 21167, Marc Zimbardi, 16
4 Annette Drive, Port Washington, Section 5,
5 Block 146, Lot 14 in the Residence "B" Zoning
6 District. Variances 70-39.C, 70-40.C and
7 70-41.A, to construct a new dwelling on an
8 existing foundation that is larger than
9 permitted, with smaller than required
10 aggregate side yards, too close to the street
11 and a portico that is too close to the
12 street.

13
14 CHAIRMAN MAMMINA: You heard Appeal
15 No. 21167, Marc Zimbardi. Is there anyone on
16 the chat who would wish to speak and if you
17 are not on there yet, you can -- you may
18 raise your hand in the chat at any point in
19 time.

20 Okay. So with that said, then Mr.
21 Munisteri, you're up.

22
23 MR. MUNISTERI: Thank you. Good
24 morning, Members of the Board, Mr. Chairman.
25 Again, my name is Mark Anthony Munisteri, the
26 architect. My office is located at 1563
27 Bellmore Avenue, in Bellmore and today I'm
28 going to be appearing for my clients, Mr. and
29 Mrs. Zimbardi, who are the owners and
30 occupants of the subject property. Also
31 known as 16 Annette Drive in Port Washington,
32 which is also in the Residence "B" Zone.

33 This morning we're requesting a
34 variance to construct a new two-story home on
35 the existing foundation that is slightly over
36 the permitted floor area and is slightly
37 forward of the aggregate side yard setback
38 for both building and the proposed portico.
39 And it does not meet the aggregate side yard
40 setback.

41 The Zimbardis have lived in their home
42 for seven years and have twin seven year
43 olds. They have found the house, as their
44 family has grown, has become too small and
45 are looking for more living space. Larger
46 bedrooms and more space for their family.
47 They're also looking to add a master suite,
48 which Mrs. Zimbardis has never had. Because
49 of the amount of work required to design and
50 then build the Zimbardi's dream home, it was

1 APPEAL #21167
2
3 decided to demolish the home down the
4 existing foundation, allowing for a new
5 flooring system and taller walls throughout.
6 We are requesting to square off the front of
7 the home. That's this area here. In --
8 typically in that house, it's in front of the
9 entrance and living room. That's the new
10 added square footage to the new existing
11 foundation.
12
13 CHAIRMAN MAMMINA: Do you have your --
14 do you have your screen up, Mr. Munisteri?
15
16 SECRETARY WAGNER: No. I'm sharing,
17 Chairman.
18
19 MR. MUNISTERI: I do not.
20
21 CHAIRMAN MAMMINA: Okay. I was
22 looking for a cursor when you were saying --
23
24 MR. MUNISTERI: You know what, it's
25 funny because my cursor moves on my screen.
26 Obviously it doesn't move on yours.
27
28 SECRETARY WAGNER: Would you like to
29 share your screen?
30
31 MR. MUNISTERI: I don't have the PDFs
32 up, but I can if you'd like.
33
34 SECRETARY WAGNER: Okay. So --
35
36 CHAIRMAN MAMMINA: Your call. Your
37 call. I mean, certainly if we can see your
38 cursor.
39
40 MR. MUNISTERI: One moment.
41
42 SECRETARY WAGNER: I'll stop my
43 sharing and then you can share.
44
45 MR. MUNISTERI: Okay. Let me open my
46 PDFs.
47 Okay. Back to you. Shared screen.
48 Share. Okay.
49 I apologize about that.
50 So where the new foundation area is,

1 APPEAL #21167

2
3 this area here, which is typically in those
4 homes which squares the house to the existing
5 frontage. Otherwise, the side yards, rear
6 yard is all remaining the same. This area is
7 approximately 10 by 19 to make the house
8 flush in a westerly direction. The proposed
9 traditional colonial style home, which would
10 be similar to several homes on the block,
11 mainly in the direction of the north, has all
12 the living space on the first floor and this
13 one in particular, includes the kitchen,
14 dining room, family room, as well as a mud
15 room and pantry. All done in an open plan
16 style. The second floor will consist of a
17 new master suite, three kids room, a main
18 bathroom and a laundry room. There will also
19 be a two-story space at the entry, which we
20 see from the first and second floor. Sorry.

21 So this is the first floor dining
22 room, kitchen, eat-in open plan to the back
23 family room. The mud room, walk in pantry,
24 the garage. Again, all of that is within the
25 footprint of the existing foundation. Our
26 request is to increase the gross floor area
27 from the 3,400 to 3,413. It's a total of 13
28 square feet over --

29
30 MEMBER HERNANDEZ: I'm sorry to stop
31 you, but I can't read it. It's very small.
32 What is in the lower right hand corner where
33 the new extension is being added?

34
35 MR. MUNISTERI: This is a study.

36
37 MEMBER GOODSSELL: That's better.
38 Yeah. Go up a little bit further.

39
40 MR. MUNISTERI: Sorry about that.
41 There you go. This area --

42
43 MEMBER GOODSSELL: I could not read
44 that too. Thank you, Jay.

45
46 MEMBER HERNANDEZ: It has a closet so
47 it is a bedroom. It shares the -- the master
48 bathroom through a Jack and Jill door.

49
50 MR. MUNISTERI: No Jack and Jill door.

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MEMBER HERNANDEZ: That looks -- okay.
Through a hallway --

MR. MUNISTERI: This is a double door
here and this is a double door here.

MEMBER HERNANDEZ: Right. And it goes
to what appears to be a hallway that then
goes to the bathroom, and then there's a
pocket door on the other side. So
technically you are correct. It's not a Jack
and Jill if both sides connect to a hallway
that open up to the bathroom.

MR. MUNISTERI: Correct. This is the
main -- the first floor bathroom.

MEMBER HERNANDEZ: Correct. It's a
full bathroom. It's not a powder room.

MR. MUNISTERI: This is a full. This
is a three piece.

MEMBER HERNANDEZ: Okay. Fine.

MR. MUNISTERI: So if their mother or
mother-in-law was to stay over, it's more of
a comfortable space than --

MEMBER HERNANDEZ: Absolutely.

MR. MUNISTERI: The second is to
reduce the required average front yard
setback from 31.660 to the primary structure
to 30.75 and from 26.660 to 27.75 for the
portico. Both a reduction of .19 feet or 11
inches. I would just like to add that this
is not an additional encroachment for the
main structure. That is exactly where it
sits today.

Our last request is to decrease the
aggregate side yard setback from the required
21.9 to 20.3 feet. This is a reduction of
1.6 feet. Again, there is no additional
encroachment. This is where the existing
side yard sits today. So the garage itself
is being built in the same location as it is,

1 APPEAL #21167

2
3 as well as this entire side wall.

4 So I can answer any questions you have
5 on this project.

6
7 MEMBER HERNANDEZ: I'm sorry. You
8 have it as a proposed garage. And what is
9 there now?

10
11 MR. MUNISTERI: It's a proposed garage
12 because it's being reconstructed. So what's
13 there now is exactly in that footprint. Is a
14 garage.

15
16 MEMBER HERNANDEZ: Okay. So you are
17 rebuilding the garage?

18
19 MR. MUNISTERI: Yes, sir. Yes, sir.
20 In the exact same footprint.

21
22 MEMBER GOODSSELL: When I looked at
23 this property, it looks like it's a ranch.
24 It looks like it doesn't have a second story
25 right now. Is that correct?

26
27 MR. MUNISTERI: You are 100 percent
28 correct. Yes, ma'am.

29
30 MEMBER GOODSSELL: And yet there are
31 other houses on this street and, I believe,
32 there's one next door that has a substantial
33 second floor. Is that also --

34
35 MR. MUNISTERI: So this is the house,
36 the Zimbardis.

37
38 MEMBER GOODSSELL: Correct. Correct.

39
40 MR. MUNISTERI: This is directly to
41 the north and if we were to go down the
42 block, there are several down the block that
43 also have an extremely similar second story.
44 Yes, ma'am.

45
46 MEMBER GOODSSELL: Okay. And I've --
47 I've noticed that there's some opposition to
48 this.

49
50 MR. MUNISTERI: Well, no there is,

APPEAL #21167

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3 which is -- one is located directly across
4 the street and one just slightly up. Which
5 the two of them are friends. Virginia was
6 sweet enough to send them to me last night.
7 My client did reach out to the neighbor
8 directly across the street, Maria Harris. It
9 seems that -- and I've said this over the
10 years, sometimes the notification that goes
11 out to homeowners who aren't in the business,
12 sometimes it sounds like we could be building
13 a Jiffy Lube on their front property. So
14 it's a little confusing. When -- after the
15 explanation from my client to Ms. Harris, I
16 believe Ms. Harris is totally understanding
17 what's going on and has no issue with it.
18 She was supposed to send Virginia a revision
19 this morning, but I'm going to guess that
20 that didn't happen, because I didn't see an
21 e-mail.
22

23 SECRETARY WAGNER: I did not receive
24 an e-mail. I can check again.
25

26 MR. MUNISTERI: That's okay. I can
27 also -- my client, Mrs. Zimbardis, should be
28 on the line, if you want to speak to her
29 about the conversation she had.
30

31 MEMBER GOODSELL: Well, I don't think
32 that's necessary because, you know, the
33 opposition speaks for itself and we take the
34 opposition -- we listen to everyone.
35

36 MR. MUNISTERI: Sure.
37

38 MEMBER GOODSELL: And we listen to
39 them for what they're worth. But it was
40 interesting to me that there was opposition,
41 because there are houses on this block which
42 have in fact been developed. Now, I don't
43 know if it is exactly the way this is
44 proposed, but there are houses that have been
45 developed.
46

47 MR. MUNISTERI: Yes, ma'am.
48

49 MEMBER HERNANDEZ: Mr. Munisteri, do
50 you have an elevation of the house?

1 APPEAL #21167

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MR. MUNISTERI: Yes, sir.

CHAIRMAN MAMMINA: Is Mr. Donatelli --

MEMBER DONATELLI: I -- I -- I am here. And actually, I was going to make more of a comment than a question. But why don't we look at the elevation first.

CHAIRMAN MAMMINA: Well, one thing I will say, you know, regarding the elevation is, you know, that always from -- from my perspective, both as an architect and Chairman for this Board for a few decades now, I'm very happy to say, you know, the rooms are all hipped. So by hipping the rooms, that means that they slope inward. They don't up as what's called a gable end. And the gable end adds much more height to the building, both visually and physically. So by -- by hipping those rooms, you will only see that horizontal line to where that gutter is, which greatly reduces the -- the visual mass of the, you know, of the building.

MR. MUNISTERI: Agreed.

MEMBER DONATELLI: I would agree with that. The one comment that I would make is that as I drove the street in preparation for today's hearing, and certainly I've been down that street many, many times, the entire development, I think was done at one time by a developer, I think, who named all the streets after his wife and his children. Which actually was kind of charming and probably bowed well for mother's day when the time came around. But the one comment that I would make is, as I look at the other houses that have been redeveloped, I see that they -- they maintained the setback. So even though they -- they did build up, it looks like they didn't square off the front.

MR. MUNISTERI: So the area you're talking about is that where the end street and what I said that's the little 10 by 19

APPEAL #21167

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3 square off. Which on my client's house, is
4 this area here.

5
6 MEMBER DONATELLI: Right. Right.
7 Which is in affect bringing it closer to the
8 street. Now, it's not a huge difference, but
9 it does concern me, because then it does put
10 the house over the gross floor area. And
11 even though it seems like a rather
12 insignificant amount -- well, it's 13 square
13 feet, but that is not a huge amount. On the
14 other hand, I do see that the other houses in
15 the area have only built up. They didn't
16 square off and --

17
18 MR. MUNISTERI: Different style homes.

19
20 MEMBER DONATELLI: Different style --
21 well, yes. But -- but as I look at the other
22 house that is down the street and if you hold
23 on a moment, I'll try to give you the street
24 address.

25
26 MR. MUNISTERI: Sure.

27
28 MEMBER DONATELLI: It is across the
29 street and perhaps down three or four houses.
30 And once again, it's the same kind of thing.
31 The garage is very prominent, there is a
32 retaining wall. I'm sorry, I can't see the
33 number. But there is a retaining wall, but
34 the bulk of the house is setback from the
35 street. They didn't square it off as -- as
36 you're client is proposing. And I guess my
37 question is this, would it be possible to do
38 this development without squaring off the
39 front of the house or can you make your case
40 as to why you need the additional square
41 footage by squaring off the foundation in
42 front of the house?

43
44 MR. MUNISTERI: So the style of the
45 house is what calls for the squaring off. So
46 let me just go back to my picture here so you
47 know what I'm talking about. And I want to
48 zoom to this. The style is what -- so when
49 this gets setback, you end up with different
50 roof lines on the front of it and setbacks,

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1
2
3 which, again, is just a different style.
4 This is the style my client is looking for.
5 I still think it's fitting to the ultimate
6 area. It's a very distinct look. Like
7 Mr. Mammina said, we did keep the roof like
8 at -- at a hipped roof to keep the pitches
9 lower and a little more subdued. But
10 ultimately, this is the style of the home
11 they're looking for. Not looking for the
12 style of what's done now. Now, as far as
13 when you said coming closer to the street
14 line. The front of the house is parallel
15 with the Annette Drive. And where we're
16 bringing the house is to the existing front.
17 So there's not an additional encroachment
18 that we're causing. The additional -- if
19 we're going to say there is an additional
20 encroachment, it would be the portico to give
21 some dimension as well as a dryer entryway
22 into it.

23 And lastly, as far as the 13 square
24 feet, if that holds the Board back, I mean,
25 it literally would be -- let me just go to
26 the first floor. I would hate to do it for
27 13 square feet and style of it, but to mess
28 with the roof line, but I would just cut
29 basically a foot off the back of the pantry
30 and mud room which would bring me in
31 compliance with that. Of course, I'd have to
32 dig up the old and all the other jazz that
33 goes along with the foundation there, but
34 that would eliminate the floor area issue
35 ratio right there.

36
37 MEMBER DONATELLI: Yeah. I'm -- I'm
38 -- I'm less concerned -- I am of always
39 concerned of the floor area ratio. But I
40 think my point was more tailored toward the
41 following: We have had certain applications
42 where the applicant has come before us and
43 has said we want to build new on an existing
44 foundation and that presents itself in a
45 certain way. And certainly if -- if -- as a
46 Board, if we can find our way to approve that
47 application, we would do so. In this case,
48 it's kind of the same, except that we're only
49 using perhaps 95 percent of the foundation,
50 not the five percent where you're proposing

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2
3 to square out the house. So I guess my
4 questions to my other Board members is, you
5 know, certainly it's a matter of degree.
6 This is not an example that I know we just
7 had within the last year or so, where the
8 applicant sought to build on 100 percent of
9 the existing foundation. This is building
10 new on a good portion of the existing
11 foundation, but not on the entire existing
12 foundation.

13
14 MR. MUNISTERI: Mr. Donatelli, if I
15 can. We're actually using 100 percent of the
16 existing foundation.

17
18 MEMBER HERNANDEZ: You're adding --

19
20 MR. MUNISTERI: We're adding this area
21 here.

22
23 MEMBER DONATELLI: Right. Well -- and
24 -- and it's the area that --

25
26 MR. MUNISTERI: The basement will stay
27 the same in square footage.

28
29 MEMBER DONATELLI: Okay. I -- I --

30
31 MEMBER HERNANDEZ: Mr. Munisteri,
32 again I'm having difficulty reading the
33 numbers. What is the dimension of that added
34 slab?

35
36 MR. MUNISTERI: It's approximately 10
37 feet by 19 feet, which is what we're adding.

38
39 MEMBER HERNANDEZ: Okay. And I think
40 what -- I agree with Mr. Donatelli that
41 because of the aesthetic look of the house,
42 the fact that it's a flat front versus a
43 scale back front, it does -- it does appear
44 to be more forward -- technically more
45 forward or closer to the street. When we now
46 have say close to the street 18 feet, I
47 think, it's five inches, we're now going to
48 have almost -- no, we're now going to have 39
49 feet and 8 inches closer to the street. The
50 -- the amount facing that is closer to the

1 APPEAL #21167

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3 street is much bigger. It's more than twice
4 the size. So therefore it appears to be
5 closer only because of the sheer size of it.

6
7 MR. MUNISTERI: So if you note, I'm
8 going to go back up the block to my neighbors
9 house. They actually extended the house
10 forward above the second floor. Allow me to
11 show you. You'll see here they've extending
12 this beyond what's called a cantilever
13 forward of the existing house, which is what
14 we're not doing.

15
16 MEMBER HERNANDEZ: Right. And if you
17 -- and even if that -- although it's very
18 slight, you will see that it's now one long
19 continuous wall across the whole front of the
20 house. If it's graded to the front of the
21 house.

22
23 MR. MUNISTERI: Right. That I
24 understand. But that's the not the style
25 that they're after.

26
27 MEMBER HERNANDEZ: I recognize that.
28 But I'm saying, the whole feel of one long
29 wall that's almost 40 feet wide feels closer,
30 only because of the sheer size of the -- of
31 the wall. And I will think Mr. Donatelli is
32 wrong in that interpretation. If you look at
33 your elevations, you will see all of that.
34 Where (inaudible) will you only saw the
35 extreme right section of it.

36
37 MR. MUNISTERI: There is still
38 dimension here with the full bell railings
39 and the bow windows -- excuse me, bay windows
40 in the front, the portico. There is
41 dimension. The garage is still setback. So
42 it's that additional 19 feet I think you're
43 talking about. I understand. But, again,
44 that's achieving this.

45
46 MEMBER DONATELLI: All right. Mr.
47 Munisteri, if -- can I just ask you to go
48 through the five factors that are set forth
49 and just address those if you would, please.
50

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3 MR. MUNISTERI: Sure. So the first
4 up, you know, in which addresses most of
5 them, the existing house itself sits in a
6 nonconforming location. So as far as causing
7 the issue in rebuilding the walls in the
8 location they are, causes the problem. In
9 order to cut them back the few inches that I
10 have to cut back, I'd be removing the
11 existing foundation in it's entirety and that
12 applies both to the front yard side setback,
13 as well as the aggregate side yard setback.
14 First floor area ratio, that's obviously are
15 causing (inaudible). We don't think it's
16 detrimental, 13 square feet. I do know
17 through years of working with this Board that
18 -- your feelings towards floor area ratio.
19 But I think the 13 square feet -- I don't
20 want to make it as if it's negligent, but it
21 is extremely subtle. And if the Board is in
22 any way hung up on that, we have no problem
23 about removing that. That's already been
24 discussed with my clients. It's obvious as
25 you drive down the blocks in the area, the
26 area is developing and yes, it was original
27 in that a majority of these homes were built
28 as ranches. But most zoning codes in the
29 area doesn't really allow so much for you to
30 enlarge the footprint. Although, most of us
31 would love to live in a sprawling ranch. The
32 easiest way to maintaining yardage, side yard
33 is to go up to convert the house from a ranch
34 into a colonial style home. And so I
35 definitely don't think it's detrimental to
36 the area in anyway. And then I also think it
37 is coming within the character of the area,
38 because the area is continuing to grow.
39 There are several houses just on that block,
40 literally within a stones throw to the west,
41 demonstrating a second story additional.

42
43 MEMBER DONATELLI: Do you have any
44 estimate that you can proffer and I
45 understand it's only an estimate, any
46 estimate as to what the cost might be to
47 remove the existing foundation and pour a new
48 foundation that would be in compliance with
49 code?
50

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MR. MUNISTERI: Between 120 and \$130,000, yes. That was very much so and it's in the essence of 15 to 20 percent of what the total construction would cost. So we tried to keep it within that footprint. And this is because the foundation is actually very good. These houses were well built for the most part.

MEMBER DONATELLI: Yeah. Like I said, it's a development that was built more or less at one time and I think there's great uniformity in the houses. Which while I understand that some of the houses in the area now are building out, the houses in the area is still very much belongs to these one family ranches. It's just that that's the way they're mostly laid out.

Mr. Chairman, I don't know if we have any other hands that have been raised. If anyone else wants to speak.

CHAIRMAN MAMMINA: I don't think so.

SECRETARY WAGNER: I don't see anybody.

MEMBER DONATELLI: Okay.

SECRETARY WAGNER: Mr. Zimbardi, I guess, would like to speak.

CHAIRMAN MAMMINA: Let him in.

SECRETARY WAGNER: The homeowner.

CHAIRMAN MAMMINA: Yes. If we can promote him, Mike.

MR. ZIMBARDI: Hello. Can you guys hear us?

CHAIRMAN MAMMINA: Yes. We can.

MR. ZIMBARDI: I don't know if you can see us. I guess my cameras not turned on so. How are you today? Sorry about that. My name is Marc Zimbardi and I'm here with my

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2
3 wife Daphne Zimbardi. We're the principal
4 owners at 16 -- or the homeowners at 16
5 Annette Drive in Port Washington. Obviously
6 the property that's, you know, kind of
7 appealing to the hearing today. And so I
8 think the only thing we wanted to touch on
9 today and I think Mark hit on a lot of the
10 points from a logistics perspective, as to
11 why, you know, we're looking to do the scope
12 of the project. We moved into this
13 neighborhood because it's a great place for
14 our kids to grow up. And the house is
15 relatively small and we knew that coming into
16 the neighborhood, we would want to expand
17 into something larger and, you know, when we
18 moved in, our kids were basically less than
19 six months old and now they're -- our twins
20 are seven years old. So it's been a little
21 bit too small for us from a capacity
22 perspective. So we're looking, obviously, to
23 broaden our -- our size. And so really, when
24 we look at the scope of the project, my wives
25 desire to have a house that was more squared
26 off, really steams from the opportunity to
27 when you walk into a house to have a little
28 bit more space when you walk into your house,
29 rather than walking in and basically meeting
30 a staircase that goes up to the second floor
31 right in front of you. So it helps us to
32 manage the flow of what we were trying to
33 achieve on the first floor. As it relates to
34 the square footage, to the dining area that
35 we have positioned where it is, to really
36 getting a little bit more distance between,
37 you know, yourself when you walk in and have
38 a little bit more of a floor area to settle.
39 When the kids come running into the house and
40 they have all their equipment on, the idea is
41 that we, you know, have an area where they
42 can kind of take their stuff and put it aside
43 before you step into the first step on your
44 step to head to the second floor. So that's
45 really kind of one of the rationals as to why
46 we were looking to square off the front of
47 the house. And we think optically it still
48 would be achieving what we need to achieve by
49 also staying within scale, based on the way
50 the roof line was positioned and how we kind

1 APPEAL #21167

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3 of capped it at the top. The other thing I
4 would just love for you to consider also is,
5 you know, the scale of the project.
6 Obviously we're working with a limited budget
7 that we want to try to keep it within. And
8 so to redig a foundation and to move an
9 entire foundation from a cost perspective,
10 does prohibit us to a large degree of being
11 able to apply another \$120,000 plus to taking
12 the foundation and moving it from it's
13 location, which is currently where we want it
14 to be positioned. We're not looking to move
15 it forward. We're just looking to stay where
16 we are, like Mark said and just try to manage
17 within the footprint that we are currently
18 allocated. So, you know, that's our appeal
19 to you. I mean, we certainly appreciate your
20 consideration in this application and -- and
21 hopefully you see the scale of this doesn't
22 really take us out of the scope of what the
23 neighborhood is evolving into. If you go
24 around the block and I know you said you had,
25 you know, you see that there's other houses
26 that are currently under construction.
27 There's -- almost all these houses in this
28 neighborhood will likely be no longer ranches
29 within the next eight to 10 years, I would
30 imagine, based on the changes that have
31 occurred in the neighborhood. So the appeal
32 to you as the Board, you know, to consider
33 our -- our -- our variance here and
34 appreciate, you know, anything that you can
35 do for that. Thank you.

36
37 CHAIRMAN MAMMINA: Thank you.

38
39 MEMBER DONATELLI: Yeah. Thank you
40 for your input.

41
42 MR. ZIMBARDI: Thank you.

43
44 CHAIRMAN MAMMINA: Mr. Munisteri, one
45 question. Could you please just go over,
46 again, because I clicked out of the drawings
47 for this case, the denial for the front yard.
48 What are we talking about in terms of the
49 denial? What's required, what's permitted
50 and -- and what exists?

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4 MR. MUNISTERI: You got. So we got
5 floor area ratio, correct? That's 13 square
6 feet away.

7
8 CHAIRMAN MAMMINA: Yeah.

9
10 MR. MUNISTERI: The average front yard
11 setback and there's two here, but they both
12 mimic one another. The required is 31.66
13 feet. We're at -- with the primary structure
14 at 30.75, which is .19 feet or 11 inches.
15 And for the portico, we're proposed at 25.75,
16 but we require a 26.66. Again .91 feet. And
17 then as far as side yard goes, we're required
18 21.9 and our existing is 23.3 feet, which is
19 1.63 feet shy.

20
21 CHAIRMAN MAMMINA: And that's your
22 aggregate?

23
24 MR. MUNISTERI: Yes, sir.

25
26 MEMBER DONATELLI: And, Mr. Chairman,
27 as to the front yard setback, those are the
28 averages within the 200 feet.

29
30 MR. MUNISTERI: Correct.

31
32 CHAIRMAN MAMMINA: Yes. Okay.

33
34 MEMBER DONATELLI: So as one Board
35 member, they've given us a lot to think
36 about. But I think I would like to just
37 continue considering it a little bit more.
38 So, Mr. Chairman, if we can reserve, I would
39 appreciate that.

40
41 CHAIRMAN MAMMINA: I agree completely,
42 Mr. Donatelli. That's my exact thought as
43 well.

44 So we will reserve the application,
45 which just means we're going to give this
46 further discussion and, you know, and
47 consideration. And, you know, this could be
48 decided today, it could be decided at the
49 next hearing or the hearing after that. But
50 we understand that you are anxious to move

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forward I'm sure, you know. So, you know, we
always -- we always do try our best to -- to
accommodate whatever we can.

So thank you all. Mr. Munisteri,
thank you and we appreciate you coming on
Mr. and Mrs. Zimbardi. Thanks.

MR. ZIMBARDI: Thank you. We
appreciate it. Thank you so much.

MR. MUNISTERI: Thank you Members of
the Board and Mr. Chairman. Have a great
day.

1 Proceedings

2

3 SECRETARY WAGNER: Chairman, can we
4 take a five minute break before the next
5 appeal?

6

7 CHAIRMAN MAMMINA: Sure. I think
8 that's a good idea.

9

10 SECRETARY WAGNER: So we will --
11 anybody who is listening in, we're just gonna
12 take a break for about five minutes and we
13 will convene.

14

15 CHAIRMAN MAMMINA: Okay.

16

17 (A recess was taken.)

18

19 SECRETARY WAGNER: Vice-Chairman
20 Francis, you're muted.

21

22 CHAIRMAN MAMMINA: Dan, you are also.

23

24 SECRETARY WAGNER: Dan is as well.

25

26 CHAIRMAN MAMMINA: You're still muted.
27 You're muted, Dan.

28

29 MEMBER HERNANDEZ: He doesn't know how
30 to un mute himself on the phone.

31

32 MEMBER DONATELLI: There. How's that?

33

34 CHAIRMAN MAMMINA: There we go.

35

36 MEMBER DONATELLI: I actually tried
37 logging on through my laptop during the break
38 and -- and my cameras still not working.

39

40 CHAIRMAN MAMMINA: All this
41 technology.

42

43 SECRETARY WAGNER: So Michael
44 Tamburello, Mr. Imhof is the applicant --
45 that's representing the applicant. I don't
46 see him on the list.

47

48 MR. TAMBURELLO: He is's under Accent
49 Architecture. I'm promoting him to the
50 panel.

Proceedings

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SECRETARY WAGNER: Okay. Mr. Chairman, are you ready for me to read the appeal?

CHAIRMAN MAMMINA: I am ready. Yes.

SECRETARY WAGNER: Appeal number -- we lost Dan. Dan Donatelli, you disappeared.

(A discussion was held off the record.)

1 APPEAL #21176

2
3 SECRETARY WAGNER: Next appeal, Appeal
4 No. 21176, Jin Seuk, 116 Central Avenue, New
5 Hyde Park, Section 9, Block 549, Lot 79, in
6 Residence "C" Zoning District. Variances
7 from 70-50.A, 70-101.B and 70-51.A, to
8 construct additions to are too close to the
9 property line and the street, and a portico
10 that is too close to the street.

11
12 CHAIRMAN MAMMINA: You heard Appeal
13 No. 21176, Jin Seuk. If there is anyone who
14 wishes to be heard regarding the application,
15 other than the applicant whose architect is
16 on the screen, please get yourself into the
17 chat and we will make sure that you have your
18 opportunity. So name and address, please.

19
20 MR. IMHOF: John Imhof, architect of
21 record. Accent Architecture, 161 Levittown
22 Parkway, Suite 13, Hicksville, New York
23 11801.

24
25 CHAIRMAN MAMMINA: Good afternoon.
26 Yes, it's afternoon.

27
28 MR. IMHOF: Yes. First case that is
29 the afternoon actually.

30 So I'm here today on behalf of my
31 client Jin Seuk, who resides at 116 Central
32 Avenue in New Hyde Park. We're proposing to
33 construct a two-story extension at the rear
34 of her one-family dwelling and a one-story
35 front foyer with a one-story front portico.
36 For the rear extension we're seeking relief
37 from 70-51.A, which requires a minimum --

38
39 CHAIRMAN MAMMINA: Slow down just --
40 just slow down a little bit just for the
41 reporter.

42
43 MR. IMHOF: Sure. No problem.

44
45 CHAIRMAN MAMMINA: That's okay. I
46 didn't mean to break your stride, but --

47
48 MR. IMHOF: I thought since because it
49 could be recorded, you don't need a
50 stenographer, I could talk a little faster.

1 APPEAL #21176

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3
4 CHAIRMAN MAMMINA: No. No. No.
5 We're stenographer still. That's okay.
6

7 MR. IMHOF: All right. No worries.

8 For the rear extension we are seeking
9 relief from Section 70-51.A, which requires a
10 minimum of five foot side yard setback, where
11 we're proposing to extend the preexisting 4.9
12 foot setback. For the front foyer and
13 portico, we are seeking relief from Section
14 70-50.A and 70-101.B, which requires a
15 minimum 25 foot side yard -- front yard
16 setback for the average 16.05 foot front yard
17 setback, whichever is greater and permits up
18 to an additional five foot encroachment into
19 the required front yard setback for the
20 portico, which would require a minimum of 20
21 foot front yard setback. However, we're
22 proposing a 5.3 foot encroachment for the
23 foyer to permit a front yard setback of 19.7
24 feet. And we're proposing an additional 3.63
25 foot encroachment on the 20 foot requirement
26 for the portico to permit a 16.37 foot front
27 yard setback.

28 My client lives with her husband and
29 daughter, and purchased the house in April of
30 2016. At the time, they had no plans to
31 renovate the house, but nearly six years
32 later, they have decided to make improvements
33 and are faced with a couple of hardships.

34 The first of which is a preexisting
35 4.95 foot side yard. When they extend the
36 rear of the house and add the second floor
37 above the first floor along that side yard,
38 they would like to avoid the unsightly one
39 and a half inch setback that they would have
40 to build as per code. Not to mention the
41 added expense of having to set the second
42 floor portion in just one and a half inches
43 over the one story portion. The second is
44 that the existing average front yard setback
45 for their street is 16.05 feet. But since
46 the zoning code states that it is whichever
47 is greater, they are required to meet a
48 minimum of 25 foot side yard setback.
49 Despite that setback being so much grater
50 than the average of the neighborhood. The

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3 portico is being proposed at 16.37 feet and
4 the foyer is proposed at 19.7 feet. Well
5 passed the average front yard setback
6 requirement. Unfortunately, they are being
7 held to a higher standard than what currently
8 exists on their street.

9 The Board proposes five critical
10 questions when considering variances. I will
11 try to address each of these concerns
12 correctly.

13 Are they self created? Yes. But both
14 requests are justifiable and they, in bulk,
15 improve the function, as well as the look of
16 the house, as well as the neighborhood.

17 Are they substantial? No. The side
18 yard setback is de minimis and the front yard
19 setbacks proposed are greater than the
20 average front yard setback requirement.

21 Is there an alternate approach? Yes,
22 but not a favorable one. The side of the
23 house could be set in one and a half inches,
24 but that would create an unsightly condition,
25 which would also cost more to build. The
26 front foyer could be removed, but the purpose
27 of such a structure is to save energy cost
28 when entering the home and to keep the house
29 clean by creating a space for shoes and
30 umbrellas, which is a Korean custom. The
31 front portico could be removed as well, but
32 there could be no protection from the rain,
33 nor an aesthetically pleasing portico in the
34 front of the house.

35 Are the detrimental to the neighbors
36 or neighborhood? No. The renovations are
37 typical in nature, will improve the look of
38 the neighborhood and are consistent with the
39 average front yard setback.

40 And lastly, will they have an
41 environmental impact? No. The work is
42 minor, it will not have an adverse affect on
43 the environment. We feel that our request is
44 justifiable and I'd be happy to answer any
45 questions that the Board may have at this
46 time.

47
48 MEMBER FRANCIS: Mr. Imhof, that's how
49 you make an application. Well done, sir.
50

1 APPEAL #21176

2

3 MR. IMHOF: I know. I do this in a
4 lot of places.

5

6 MEMBER FRANCIS: Very well done. One
7 of the best I've heard.

8

9 CHAIRMAN MAMMINA: Yeah. A lot of
10 people do them in a lot of places and they
11 dont --

12

13 MR. IMHOF: I've worked in seven
14 countries. So for me, I've done a lot of
15 these things so.

16

17 MEMBER GOODSELL: I just -- I would
18 just like to make a comment. I would like to
19 point out to the Board, the character of the
20 neighborhood where this particular house is
21 located, is in fact changing and the houses
22 that have been improved, that have been
23 renovated, they seem to have much shorter
24 setbacks. There are, as I noted, much
25 smaller front yards. Somewhere between 15
26 and 19 feet. I think, two houses, three
27 houses, four houses away. This happens to be
28 one of the older homes. So at first glance,
29 I, in my opinion as one Board member, I think
30 the character of the street is changing, but
31 changing for the better.

32

33 Now, looking at the plans, I don't see
34 anybody who quite has a house like this.
35 This is a little bit unique. Clarify for me,
36 please, the portico is an enclosed portico or
37 it is an open portico?

37

38 MR. IMHOF: The portico is open and
39 then there's a small foyer behind it that's
40 enclosed.

41

42 MEMBER GOODSELL: Got it.

43

44 MR. IMHOF: The foyer projects 4.9
45 feet. I'm sorry, I'm looking to the side, I
46 have dual screens up. The cameras on this
47 one and the plans are on that one.

48

49 MEMBER GOODSELL: That's okay. I keep
50 looking down because it's in front of me.

APPEAL #21176

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MR. IMHOF: No problem.

So the foyer projects 4.9 feet and it's 7.5 feet wide. Actually, 4 foot nine and 7.5 feet wide and the portico extends beyond that another 3 foot 7 inches.

CHAIRMAN MAMMINA: So essentially, you know, were -- were not for the regulation regarding the -- the setback of the front yard, you would be permitted to encroach five feet.

MR. IMHOF: Correct.

CHAIRMAN MAMMINA: You know, for that enclosed portion. And the -- the -- the variance would be limited to that area, which would shelter from the rain or the snow, that open portico. That then is on -- so you have a vestibule and a portico.

MR. IMHOF: Correct. Either by themselves are permissible.

CHAIRMAN MAMMINA: Yes. Okay. For -- for -- for me and, you know, Pat, I'll put this, you know, as questions and things to -- to you. I mean, the 4.9 side yard, you know, is, you know, is really of no -- is really of no consequence, you know. That could easily be, you know, a builders error, you know. In the, you know, in the beginning, I mean it's, you know, it's off by an inch or so. I mean, the setback, you know, is -- is still greater than a lot of the properties on the street and it is certainly the -- the character that, you know, that we're, you know, that we're seeing, you know, in there. And I don't think that the -- that the vestibule and -- and -- and the front portico, you know, are -- are largely different than, you know, many other ones that we've approved, you know, in this neighborhood and, you know, throughout the -- throughout the town.

MEMBER FRANCIS: It certainly couldn't be even smaller. Either one of them.

1 APPEAL #21176

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CHAIRMAN MAMMINA: Correct.

5

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7

MEMBER GOODSSELL: So, Mr. Imhof, the only -- the only real variance that you need are more for setbacks. I mean, you don't seem to exceed floor area ratio.

8

9

10

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12

MR. IMHOF: No. Not at all. I believe we're about 400 square feet here.

13

14

15

MEMBER GOODSSELL: Everybody else does.

16

17

18

19

MR. IMHOF: Well, we can come back and ask for more if you'd like. I mean, I don't want to disappoint you so.

20

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MEMBER DONATELLI: I would also add that much of the addition will be in the rear of the property and therefore, really not visible. So that -- that's just one other factor as one Board member that I consider to be a plus.

27

28

29

MEMBER FRANCIS: I somehow lost the screen.

30

31

32

CHAIRMAN MAMMINA: Okay. Was there someone else who wanted to speak?

33

34

35

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37

SECRETARY WAGNER: Let me just check the chat.

I don't see anybody.

Adriana, do you see anybody?

38

39

40

MS. DEMIRCIYAN: I don't see anyone with a hand up right now.

41

42

43

CHAIRMAN MAMMINA: I would say, Ms. Goodsell, what is your pleasure?

44

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MEMBER GOODSSELL: Well, the only issue are setbacks. As you look at the block, there are both older and newer homes that seem to violate setback, and these setback violations are relatively minor. I'm looking at Google -- Google Earth and I'm looking at other houses on the block and this -- I have

1 APPEAL #21176
2
3 no objection to this -- to these plans. I
4 think this will greatly improve the house and
5 I think it will improve the streets. And I
6 think that the setback violations are both
7 small and we've received no objection. So I
8 am, as one Board member, in favor of this.
9

10 CHAIRMAN MAMMINA: Okay. So we'll
11 consider that to be a motion.
12 Do we have a second?

13
14 MEMBER FRANCIS: Second.

15
16 CHAIRMAN MAMMINA: Seconded by
17 Vice-Chairman Francis.
18 And please poll the Board.

19
20 SECRETARY WAGNER: Member Goodsell?

21
22 MEMBER GOODSELL: Aye.

23
24 SECRETARY WAGNER: Member Hernandez?

25
26 MEMBER HERNANDEZ: Aye.

27
28 SECRETARY WAGNER: Member Donatelli?

29
30 MEMBER DONATELLI: Aye.

31
32 SECRETARY WAGNER: Vice-Chairman
33 Francis?

34
35 MEMBER FRANCIS: Aye.

36
37 SECRETARY WAGNER: Chairman Mammina?

38
39 CHAIRMAN MAMMINA: Aye.
40 So the application is -- is granted.
41 Thank you, Mr. Imhof. I appreciate
42 it.

43
44 MEMBER GOODSELL: Mr. Imhof gets an
45 award for being the shortest of presentations
46 today.

47
48 MR. IMHOF: That's always my goal.

49
50 CHAIRMAN MAMMINA: Plus he is also

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wearing a tie. Okay. I am too. Why, did I say something to you the last time?

MR. IMHOF: Last time you commented on me wearing a suit.

CHAIRMAN MAMMINA: Okay. Well, I'm always a suit and tie. Doesn't mean everybody else has to be, but I always respect that so.

MR. IMHOF: Very good.

CHAIRMAN MAMMINA: All right. Thanks very much.

MR. IMHOF: Thank you.

MEMBER FRANCIS: Well done.

1 APPEAL #21110

2

3 SECRETARY WAGNER: Okay. Next appeal,
4 Appeal No. 21110, Adonay Pineda, 12 6th
5 Street, Westbury, Section 11, Block 109, Lot
6 393, in the Residence "C" and New Castle
7 Urban Renewal Overlay District.

8

9 CHAIRMAN MAMMINA: You've heard Appeal
10 No. 21110 --

11

12 SECRETARY WAGNER: I'm sorry. Let me
13 -- I'm sorry. I just zoned out there a
14 second.

15 Variances from Section 70-50.C to
16 legalize a new two-story single-family home
17 built too close to the street.

18

19 CHAIRMAN MAMMINA: I will just say off
20 the record.

21

22 (A discussion was held off the
23 record.)

24

25 CHAIRMAN MAMMINA: You heard Appeal
26 No. 21170, Adonay Pineda. Do we have anyone
27 else who wishes to speak? Let's see. Okay.
28 So that was -- that was Jessica. Okay.
29 Please give your name and address, ma'am.

30

31 MS. LEIS: Thank you. So good
32 afternoon, Chairman, Members of the Board.
33 My name is Jessica Leis, I'm an attorney with
34 Forchelli, Deegan and Terrana with offices at
35 333 Earle Ovington Boulevard, Uniondale, New
36 York.

37 So we were retained by Mr. Khan, who
38 is the former owner of this premises and we
39 were authorized by the current owner, Adonay
40 Pineda to make this application.

41 So to provide you with some background
42 information, the subject property is located
43 in the towns Residence "C" District within
44 the New Castle Overlay District. It's
45 improved with a two-story single-family home
46 that was constructed in 2005. So my client,
47 Mr. Khan purchased the property with a
48 business partner in 2018 through a
49 foreclosure auction. At the time, their
50 attorney did run a title search, but they

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3 were never informed that there was no
4 certificate of occupancy, prior to acquiring
5 a property. So they proceeded to acquire it.
6 They paid off all outstanding taxes and then
7 proceeded to perform some internal
8 renovations to the house, including sheetrock
9 work and just some minor upgrades to their
10 bathroom and kitchen. In 2009, they went to
11 sell the property and discovered that there
12 were open building department permits and
13 there was no certificate of occupancy. So as
14 part of their contracted sale, money was held
15 in escrow and my client was required to
16 obtain a certificate of occupancy. So the
17 progress began with the building department
18 to legalize the property, but unfortunately
19 as -- as is with the case with many files
20 from the early 2000s, the town is unable to
21 locate any records with the building
22 department on this house. My client was able
23 to obtain -- sorry, a printout from the
24 property, the building department -- I'm
25 actually just going to share my screen. I
26 had previously -- if that's okay. I had
27 previously submitted a -- hold on. An
28 application packet and here we go. Exhibit
29 packet. So this was the property application
30 from a status report that my client was able
31 to obtain. So aside from this printout
32 report, there was no actual physical files
33 relating to the house. So let's see. So you
34 can see that there's closed out permits from
35 2005 for a building, as well as close out
36 permits for fixtures, gas and piping. So we
37 do know that the lot was subdivided sometime
38 prior to 2005, creating our parcel and lot
39 393, which is the parcel immediately to the
40 east. I'm sorry. It created our lot, which
41 is 393 and the parcel immediately to the
42 east, which is lot 394. The town was
43 similarly unable to find any files for the
44 property next door, which is identical lot to
45 ours. So when my client went to file for
46 building permits in 2019, it was discovered
47 that the house was noncompliant with the
48 average front yard. So after about two years
49 of responding to omissions letters, they
50 received a notice of disapproval, which now

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brings us to this Board.

So just for reference, this is our house. So our request today is for a variance of Section 70-50.C, which provides that the minimum front yard depth shall be greater than -- greater than 25 feet or the average front yard depth of dwellings within 200 feet on each side of the lot on the same side of the street. So we're proposing to maintain a dwelling with the existing setback and it's minimum is just shy of 23 feet from 6th Street, where the minimum average is 25.95 feet. So we were determined to be compliant on the first floor, but as you can see, there's a cantilever on the second floor and that's what encroaches into the required front yard by approximately two feet. So as is the nature of an average front yard setback, there are houses that are below this setback. Below what ours is and above what is required. So we're maintaining -- seeking to maintain approximately 23 feet. So this is a shot of the Street. So our house is to the far right. If you look to the far left, that's lot 355, which has a minimum of only 20.2 feet and then lot 394, the other lot which resulted from the subdivision, has a setback as 22.6 feet and this is the house next door to us. That's lot 394, which is 12 A 6th Street. So it's an identical dwelling and it's similar. It has the issue with the cantilever encroaching. So our house is clearly in character as the setback is in character with the neighborhood, given that there are two dwellings on the east side that have lower setbacks than ours.

Additionally, I did provide in the exhibit package showing that there's -- the Board has approved similar variances within the immediate surrounding Westbury area. So this is an aerial view showing the subject property and I pinned three other properties that received variances of Section 70-50.C. So we have a notice of decision for appeal 20744 for property at 687 Park Avenue. Appeal 20514 for property at 92 Maplewood Drive in Westbury. And then we have Appeal 20104, to maintain a dwelling within a front

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3 yard setback and that's at 46 -- sorry, 32
4 4th Avenue in Westbury.

5 So regarding one of the benefits
6 sought by the applicant can be achieved by
7 any other method, other than an area
8 variance. It cannot. This is an application
9 to maintain an existing structure that has
10 existed for 17 years. My client purchased
11 the property, unfortunately without the
12 benefit of knowing that there was no
13 certificate of occupancy. And unfortunately,
14 the other town has no -- no records to
15 substantiate any of those permits that are --
16 that were listed on the sheet from 2005. So
17 short of only the costly renovations to
18 remove a portion of the second floor and
19 bring it in line with the first floor, there
20 is really no alternative. Other than the
21 requested area variance. This is, again,
22 about two feet encroachment. So it's
23 certainly not substantial and it's still
24 setback further to the adjacent properties to
25 the east. As this is a maintain application,
26 as a maintain application, it will not have
27 an adverse impact on the physical environment
28 or the conditions in the neighborhood. And
29 last, given the circumstances relating to my
30 clients acquisition of the property, this
31 difficulty should really not be deemed
32 self-created. And given that he is now
33 trying to fulfill his contractual obligation
34 to the current homeowner, you know, any
35 self-creation should not be weighed against
36 him.

37 So if you have any questions, I do
38 have Mr. Khan on -- on as well to discuss any
39 of what I've just gone on over. But we would
40 respectfully request approval of the
41 variance.
42

43 MEMBER GOODSSELL: Ms. Leis, I'm still
44 whealing from the fact that the building
45 department lost the file. Just lost the file
46 so. But I have a comment. The house
47 immediately next door, it looks as if the
48 same builder built both of them and it looks,
49 to my naked eye, like the setbacks are the
50 same and the only difference between your

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client's house and the house immediately adjacent, is that your client is on a corner and the house immediately adjacent is not. So it -- it -- if they were built by the same architect and the same plans were used, I guess the town has been trying to recreate the file. Wouldn't the original building plan have required a variance because of the setback and that would have been granted?

MS. LEIS: Sorry. Would they have -- I think the reason that this all got triggered was the sale of the house. So if any -- anything, that property next door, they would require a variance too if they -- for any reason had to, you know, did any changes -- if they ever made any applications to the building department whatsoever or tried to sell the house, it appears they would need a variance as well.

MEMBER GOODSELL: Okay. Because I mean, I just -- I just verified they did in fact sell the property. I just looked up on -- on the deed. I did notice that it was purchased from foreclose, but in a foreclosure you get what you get. You get what you get and you take your chances. Title companies do run searches, they all carry disclaimers that, you know, this is not -- we're not going to be held liable for \$150 if we're incorrect in our seal report. But I feel for the client in that this was kind of thrust upon them.

CHAIRMAN MAMMINA: Ms. Leis, if you -- if you could just one more -- just one more time, just limit it to, you know, what the, you know, what the variance is, the setbacks and is it only that second floor cantilever that creates the objection or is there something else additional?

MS. LEIS: So the -- okay. So the -- the setback I've confirmed for the first floor is 25 feet. So the building department did not call that out. I know within a certain amount of -- they -- they allow for

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3 certain minor discrepancies. So the minimum
4 front yard setback is 25.95 feet for the
5 average for the street. The minimum required
6 is either 25 or 25.95. So it goes by the
7 average. So we're at 25 feet on the first
8 floor and the building department has
9 determined that to be compliant. So it's the
10 second floor that -- it's approximately 2.2
11 feet the cantilever. So we're at about -- I
12 confirmed with the architect, it's 22 feet
13 10.5 inches. On the notice of disapproval,
14 it's listed as 23. So approximately, you
15 know, 23 feet or 22'10.5 inches. That's the
16 difference. The two point approximately two
17 feet from the cantilever.

18
19 CHAIRMAN MAMMINA: All right. I'm
20 just looking at what the width of that is.

21
22 MS. LEIS: I think it's on the --

23
24 CHAIRMAN MAMMINA: I'm looking on
25 the --

26
27 MS. LEIS: Let me see if I could get
28 that up.

29
30 CHAIRMAN MAMMINA: Where's the floor?
31 There it is. Okay. The A1 up to the --
32 let's see.

33
34 MS. LEIS: I listed it on sheet A4.

35
36 CHAIRMAN MAMMINA: Okay. A4. Let's
37 see.

38
39 MS. LEIS: Up on the top floor there
40 above gross floor area calculation.

41
42 CHAIRMAN MAMMINA: Yeah. I'm looking
43 for the floor plan. Where's the second floor
44 plan? Okay. There's the second floor plan.
45 That's what I thought. It looks like it's
46 about 11 feet according to the number. Yeah.
47 It's -- let's see. The dimension is very
48 odd. But it's 12 feet. Yeah. There it is.
49 It's 12 foot one and a half inches is what is
50 there. So it's basically two feet of an

1 APPEAL #21110

2
3 encroachment and it's 12 feet wide on a 25
4 foot house. So it's about half of the house.
5 So just bear with me one second. I just
6 wanted to look again at this floor plan.
7 Les, do you have any thoughts on this?

8
9 MEMBER FRANCIS: You know, I'm
10 familiar with this house. It's right in my
11 neighborhood. And, you know, with regard to
12 the cantilever, that doesn't jump out at me,
13 because the portico sits closer to the street
14 than the cantilever. So, you know, I mean,
15 I've passed this house I don't now how many
16 times. It fits within the character of the
17 neighborhood.

18
19 CHAIRMAN MAMMINA: That was my feeling
20 as well. I mean, the -- the -- the -- the
21 portico area is -- is permitted because
22 that's, you know, that's within the permitted
23 obstructions.

24
25 MEMBER FRANCIS: Right.

26
27 CHAIRMAN MAMMINA: You know. And I'm
28 saying, you know, could they -- could they
29 cut it back? Yeah. They could cut it back,
30 you know. Would it change the character of
31 the neighborhood if they did? I don't think
32 so.

33
34 MEMBER FRANCIS: I agree.

35
36 MEMBER DONATELLI: Yeah. I would note
37 that it's a very small portion of the front
38 facade that is just --

39
40 MEMBER HERNANDEZ: It also adds
41 character to have house. If that wasn't
42 protruding forward, it would be a very flat
43 wall.

44
45 MEMBER DONATELLI: It would be.

46
47 MEMBER GOODSSELL: It's just not
48 flattering. That car parked on the front
49 lawn is really not, you know --

50

1 APPEAL #21110
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3 MEMBER HERNANDEZ: That doesn't help.
4
5 MEMBER GOODSSELL: -- the greatest in
6 the world.
7 CHAIRMAN MAMMINA: You can never guess
8 when Googles gonna be coming by to take
9 pictures.
10
11 MEMBER GOODSSELL: Unbelievable.
12 Unbelievable.
13
14 MEMBER HERNANDEZ: (Inaudible) parked
15 on the front lawn.
16
17 MEMBER FRANCIS: So as -- as one Board
18 member, I would be inclined to move that we
19 grant this application.
20
21 CHAIRMAN MAMMINA: Okay. We have a
22 motion by Mr. Francis.
23 Do we have a second.
24
25 MEMBER DONATELLI: I'll second.
26
27 MEMBER GOODSSELL: Okay.
28
29 CHAIRMAN MAMMINA: Seconded by
30 Mr. Donatelli.
31 Please poll the Board.
32
33 SECRETARY WAGNER: Before we do that,
34 I just want to check one more time in the
35 chat.
36
37 CHAIRMAN MAMMINA: Thank you,
38 Ms. Wagner. Yes.
39
40 SECRETARY WAGNER: I wanna make sure,
41 Adriana, can you just look and see if there's
42 anybody?
43
44 MS. DEMIRCIYAN: Yeah. I'm looking on
45 the participants and I don't see anyone with
46 a hand up.
47
48 SECRETARY WAGNER: Okay.
49
50 CHAIRMAN MAMMINA: Okay. So then,

1 APPEAL #21110
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3 Ms. Wagner, poll the Board, please.
4
5 SECRETARY WAGNER: Member Donatelli?
6
7 MEMBER DONATELLI: Aye.
8
9 SECRETARY WAGNER: Member Hernandez?
10
11 MEMBER HERNANDEZ: Aye.
12
13 SECRETARY WAGNER: Member Goodsell?
14
15 MEMBER GOODSELL: Aye.
16
17 SECRETARY WAGNER: Did I say Member
18 Donatelli?
19
20 MEMBER DONATELLI: Yes.
21
22 SECRETARY WAGNER: I did Goodsell.
23 I did Member Hernandez. Member --
24 Vice-Chairman Francis?
25
26 MEMBER FRANCIS: Aye.
27
28 SECRETARY WAGNER: And Chairman
29 Mammina?
30
31 CHAIRMAN MAMMINA: Aye.
32 So the application is granted.
33
34 MS. LEIS: Thank you.
35
36 CHAIRMAN MAMMINA: Thank you, Ms.
37 Leis.
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1 APPEAL #21154

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3 SECRETARY WAGNER: Next appeal is
4 Appeal No. 21154, JMP Orchard Street, LLC,
5 25 Orchard Street, Manhasset, Section 3,
6 Block 71, Lot 513-515 in the Business "B"
7 Zoning District. Conditional use 70-139.J
8 and variances from 70-103.P, 70-143.B, and
9 70-146.B, to construct a new three-story
10 office and senior living apartment building,
11 which is a conditional use, with parking
12 under a building, on a lot too small and too
13 narrow, with the building too close to the
14 street and side property line.

15 We do have several people that have
16 registered to speak regarding this appeal.
17 So after presentation is concluded, we can
18 call them in order.
19

20 MS. DEMIRCIYAN: Mr. Chairman, I
21 believe Mr. Hernandez is going to be recusing
22 himself from this matter.
23

24 MEMBER HERNANDEZ: I will make that
25 announcement after the Chairman speaks.
26

27 CHAIRMAN MAMMINA: All right. Let me
28 just call this in.

29 You've heard Appeal No. 21154, JMP
30 Orchard Street, LLC. And if there is anyone
31 interested in the application, we have, you
32 know, we have a list of -- of people who have
33 registered to speak. But if there is anyone
34 else who is not on that list or whom we
35 missed, you know, please identify yourself in
36 the chat so that we can make sure that we've
37 got everyone.
38

39 MEMBER HERNANDEZ: Mr. Chairman, after
40 discussions with counsel, I will recuse
41 myself from this case.
42

43 CHAIRMAN MAMMINA: Okay. Let the
44 record note that Mr. Hernandez has recused
45 himself.
46

47 SECRETARY WAGNER: Okay. So --
48

49 MEMBER HERNANDEZ: I will mute myself
50 and stay by the phone. Somebody let me know

1 APPEAL #21154

2
3 when this finishes.

4
5 SECRETARY WAGNER: Yes. Jay, we'll
6 call you.

7
8 CHAIRMAN MAMMINA: We'll call you.
9 Good afternoon, Mr. Migatz. Please
10 give your name and address.

11
12 MR. MIGATZ: Good afternoon, Mr.
13 Chairman. Bruce W. Migatz, Albanese and
14 Albanese, 1050 Franklin Avenue, Garden City,
15 New York.

16 It's nice to see you, Adriana. Long
17 time no see. How are you?

18
19 MS. DEMIRCIYAN: Good, Bruce. How are
20 you? Good to see you as well.

21
22 MR. MIGATZ: Good. Thank you.
23 Ms. Wagner, will you please promote
24 Evan Pysillos who is the principal of JMP
25 Orchard Street, LLC.

26
27 SECRETARY WAGNER: Mike, do you see
28 him?

29
30 MR. TAMBURELLO: I do not see him on
31 the list.

32
33 MS. DEMIRCIYAN: I do see somebody
34 named Barry Nelson.

35
36 CHAIRMAN MAMMINA: Yeah. Barry
37 Nelson.

38
39 MR. MIGATZ: Please promote Barry
40 Nelson and also Ed Butt.

41
42 CHAIRMAN MAMMINA: Don't see Ed
43 either.

44
45 SECRETARY WAGNER: Ed's on the top of
46 the list.

47
48 MR. TAMBURELLO: Letting them both in
49 now.

50

1 APPEAL #21154

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3 MR. MIGATZ: And do you see Eric
4 Alexander from Vision Long Island?

5

6 SECRETARY WAGNER: Yes. Yes. He's on
7 here as well.

8

9 MR. MIGATZ: All right. Can you
10 please promote him.
11 Ed, is Evan joining us today?

12

13 MR. BUTT: He's supposed to be.

14

15 MR. MIGATZ: Can you take another
16 look, Ms. Wagner?

17

18 SECRETARY WAGNER: I don't see anyone
19 with a name Evan. There is one phone number.
20 Would he have been calling in or --

21

22 MR. MIGATZ: No clue.

23

24 SECRETARY WAGNER: I don't see anybody
25 by that name. Silo, S-I-L-O.

26

27 MR. MIGATZ: P. P-S-Y-L-L-O-S.

28

29 MR. BUTT: I just texted him. If he's
30 not on there, he should be.

31

32 SECRETARY WAGNER: I don't -- I don't
33 see that name either.

34

35 MR. MIGATZ: All right. Ed -- Ed
36 texted I'm too.

37

38 SECRETARY WAGNER: Okay. So did you
39 need him to speak first or can we proceed and
40 then --

41

42 MR. MIGATZ: No. No. No. Did -- did
43 you promote Eric Alexander.

44

45 SECRETARY WAGNER: Mike, did you
46 promote him?

47

48 MR. TAMBURELLO: I already promoted
49 him. Is he not up there yet?

50

1 APPEAL #21154

2
3 SECRETARY WAGNER: There is he.

4
5 MR. MIGATZ: Now he is.

6
7 MR. TAMBURELLO: Also, Virginia, if
8 you need me to screen share, I have all the
9 documents that I believe you sent and then
10 some.

11
12 SECRETARY WAGNER: Okay. Well, that's
13 up to you. It's probably easier if you do
14 that, but --

15
16 MR. TAMBURELLO: Okay. That's fine.

17
18 MR. MIGATZ: If I may proceed,
19 Mr. Chairman?

20
21 CHAIRMAN MAMMINA: Please.

22
23 MR. MIGATZ: The -- Evan Psyllos is
24 the principal of JMP Orchard Street, LLC. Ed
25 Butt is the project architect. Barry Nelson
26 is our expert witness who will give testimony
27 and Eric Alexander is the director of Vision
28 Long Island and the Long Island Main Street
29 Alliance, who will also speak in favor of
30 this application.

31 The subject property is 25 Orchard
32 Street in Manhasset Section 3, Block 71, Lots
33 513 through 515. It is in a Business "B"
34 Zone of the town. The property is improved
35 presently with a vacant florist. Mr. Nelson
36 has a series of pictures too to show you.
37 The applicant is proposing to remove the
38 vacant florist building and construct a five
39 unit senior independent living facility with
40 a management office on the first floor. It
41 will have two one bedroom apartments and
42 three two bedroom apartments. And Ed Butt
43 will explain that in more detail.
44 Independent living for seniors is a
45 conditional use in a Business "B" Zone. So
46 we are seeking an additional use permit. And
47 we are seeking several variances. A lot area
48 variance, a lot width variance, a front
49 setback variance, a side yard setback
50 variance and a variance for one ground level

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parking space under the building.

Now, when -- when you -- when you read the legal notice and you -- you hear those variances, your initial reaction may be wow, that's a lot of variances. But keep in mind if you would throughout this presentation and in particular, with respect to some -- many opposition letters that were submitted. With the exception of the one parking space that is beneath the building, no variances would be required to build an office building with the identical footprint of the proposed senior independent living facility. And we will sort of go into that in -- in more detail.

Before I have Ed Butt explain the architecture to you, I just want to talk a little bit about the zoning code. The town amended the zoning code in 1999 to permit senior citizen facilities as a conditional use in the Business "B" Zone. I submit to you, that this is a recognition by the Town Board that it is desirable for seniors to have housing, nearby shopping, nearby stores, nearby banks, nearby restaurants and nearby mass transportation. However, the code established a minimum lot area of 40,000 square feet for senior independent living, as well as other senior facilities. I am not aware of many, if any, 40,000 square foot lots Zone Business "B". The lot area requirement for Business "B" is 2,000 square feet. The most property Zoned Business "B" are located in main streets and downtown areas, such as Plandome Road, Manhasset, Main Street, Port Washington, the other downtown areas. That's where you find the Business "B" shopping stores are located. Certainly few, if any, 40,000 square foot parcels in a Business "B" Zone are located within walking distance of businesses, stores, restaurants, a movie theater and a Long Island Railroad Station, as the is the subject property. And that is why we submit to you that this project is -- is appropriate for this area. It is consistent with transit oriented development that Vision Long Island has been promoting for many years. They have just

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3 recently promoted in the governors state of
4 the estate address.

5 With that being said, I'd like Ed Butt
6 to walk you through the proposed design of
7 this building. Mr. Butt?

8

9 MR. BUTT: Good morning, Mr. Chairman
10 and Members of the Zoning Board. Thank you
11 for the opportunity to allow us to be present
12 this morning. Our application for -- for
13 this particular project -- you'll have to
14 just excuse me a little bit, because I'm a
15 little new with the whole -- okay.

16 So this is actually a first floor
17 plan/site plan that is proposed for -- for
18 this location. The buildings to the left --
19

20 MR. MIGATZ: We don't see that on the
21 screen though. At least I don't.

22

23 MR. BUTT: You don't? Okay.

24

25 MR. MIGATZ: You told me you knew how
26 to do this.

27

28 MR. BUTT: I -- I did. I just got
29 done with it with the --

30

31 SECRETARY WAGNER: Mr. Butt, what I do
32 is so open up the file and then minimize it
33 on your computer. And then go to share
34 screen and then it will bring you to a white
35 board and then you click on the --

36

37 MR. BUTT: Are you seeing this screen
38 or no, you're not seeing this screen either?

39

40 SECRETARY WAGNER: We see the -- your
41 files.

42

43 MR. BUTT: You do see the files.

44 Okay.

45

46 SECRETARY WAGNER: Now open that up
47 and then if you minimize it.

48

49 MR. BUTT: I minimized it. Hold on.

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SECRETARY WAGNER: I think you might want to go up -- go out of screen share and then try it again. And then when you do it again --

MR. BUTT: Does that work?

SECRETARY WAGNER: No. You want me to share the floor plans?

MR. BUTT: Please.

SECRETARY WAGNER: Okay. So you have to stop your -- your screen sharing. Which plan would you like me to bring up?

MR. BUTT: The site plan. This plan is fine. Just go up a little bit. Actually, start with this. Let's start with this. Okay. So you can see the -- the footprint of the -- of the one-story masonry building and the greenhouse. The greenhouse is approximately five feet off the property line in front. The -- the lot is flanked on both sides. The lot is flanked on both sides by a two-story brick building on the left that's also a zero lot line building and then there's a building on the right side, which is a two-story framed building and it's also a zero lot line building on the -- on the right side.

If we can go to the first floor plan. Thank you.

So the first floor plan really sort of shows the actual site development that we have. What we are proposing to do is on the first floor, is to -- is to put a management office in the front. That would be where Mr. Psyllos' office would be. His -- and his management office to maintain this building. On the first floor also is the entrance lobby, which is on the -- the left hand side to a corridor. To a lobby, an elevator lobby for the second and third floor. We also have a drive up driveway aisle of approximately 12 feet that leads to the back parking lot, which has a total of six spaces outside the building. Which we are assigning one space

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3 per unit to that and an additional car for an
4 employee, plus we are showing a handicapped
5 space under the building itself. That space
6 is -- is put there only because I -- we leave
7 this as a courtesy to anyone who might be
8 handicapped or even just to -- to drop off
9 groceries there or something that they're
10 covered under that space. So what it is is
11 that entrance is protected and they come
12 in -- most people will probably -- at least
13 the residents will probably be entering from
14 the rear. Inside the building where you see
15 recycling is where we're handling the
16 garbage. That will be let out on the days
17 that are planned for the garbage pickup.
18 Because the garbage pickup is done by Dejana
19 through the town. So it's a town supplied
20 garbage collection. In the back, which --
21 Ginny, I sent over to you some revised plans.
22 I don't know if you just got them, but I did
23 add some things based on a conversation that
24 we've had with the Manhasset Civic
25 Association. And one of their concerns was
26 to provide bollards along the back parking
27 lot to protect cars from going beyond or
28 hitting a fence. So we have some protection
29 from vehicles from that.

30 If we can proceed to the second floor.
31 Okay. The second floor is -- is a -- is
32 three units, three separate units on the
33 second floor. All of them have a small
34 balcony attached to them. The two bedroom
35 unit is to the front of the building and then
36 we have two one bedroom units in the rear of
37 the building on this floor.

38 The -- if you go to the third -- just
39 slide across to the third floor. Okay. The
40 third floor has two two bedroom units on that
41 floor. The front has a balcony, the rear
42 does not and we have provided a community --
43 outdoor community space that will be covered
44 with a trellis on the third floor to -- to
45 accommodate any kind of outdoor activity or
46 somebody wants to -- to sit out there for
47 whatever reason. They have that capability.

48 If we can go back just to the basement
49 floor -- basement for a second, Ginny,
50 please. I'm sorry.

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3 We're also providing indoor community
4 space underneath the building too there is --
5 to meet that obligation and requirement as
6 well. And the front area would serve as
7 storage either for the residents, or for the
8 management office, or a combination thereof.
9 We don't really know at this point.

10 Most importantly, Ginny, do you
11 possibly have the elevations that I -- that I
12 -- I revised?

13
14 SECRETARY WAGNER: Mr. Butt, I -- I --
15 I -- unfortunately I can't check my e-mail.
16 I do believe I got an e-mail from you, but I
17 can't access it while I'm in the Zoom.

18
19 MR. BUTT: I'm gonna try -- I'm gonna
20 try to get this up, because it's -- it's
21 significant.

22
23 SECRETARY WAGNER: Okay. But let's --
24 and I will also try to figure out a way too.
25 Let me stop the share for a minute to see if
26 there's some way I can get in there. Okay.
27 I think I might have figured it out. Let me
28 see here. Let me see if this works. Hold
29 on. This is it?

30
31 MR. BUTT: That's it. Is there a way
32 to shrink that down a little?

33 Okay. So that's it. That's the
34 exterior of the building. We met with the
35 Manhasset Civic Association to discuss some
36 of the architecture and details on this. And
37 we got -- came up with a design that actually
38 is in keeping with the Manhasset vernacular.
39 We're looking at a stone base with the brick
40 -- with brick detailing throughout with
41 concrete -- precast concrete windows and
42 sills with a very ridden type window to give
43 it that sort of colonial style look to it.
44 The first floor again, we're landscaping
45 quite a bit in the front to give it an
46 appearance as much as we can to sort of keep
47 it in -- within the green type feel of it.
48 It's a three-story building even with the --
49 even with the elevator tower, we're
50 approximately four feet under the maximum

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3 required height. So the actual building
4 itself is -- is actually substantially lower
5 than that.

6 Ginny, do you have the elevations by
7 the way in your group of things that I sent
8 you?

9
10 SECRETARY WAGNER: Was it part of this
11 -- the whole package?

12
13 MR. BUTT: Yeah. Yeah. That's it.
14 That's it.

15 So again, these are the other
16 remaining -- the other elevations you can see
17 in conjunction with the adjoining buildings.
18 Our building is -- is -- is pretty -- is
19 actually lower than the adjoining building to
20 the left and it's -- it's certainly not --
21 not much higher to the building to the right.
22 Which is, you know, much older colonial
23 residential building that's -- that's being
24 -- that's housing a daycare center, I
25 believe, right now.

26 So as far as trying to keep -- we're
27 keeping within the volume of the space and
28 everything, we are -- we believe we're --
29 we're doing that successfully here.

30 Other than that, I think that -- that,
31 you know, with the parking in the rear and I
32 think with the access from that one side, I
33 think we've -- we've been successful in
34 trying to create what I believe is a
35 congruous design that -- that matches a lot
36 of what's within inside the community.

37 These are the other elevations of the
38 building.

39 That's the side elevation of the
40 building. Again, carrying through all of the
41 materials and the windows, and all of the
42 finishes are the same throughout all four
43 sides of the building as you can see here.
44 That's just some details.

45 So that's really my presentation with
46 regard to that. If there's anything else,
47 I'd be happy to answer any questions. Thank
48 you.

49
50 MR. MIGATZ: Does the Board have any

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3 question at this time of Mr. Butt?
4

5 MEMBER GOODSSELL: I do. For one, I'd
6 like him to address the setback. There's a
7 zero setback on the -- as you're facing the
8 building. The left side. The setback of the
9 building next door, which is pretty close to
10 the property line too.

11 Now, could you just address what those
12 residents are looking at if they look out
13 their window?
14

15 MR. BUTT: Okay. So that's a
16 commercial building to the left and that
17 building is actually on the lot line. So
18 what we're doing is just sharing the lot
19 line, which is pretty standard when you get
20 buildings that are on lot lines. You just
21 keep it as a zero lot line for fire and --
22 and code requirements for it has to be a
23 three hour separation. So anything on that
24 lot line will remain as a fire separation
25 between the two lots. So that's the reason
26 why the other building was a zero lot line.
27 There was no reason to set it back, because
28 by setting it back, all you're going to give
29 is a three foot ally way or something. And
30 then if we look at it on the other side, the
31 other side is sort of a residential building.
32 It's really not even fire rated. I think
33 this is the more safer logical location to
34 put it next to the taller building, which is
35 also a brick building and keep it -- keep it
36 tight against that building. So that's the
37 reason for the -- the location of the
38 building on the left hand side.
39

40 MEMBER GOODSSELL: The reason for my
41 question was your rendering shows a tree and
42 some greenery on that side. But in fact,
43 there won't be room for a tree on that side.
44 If there's going to be a tree, it's gonna be
45 in the front and it's gonna be out by the
46 sidewalk.
47

48 MR. BUTT: Yes. That's -- that's why
49 I showed -- that's why I have the elevations.
50 If you look at the elevations, they're a

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3 little more accurate to render, I guess --

4
5 MEMBER GOODSSELL: I then realize that
6 no tree is going to fit under --

7
8 MR. BUTT: No. There won't be, no.

9
10 MR. MIGATZ: Any further questions at
11 this time for, Mr. Butt?

12
13 CHAIRMAN MAMMINA: I don't think so.

14
15 MR. BUTT: I'd like to call Barry
16 Nelson. Barry Nelson, as you know, is the
17 licensed appraiser. He has testified before
18 this court on numerous occasions. I ask the
19 Board to recognize him as an expert witness.

20
21 CHAIRMAN MAMMINA: Yes. Mr. Nelson is
22 recognized.

23
24 MR. MIGATZ: And I would ask
25 Mr. Nelson to give a summary of -- of his
26 findings and to address the conditional use
27 of standards in the code. Mr. Nelson?

28
29 MR. NELSON: Yes. Good afternoon.
30 Can the Board hear me?

31
32 CHAIRMAN MAMMINA: Yes.

33
34 MEMBER GOODSSELL: Yes.

35
36 MR. NELSON: My name is Barry Nelson.
37 220 Pettit Avenue, Bellmore, New York 11710.
38 I'd like to share my photographs, if
39 that's possible.

40
41 CHAIRMAN MAMMINA: Yeah. We see them.

42
43 MR. NELSON: Great. So I'll scale --
44 go through them slowly. I'm sure the Board
45 and the Members of the Board is very familiar
46 with this location. Its proximity to
47 Plandome Road. Immediately just to the west
48 to the Long Island Railroad. The -- the
49 zoning in the area pursuant to the towns
50 official zoning map along the corridor of the

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3 subject street, Orchard Street and to the
4 south, Maple Place with a -- would be
5 Business "B" District. Approximately 260
6 feet east of the subject property and that
7 would be at the triangular end east of the
8 subject property between Maple Place and
9 Orchard Street would be the RM, residential
10 multifamily district and that's the
11 Georgetown Commons Townhouses. The -- let me
12 just see if I have a photograph of that. I
13 do have approximately 42 pictures, which we
14 can go through quickly. But it is a unique
15 area in that Plandome Road is it's downtown
16 business district. The uses found along
17 Plandome Road would include professional
18 services, everyday conveniences, restaurants,
19 boutiques, a movie theater which would be
20 just to the left of the subject property.
21 The pharmacy at the southeast corner of
22 Plandome Road and Orchard Street. The
23 photograph that I have up now would be the
24 easterly end of Orchard Street nearing Maple
25 Place and this would be the townhouse
26 residential community east of the subject
27 property. If we just go back to the original
28 -- to the start of my photographs, you will
29 see that the subject property is currently
30 vacant former Manhasset florist. The rear of
31 the property -- the rear of the property
32 facing onto the rear of the residences that
33 front the street to the north, which would be
34 Gaynor Avenue. This would be the property
35 immediately to the west, number 19 Orchard
36 Street. You see you have a multi-tenanted
37 and detached garage in the rear. Contractor
38 and professional offices. This would be the
39 corner property, the movie theater which
40 would be at the northeast corner of Plandome
41 Road and Orchard Street. You'll note that
42 the building is a high building, brick
43 facade. It is up to the property line on the
44 Orchard Street corridor and well we've got
45 refuse on the sidewalk. This would be the
46 rear of the building to the west of the
47 subject property number 19 Orchard. Again,
48 the rear of 19 Orchard. This would be to the
49 east of the subject property, number 33
50 Orchard Street. We'll continue. This is 33

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3 Orchard. I'll scroll through slowly. As we
4 go through photographs, you'll see that this
5 is the subject property. The existing front
6 yard setback and the movie theater where it's
7 on the front setback line on the north side
8 Orchard Street. The -- from the left of
9 subject property looking easterly, the
10 parking in the front yard setback for number
11 19 and the front yard setback of the subject
12 property just to the right of the property on
13 the left. This would be the next property to
14 the east of the subject property, number 33.
15 As we continue to go through the photographs,
16 we would be going easterly property by
17 property up until where we had the Georgetown
18 Commons. 37 Orchard Street multi-tenanted
19 former converted residence. The only parking
20 available on that property and like many of
21 the properties in this vicinity is in the
22 front yard setback. Most of these properties
23 along Orchard Street were former residences
24 now that have been converted to professional
25 uses and multi type of use occupancies. This
26 would be property at the triangle between the
27 south side of Orchard and the north side of
28 Maple Place. A former residence converted to
29 multi-tenanted offices, professional uses,
30 parking in the front yard setback. Triangle
31 end of Maple Place and Orchard Street. The
32 townhouse residences in the RM district.
33 This would be looking from Plandome Road onto
34 Orchard Street. Orchard Street is a one way
35 westbound. You would enter this immediate
36 community from the south on Maple Place.
37 Enter easterly to the triangle and then exit
38 off of Orchard Street. The movie theater at
39 the corner, northeast corner of Orchard
40 Street and Plandome Road. This would be the
41 southeast corner of Orchard Street, Plandome
42 Road. Plandome Road professional uses,
43 offices on the second floor. They're on --
44 that's -- nearby location where they have
45 residents on the -- or apartments
46 nonconforming on the second level.
47 Nevertheless, it is the downtown business
48 district providing everyday convenience,
49 shopping, retail, professional services.
50 What we have on this photograph, number 26,

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3 the northerly side of Gaynor Avenue east of
4 Plandome Road three-story apartment building
5 identified as 15 and 17 Gaynor Avenue. It's
6 been in the community for many, many years.
7 Formally apartments converted several years
8 ago -- many years to co-ops. Approximately
9 20 -- 26 units on 13,200 square feet. It is
10 within the Residential "B" District on the
11 north of -- north side of Gaynor Avenue.
12 That property does not provide adequate
13 onsite parking either. These are the
14 residences that would be to the north of the
15 subject property on the south side of Gaynor
16 Avenue. The first parcel to the east of --
17 well, to the west of this residence would be
18 parking for some of the businesses that are
19 located at the southeast of Gaynor Avenue and
20 Plandome Road. This would be the next house
21 immediately north of the subject property,
22 number 30 Gaynor Avenue. The next residence
23 is just to the west -- to the east, 36 and
24 then part of 30. Subject property as it
25 exists today. A view corridor looking
26 westerly to Plandome Road, the subject
27 property on the right. Street restriction
28 signage. Again, looking westerly to Plandome
29 road. Looking southwesterly on the subject
30 street from in front of the subject property.
31 This would be looking directly south from the
32 subject property to Maple Street. That
33 building to the south, a three-story
34 building, it's an approximately 18,000 square
35 foot building. It's within -- it's on the
36 south side of Maple -- Maple Place and it's
37 in the same business district as the subject
38 property. And that building, I believe, was
39 built in 1987, provides most of it's parking
40 underneath the building -- underneath the
41 second floor where it's cantilevered and it's
42 a parking garage just below. That's been in
43 the community without any adverse affect on
44 the surrounding uses. Just to the west of
45 that property would be the United States Post
46 Office. The parking field that we're looking
47 through is a parking field that provides
48 parking opposite the subject property for
49 properties that are business community that's
50 along the easterly side of Plandome Road

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3 between Orchard Street and Maple Place. View
4 corridor looking easterly, subject property
5 on the left. Again, the subject property.
6 Restrictions on the subject street. The
7 parking field across the street from the
8 subject property looking from Maple Place to
9 the north to the subject property.
10 Restrictions for that parking field. It is a
11 private parking field for the businesses that
12 are found on Plandome Road. View corridor
13 along Maple Place looking westerly to
14 Plandome Road. Restrictions on that street.
15 So I'll see if I can stop sharing.
16 That's the composite of the -- or the
17 makeup of the subject area. Business, mixed
18 uses, former residences that have been
19 converted. Most of those properties, if they
20 were to do any type of alterations, come back
21 -- would require to come back to the town to
22 require similar type variances that the
23 applicant is seeking today. Other than the
24 conditional use. But going now to the
25 conditional use aspect of the application.
26 The -- uniquely, it's a scale down type
27 version for a senior living facility. Five
28 units providing onsite adequate parking and
29 providing a needed housing for the seniors
30 within walking distance to businesses,
31 professional services. Many of the converted
32 residences that I've indicated in my
33 photographs along Orchard Street, provide
34 medical and fitness type uses, professional
35 services that would be available to the
36 residences of the proposed development. The
37 Business "B" District provides many lawful
38 uses and may even be onerous than what is
39 considered as a conditional use. Conditional
40 use, again, is similar to a special use. A
41 show of compliance, a show of conformity and
42 I've looked at the code for the Business "B"
43 District. And it allows permitted uses in
44 the Business "A" District. And the Business
45 "A" District allows for many uses and I
46 looked at some of the uses that would be
47 somewhat similar to what is the conditional
48 use for the subject property. And if we look
49 at the Business "A" District, a parish house
50 is permitted. A nursing home is a permitted

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3 as of right. A club house or a fraternity
4 house, a lodge, or a gold house are all
5 permitted house as of right in the Business
6 "A" District. Those uses can provide for
7 living, overnight stay, et cetera. So what
8 the subject property is proposing for five
9 apartments, age restricted, I believe it's 62
10 years and older is a reasonable request for a
11 conditional use permit before this Board.
12 Again, the Board or the town looked at the
13 senior living facility and I've worked on
14 other senior living facilities throughout
15 Nassau County and some in Suffolk County.
16 And as counsel mentioned earlier, to find a
17 40,000 square foot in a business district --
18 near a downtown business district, you
19 probably have to -- it's almost impossible.
20 You have to assemble many parcels to come up
21 with something like that. The code says
22 2,000 square feet for a business development,
23 but 40,000 for senior. Recognize that
24 applicant has scaled down a substantial
25 portion of the application for strictly five
26 units, parking on the street grade. The --
27 it will meet the needs of the community
28 without burdening municipal services, without
29 burdening the school district as well. The
30 conditional permit requirements are under the
31 section 70-225.B and it has criteria 1A
32 through G, whether it's confirming to the
33 surrounding uses, whether it's detrimental,
34 will provide good health and growth in the
35 community. Seniors will tend to use their
36 vehicles less and provide -- or use the
37 retail, the restaurants, the movie theater
38 all within walking distance. In fact, many
39 of my visits to this location within the last
40 one to two months preparing for today's
41 testimony, I noted visually that there have
42 been -- there were many people that came from
43 the Georgetown community, the commons, to the
44 east walking to the downtown business
45 district. No different than what we can
46 expect from the seniors in this development.
47 As counsel mentioned earlier, this building
48 itself could be built for -- constructed for
49 professional offices and similar type uses.
50 As far as my opinion, I believe it's a

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3 reasonable request. It's located -- it's
4 location is ideal for the proposed use. It's
5 in harmony with the surrounding community,
6 the single-family residential on Gaynor. In
7 fact, there's another multifamily apartment
8 building nonconforming on the south side of
9 Vanderbilt, which is two blocks north of the
10 subject property. And it would be on the
11 south side of Vanderbilt Avenue east of the
12 business community within the Residential "B"
13 District. Both of those developments, as I
14 mentioned, 15 to 17 Gaynor Avenue and this
15 other one on the south side of Vanderbilt
16 Avenue, has existed for probably almost close
17 to 100 years with the residential community
18 appreciating in property values and not
19 adversely affected, because of the
20 multifamily use.

21 I'll be more than happy to answer any
22 questions. I'll remain online for any other
23 questions the Board may have or members of
24 the community. Thank you.

25
26 CHAIRMAN MAMMINA: Any questions?

27
28 MEMBER DONATELLI: I don't know who to
29 direct this question to. Are -- are there
30 suers in the area?

31
32 MR. MIGATZ: No. Not yet, but they
33 are working on trying to get that. They've
34 been working on that for quite sometime and
35 it seems like they're getting that in
36 Manhasset, but not presently.

37
38 MEMBER DONATELLI: Okay. I have no
39 other questions at this time.

40
41 MEMBER GOODSELL: I have a question
42 for Mr. Butt. The parking presumes that even
43 with a two bedroom unit, there's going to be
44 one car per unit and the public parking is
45 not across the street. That's a private
46 parking lot as you very correctly showed. So
47 if we have a senior who has a wife or
48 husband, two cars, where would the second car
49 be parked?
50

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3 MR. MIGATZ: Let me -- let me -- let
4 me answer that question, if I may, Ms.
5 Goodsell. That is what the code says. That
6 is the formula and the town code formula
7 presumes that this is for empty nesters.
8 People who are going to be moving into these
9 apartments are doing so because they don't
10 want to drive, they want to walk to the
11 stores, they want to walk to the train
12 station, they want to walk to the bank. This
13 is what transit oriented growth is all about.
14 And the zoning code recognizes that to that
15 extent. That this only requires one parking
16 space per apartment.

17
18 MEMBER GOODSELL: That may be true.
19 But my question is more of a practical
20 nature.

21
22 MR. MIGATZ: Well, if somebody has two
23 cars, they're not going to move into a place
24 like this.

25
26 MS. GOODSELL: That's correct. That
27 would have to be.

28
29 MR. MIGATZ: Yeah. Exactly.

30
31 MEMBER GOODSELL: Because if you're in
32 your early 60s, which 62 seems to be the
33 minimum to live in senior housing, I don't
34 know too many people who have two people per
35 household who will share one cr. Not in this
36 society. Unfortunately we're not there.

37
38 MR. MIGATZ: You are 100 percent
39 correct. And I represent several co-ops and
40 condominiums that have limited parking. And
41 perspective buyers ask, how many cars can I
42 park there? And if we tell them just one,
43 they say thank you, I can't live here.

44 I'd like to follow up, if I may, just
45 on one of the other standards of conditional
46 permit is whether the proposed use will be
47 hazardous, conflicted or incongruous to the
48 immediate neighborhood by reason of excessive
49 traffic. Similarly a persons vehicles. We
50 submitted a trip generation prepared by

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3 Robert Shocker of V and H Engineering. And
4 that trip duration analysis concluded that
5 the total trips for both the apartments and
6 the managers office is four for the weekday
7 a.m. peak hour and six for the weekday p.m.
8 peak hour, and five for the Saturday peak
9 hour. And now I emphasize that because there
10 were so many letters sent to the Board in
11 opposition complaining about excessive
12 traffic and traffic congestion that this
13 project is going to cause. And I, for one,
14 cannot understand, you know, the logic of
15 that complaint. You can build a retail store
16 as of right. You can build a doctors office
17 as of right. A dentist office as of right.
18 A lawyers office as of right. Yes, you would
19 have to be restricted in size by the parking
20 spaces, but you don't have to be a traffic
21 engineer to realize that those uses are going
22 to generate far more traffic than -- than --
23 than these five units for senior housing.
24 And, you know, the trip generation analysis,
25 you know, supports that.

26 Let -- let me turn to the variances
27 that are requested. And again, as I said
28 before, on paper they sound substantial. A
29 lot area for senior housing is 40,000 square
30 feet. This lot is 7,031 square feet. Lot
31 width required is 100, proposed is 60. Front
32 setback required 25, proposed 13. Side yard
33 setback 15 required, proposed zero and 12.4.
34 And one ground level parking space under the
35 building. Those various variances are based
36 upon the setbacks and lot area required for a
37 40,000 square foot lot. So if you look at
38 whether or not these are substantial. Well,
39 on paper, certainly the lot area variance is
40 substantial on paper. But we -- we know from
41 case law and -- and various articles written,
42 that the substantiality with variance is
43 really only relevant if it has an adverse
44 impact on the -- on the community. As -- as
45 former Board member and now Judge Goodsell
46 used to always say, "you have to look at the
47 whole picture."

48
49 MEMBER GOODSSELL: Did he use to say
50 that, Mr. Migatz?

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MR. MIGATZ: All the time. All the time and I would not make that up, Ms. Goodsell. Not with you present.

MEMBER GOODSELL: No. And I can verify whether that's correct.

MR. MIGATZ: Well, you can ask him. These five -- the density of these five units is consistent with a 40,000 square foot lot. A 40,000 square foot lot -- I take that back. The code permits one unit per 1,362.25 square feet of lot area if you are zoned in a 40,000 square foot parcel. So if you have a 40,000 square foot parcel, you can get -- you get 32 units into that 40,000 square foot. The subject premises, which is 7,031 based upon a 1,361.25 area required for a unit yields five units and that's what's proposed. So the density of the project is -- is consistent with the density if you were on a 40,00 square foot lot. The lot width -- the 100 lot width required is based upon a 40,000 square foot parcel, because that's what the zoning code is addressing. The 40,000 square foot parcel for senior housing. That envisions, of course, a much larger parcel and that's why it requires a lot width of 100 feet. There is no lot width requirement for any of the permitted uses in Business "B". So you -- as I said before, you could build the same footprint with -- with the 60 foot lot width that this parcel has of right and use it for an office or retail store. So the building would look the same on the same -- on the same lot width. Same thing with front yard setback. The 25 foot required is premised on a 40,000 square foot lot, which presumes a much larger senior citizen complex that the town wants setback 25 feet. We're setting it back 13 feet. No front yard setback is required if you build a retail store or an office building. The building will look the same if it could have no front yard setback. Same thing with side yard setback. 15 required. But again, that is based upon the premises you have a 40,000

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3 square foot lot for a senior citizen complex.
4 Business "B" does not require any side yard
5 setback. So this building is actually
6 providing no setback on one side, as Ed Butt
7 described. On the other side, there's a
8 setback of 12 feet 4 inches. That's more
9 than what would be required if you built an
10 office building or retail store. You would
11 have the same footprint of a building and no
12 need for a variance.

13
14 MEMBER GOODSELL: And yet, Mr. Migatz,
15 they're not building those. They're asking
16 for senior residence.

17
18 MR. MIGATZ: Well, we're -- you know,
19 setbacks deal with bulk. Okay. Setbacks
20 don't deal with use. They deal with bulk.
21 So whether the -- whether the building is
22 occupied as an office, a retail use or -- or
23 senior -- senior apartment, the bulk of the
24 building is the same. So, you know, the
25 40,000 square foot requirement with the
26 setbacks envisions a much larger complex that
27 they once -- that the town Board wants to
28 setback. But here you're in -- if you're in
29 a Business "B" Zone, you know, where you
30 could build a 2,000 square foot parcel, you
31 can build an office building. Setbacks deal
32 with bulk, you know. And a lot of these
33 letters in opposition, you know, stress all
34 the substantial no setback variances. Well,
35 there would be no setback if you build an
36 office building. So when you're driving --
37 when you're driving down the street, that's
38 what setbacks are for. You're driving down
39 the street, buildings not setback, there's
40 open space between the buildings. That's not
41 required in Business "B". So you drive down
42 this street, you don't know what's inside
43 that building. Is it an apartment complex?
44 Is it an office? Is it a retail store? The
45 bulk is the same.

46
47 MEMBER GOODSELL: So, Mr. Migatz, I
48 take it that you read the opposition of 19
49 Orchard Street?
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3 MR. MIGATZ: I did.

4
5 MEMBER GOODSSELL: Would you like to
6 address it or would you like to let him put
7 his presentation in first?

8
9 MR. MIGATZ: Well, I'll address it
10 since you asked me, you know. His building
11 is a three-story building with -- with zero
12 setback on -- on -- on our side. On the east
13 side and parking in the front yard. An
14 office building. Our setbacks zero. The
15 same as on his side. The height is the same.
16 Ed Butt showed you that in his -- in his --
17 in his elevation drawing. His -- his
18 concerns about construction, well that's a
19 building department issue. That's a
20 construction issue, a state code issue.
21 Those issues would be present whether this
22 building is occupied by offices or occupied
23 by -- by senior housing. You're still gonna
24 -- if you go down -- look at Plandome Road.
25 There's, you know, there's no setback between
26 all those stores. Those are all different
27 owners. Each building is built right up next
28 to the other one. Zero setback on the lot
29 line. That is permitted. That is permitted.
30 So, you know, and his objections about, you
31 know, the setbacks, I guess, the same as the
32 other neighbors that -- who object to the
33 setback variance. I don't think they -- I
34 don't think they realize or I don't think
35 they want to overlook the fact that yeah, you
36 can build an office building with -- with the
37 same footprint.

38
39 MEMBER DONATELLI: Mr. Migatz, what
40 would you say to the argument and I -- I've
41 listened very carefully to your argument.
42 What would you say to the argument that in --
43 in -- in enacting this overlay district that
44 the town Board -- and requiring a lot size of
45 40,000 square feet, the town Board really
46 wanted to encourage the merging of lots or --
47 or -- or the unifying of lots and that this
48 -- this 40,000 square feet is really what the
49 town is trying to encourage as a minimum lot
50 size for a facility of this type. What would

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3 you say to that argument?
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5 MR. MIGATZ: Well, first it's not an
6 overlay district. Okay. It is -- it is a
7 conditional use in Business "A" and in
8 Business "B". It's not an overlay district.
9 In 1999 when the town adopted for the first
10 time senior housing and they had not
11 revisited that ever since. In 1999, Smart
12 Growth Transit according to growth was -- it
13 -- it was -- it was only in the -- in the
14 eyes of Eric Alexander who will speak later,
15 that that -- that wasn't something that the
16 towns were thinking about in those days.
17 They were thinking about put the seniors in
18 these big complex and we have those. You
19 know, we have those around Nassau County.
20 Garden City, Denton Avenue build a great big
21 senior living complex. That's where the
22 seniors can live. They weren't thinking
23 about walkability and smart growth ideas at
24 that time. You know, other -- other towns
25 have slowly come around to that, but, you
26 know, this I -- that -- that's what I think
27 the town was thinking in 1999 when they said
28 40,000 square feet. And, you know, this --
29 this is -- no one can deny, I don't think,
30 this is an ideal place for senior independent
31 living for people who live in Manhasset their
32 whole life, they -- they're now empty
33 nesters, they want to sell their house. They
34 don't want to leave Manhasset. They just
35 read the book (inaudible). They want to go
36 back to Republicans. They don't want to go
37 to Garden City Park and live in a big
38 complex. You know, they can stay in
39 Manhasset and they can walk to the movie
40 theater. It's right down the block. You
41 have a movie theater next door to you. One
42 office building in between. The railroad,
43 you can walk to the railroad station. You
44 can walk to the restaurants. I mean, in '99
45 the town Board wasn't thinking this way. We
46 think this way now and -- and, you know, to
47 his credit -- credit, Evan Psyllos thought
48 this was a great idea. He can build an
49 office building here. He has no issue with
50 building an office building, but he thought

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-- he lives in Manhasset. He thought this is really a great place for a small senior housing complex.

If I can just finish addressing, you know, the other factors for the variances would have an adverse impact on the environment or neighborhood -- neighborhood district. Not a secrete, it's an elicited action, not presumed either way to have an adverse impact or not. It's, you know, it's no different than the apartment building on Gaynor. 26 units on Gaynor Avenue. And I notice no letter in opposition came from anybody living at -- in the Gaynor Avenue complex. There are no different -- no different impact than Georgetown Commons down the block. It's a five unit complex. Less impact I would submit than -- than an office building coming and going. I had my office in -- in Manhasset for many years. 22 Bayview Avenue. We had cars all the time coming and going, not sufficient parking and this has far less impacts on the environment than what could be there as of right.

There's no other means to achieve this benefit -- benefit to build on this site after these variances. Difficulty is self-created and out of law and that's just one factor for -- for this Board to consider in weighing all the -- all the other factors. I did submit five consent conforms that I received. 33 Orchard Street which is the property abutting to the east of the subject property. 37-39 Orchard Street, which is the second property to the east. The movie theater consented to it. 44 Maple Place which is a business consented and the resident at 39 Gaynor Avenue mailed back a consent form, but then that resident signed the petition against the variance and that's why I don't put much faith in petitions. Because people sign petitions maybe not realizing, you know, what they're even signing or maybe they had a change in heart, whatever. I know there are a lot of people that want to speak. I would, you know, reserve further comments until I can hear what they have to say and we can respond.

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MS. DEMIRCIYAN: Before the public comments start, Bruce, I did just wanted to say we did get an additional submission that was timely submitted. So Ginny just forwarded that over to you. So if you want to just look at that while the comments are going on, I just wanted to make that known.

MR. MIGATZ: Okay. Thank you.

SECRETARY WAGNER: Mr. Migatz, were you going to have Mr. Alexander speak?

MR. MIGATZ: Mr. Alexander it is his practice to first listen to the --

SECRETARY WAGNER: Okay.

MR. MIGATZ: Before he speaks.

SECRETARY WAGNER: Okay. So we have a few people who registered to speak. Mr. and Mrs. Macedo, possibly listed as Lisa. So Michael Tamburello, if you can promote Lisa just to speak and then we will see if that's the right person.

MR. TAMBURELLO: Okay. I allowed her to talk.

MS. DEMIRCIYAN: Just to remind everyone for public comments, please do try to keep your comments to three minutes. If you are going over that, I'll give you a gentle reminder that your time is up.

CHAIRMAN MAMMINA: Okay. And if I can just say one thing before everyone speaks and everyone will have the opportunity to speak who wishes to. We do ask that we try -- that we try not to repeat, you know, one another. You know, I've been on the other side of this camera time and time again, you know, as a professional and as a resident. So I understand these, you know, these things can be very emotional and, you know, again, we'll just ask that we try not to repeat one

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3 another. If somethings on the record, you
4 know, five, six, seven, eight, nine, 10
5 times, it -- it doesn't make the point any
6 stronger. You know, than it being on there
7 one time. You may put it on. That's okay.
8 But really then all you need to do is just
9 say I agree with the previous speaker, I
10 agree there's a traffic problem, I agree that
11 there's a setback problem, you know,
12 whatever, you know, and, you know, that's
13 fine. But again, no one will be -- will be
14 cutoff. We're asking everyone to please
15 limit to three minutes. Okay. We're not
16 going to chop your fingers off at three
17 minutes, but, you know, we, you know, we
18 handle the hearings in that way all the time.
19 So thank you and welcome everyone for -- for
20 coming out and I guess if we have the fist
21 speaker up, we'll just ask that everyone give
22 their name and address before speaking.
23 Thanks.

24
25 MS. MACEDO: Hi. Can you hear me?

26
27 CHAIRMAN MAMMINA: It's a little bit
28 low. Do you have a volume?

29
30 SECRETARY WAGNER: Could you speak a
31 little louder?

32
33 MS. MACEDO: Okay. Sorry. I'll have
34 to really come in close. This is Lisa
35 Macedo, 36 Gaynor Avenue, Manhasset. I would
36 like to allow John Armentano to make his
37 points before me. He's an attorney that my
38 neighbor and I have contracted with to argue
39 our points for us.

40
41 CHAIRMAN MAMMINA: Okay.

42
43 MS. MACEDO: If that would be possible
44 and then I'd like to speak afterwards.

45
46 CHAIRMAN MAMMINA: Certainly.

47
48 MR. AMRENTAO: I don't know if I'm in
49 yet.
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3 SECRETARY WAGNER: You're in Mr.
4 Armentano.

5

6 CHAIRMAN MAMMINA: Yeah. We hear you,
7 John.

8

9 MR. AMRENTAO: I also have a camera.
10 It doesn't matter I can just speak as we go.

11 Good afternoon, Mr. Chairman, Members
12 of the Board. My name is John Armentano, I'm
13 an attorney with Farrel and Fritz, and I
14 represent two of the property owners that are
15 directly north of the subject property.
16 Mr. and Mrs. Macedo, who are located at 36
17 Gaynor Avenue and Ms. Marybeth Reza, who is
18 located at 42 Gaynor Avenue. I also
19 submitted yesterday a written response to the
20 application and I incorporate that into the
21 record. I know I have a limited period of
22 time so I'd like to just have that
23 incorporated into the record. I will hit the
24 high points. Just as a matter of course I do
25 think there is an error in the calculations
26 noted for the lot area coverage. The site
27 plan as shown by Mr. Butts has a reference to
28 31 percent coverage, but I think if you do
29 the mathematical calculations, which as an
30 attorney I'm not the best at, but I did look
31 the -- the lot coverage and I think it is as
32 high as 55 percent, which is -- does not
33 exceed the 85 percent, but I do think that
34 the plan should actually reflect the
35 conditions on the site. So that's just a
36 point of order for the Board and obviously
37 the building department. We did listen to
38 the applicants presentation and, you know,
39 this clearly is an attempt by way of shoehorn
40 of what is considered a permitted use into a
41 severely undersized lot. I mean, the lot
42 area here should not be diminished. It is a
43 significant variance as the Boards aware.
44 This condition most way in the balancing
45 test, you know, as Mr. Migatz stated, you
46 know, this is a permitted use per se as a
47 conditional use, which is a special permit
48 and the conditions of the special permit
49 require that certain conditions be met. Not
50 the least of which is the lot area

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3 requirement. The lot area here as alluded to
4 is required to be 40,000 square at the full
5 builders acre. We're looking at a much
6 smaller size as the Board is aware. It's
7 7,000 square feet. The fact that the site
8 does not fit the use I think should be
9 consider. I think if you look at the intent
10 of the Board or speculate as to what the town
11 Board was considering. The reason for a
12 large lot to diminish and minimize the impact
13 that this type of use would have on the
14 community. Now, I've heard that we can have
15 a building -- a business building constructed
16 here which maybe the ultimate determination
17 of the builder or the owner of the property.
18 But the market is soft as everyone knows for
19 a business use. So I think this is kind of
20 an end around to construct something which
21 does not comport with the code and if the
22 code is going to be considered, there would
23 be no other comprehensive plan of the town.
24 The towns comprehensive plan was looking at
25 large lots for these types of use like I said
26 to soften the impact.

27
28 MS. DEMIRCIYAN: If you can just
29 finish your thoughts, Mr. Armentano.

30
31 MR. AMRENTAO: Certainly. With a very
32 limited amount of time, I would like the
33 ability to have the written to have the
34 written comments submitted after this
35 hearing. But I do think that as alluded to
36 before, this is a substantial variance. The
37 area that is considered the 17 percent of
38 what is permitted for this type of use. And
39 I think it fits the precedent here is
40 significant that if the Board were to grant
41 this significant variance for this new
42 construction, I think that's important to
43 note that there -- then there would never be
44 the need to apply for the seek of site of
45 40,000 and that there should be a need for
46 some level of conformity with the code and I
47 think that this application is -- is under
48 that requirement which races the balancing
49 test in the negative light as well.
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MS. DEMIRCIYAN: Thank you, Mr. Armentano. You -- you've exceeded the time. And just to note, once this hearing is over today, I don't know what the court will decide, but if it's, you know, closed I don't think you will be able to submit comments after, but I will say that the Board receive your correspondence already.

MR. AMRENTAO: Right. And we're requesting that there be written comments even if there's a closed hearing the written comments be produced. I don't think that's out of order. Thank you.

MS. DEMIRCIYAN: I'm sorry. Are you asking that comments be permitted after the hearing is closed?

MR. AMRENTAO: We would -- we would like the ability to written comments 10 days after the close of the hearing, which is not out of character. But I leave that to the Board and counsel to make that determination since we are limited in our time.

MS. DEMIRCIYAN: Yes.

CHAIRMAN MAMMINA: Thank you, Mr. Armentano. We appreciate it.

MR. AMRENTAO: Thank you.

SECRETARY WAGNER: Okay. So now does Ms. Macedo want to say something as a follow up?

CHAIRMAN MAMMINA: I think she said she did.

MS. MACEDO: Yes, please.

SECRETARY WAGNER: Okay. Just restate your name into the record so it's there.

MS. MACEDO: Lisa Macedo, 36 Gaynor Avenue, Manhasset.

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3 CHAIRMAN MAMMINA: Good afternoon.

4
5 MS. MACEDO: Hi. How are you? So
6 thank you for letting -- giving me a chance
7 to talk. I just want to clarify that I know
8 full well that the McGann's had submitted
9 back -- maybe Mr. Migatz needs to review
10 those forms that they sent back. They wrote
11 on their form that they opposed this project.
12 So I just want to make that clear. I -- I
13 take objection to the fact that the -- the
14 allegation that Mr. Migatz made that he can't
15 rely on petitions because of that, that's
16 absolutely not the case. They told me even
17 before the petition was circulated that
18 immediately they had sent back their
19 objection to this project and that's McGann
20 at 39 Gaynor Avenue. Okay. First of all, I
21 want to say that I believe that, you know, if
22 an office building were to be built on that
23 property, you would not have substantial
24 parking to make that fly. So I don't think
25 that that's a good argument to be made. You
26 know, as it is, the parking situation is very
27 limited as Ms. Goodsell pointed out. I think
28 having an apartment with only one person of
29 62 years, a two bedroom apartment could
30 easily have maybe even three driving people.
31 You could have a teenager or a college
32 student with one parent that's 62 years old,
33 not unheard of. Right. So I think parking
34 is extremely limited in the way it's designed
35 right now. And I also object to the fact
36 that Mr. Migatz is presuming what the town
37 was thinking in 1999. I don't think that
38 anybody can do that and it's, you know, we
39 have to go by what the code says and what the
40 regulations are and go from there and not
41 make exception to it. So thank you for --
42 and also, I think that the character, you
43 know, as you look at it -- we have to assume
44 the fact that yes it's a business district,
45 but it abuts a residential district that has
46 -- is a lovely treeline street with, you
47 know, tutors and colonial. Half of the
48 buildings that are on that block right now
49 are tutors and colonials. And, you know, you
50 can't -- you're just -- would be seriously

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3 changing the character. That's it.

4
5 CHAIRMAN MAMMINA: Thank you, Ms.
6 Macedo.

7
8 SECRETARY WAGNER: Okay. The next
9 person would be Maura Nicolosi.

10
11 MR. TAMBURELLO: I don't seem to see
12 her on the list.

13
14 SECRETARY WAGNER: She's on the top
15 with her hand raised.

16
17 MR. TAMBURELLO: I got it. Okay.

18
19 CHAIRMAN MAMMINA: Thank you, Michael.

20
21 MS. NICOLOSI: Good afternoon,
22 Chairman and Members of the Board. Thank you
23 for giving us this opportunity to submit our
24 opposition to this application. My client is
25 also --

26
27 SECRETARY WAGNER: Could you just
28 state your name and address for the record,
29 please.

30
31 MS. NICOLOSI: Yes. Maura Nicolosi.
32 Office address 19 Orchard Street, Manhasset,
33 New York.

34
35 SECRETARY WAGNER: And, Ms. Nicolosi,
36 you are the attorney for -- who are you
37 representing?

38
39 MS. NICOLOSI: JP Algeri, LLC, the
40 owner of 19 Orchard Street.

41
42 SECRETARY WAGNER: Okay.

43
44
45 MS. NICOLOSI: My client, Joseph
46 Algeri principal of JP Algeri, LLC is also --
47 has registered to speak. He is a licensed
48 contractor and has been for sometime. So I
49 will defer to him on the construction
50 aspects, which he has raised concern for and

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3 I will also acknowledge that Mr. Armentano
4 did an excellent job representing many of the
5 concerns that we raised. So I will not
6 duplicate them and limit my comments to the
7 concerns that we have being the direct next
8 door neighbor with the potential lot line
9 common wall so to speak with this proposed
10 construction. One of the things my client
11 brought to my attention was when he renovated
12 his building some years ago and needed
13 variances to do so, he was directed and in
14 fact was required to install many of the
15 windows which are depicted in the photographs
16 which were submitted to the Board as part of
17 our application due to my technological --
18 lack of technological skills I can't share
19 them with you, but they were submitted to the
20 Board last week and shows the windows that
21 are on the first and second floor and were
22 required to be installed by him. So by
23 allowing him this substantial exception which
24 would bring the building at 19 -- 25 Orchard
25 Street to the lot line, that would completely
26 (inaudible) the views of the tenants on both
27 the first and second floor contrary to what
28 was required. Having heard all the arguments
29 that it could be an office building pointing
30 direction to the buildings at 15 and 17
31 Gaynor Avenue, you know, those -- those are
32 all established buildings and don't really
33 give precedent to the construction of this
34 40,000, you know, the -- the -- the premises
35 as exists on a 7,000 square foot lot where
36 the Zoning Board requires a 40,000 square
37 foot lot. And just to give you a visual on
38 that, 40,000 square feet would be from 25
39 Orchard Street all the way down to Georgetown
40 Commons which is four full six feet by 110 or
41 so lots and they're trying to, you know, fit
42 all of that on this one lot, which would --
43 would not be in keeping with the
44 neighborhood. Unlike the other buildings
45 that were referenced on Plandome Road which
46 have lot line walls, that's how they were
47 built. Those were built as, you know, road
48 type establishments with commercial or retail
49 on the first floor maybe apartments on the
50 second floor, but they were designed and

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built to -- to -- to be that way. They are not being retrofitted in that way. So I think that the comparison to those buildings as they exists is false and should be noted for the record. And in addition --

MS. DEMIRCIYAN: Ms. Nicolosi, you're -- you're at about three minutes so.

MS. NICOLOSI: Okay. Just to -- just to wrap up and I'll defer to my client on the other things. Mr. Donatelli, I believe, raised the issue with regard to the sewer system and we all know there are no sewers in Manhasset. So, you know, we don't have any clarity on where the septic tanks for this would go and the -- the -- the placement of those is of concern to my client as well and this is not a general -- and -- and none of my comments are directed as general community. We're speaking directly as the adjoining neighbor and these arguments should be taken into consideration by the Board. If they start digging septic tanks and they're again on our lot line, you know, that could cause substantial and a hazardous condition for my client's property as well.

CHAIRMAN MAMMINA: Okay. Thank you. You know, and while I generally don't -- don't comment, but this sewer approvals would have to be done with the county and, you know, really not something for us to consider as the, you know, as the Zoning Board. You know, zoning does not deal with the -- with building systems or -- or dry wells or all of those. They have their own codes and things that are enforced by the building department and county agencies.

MS. NICOLOSI: Understood. I was just following up on something that Mr. Donatelli had raised because it is a concern as well.

CHAIRMAN MAMMINA: And I do agree with you and Mr. Donatelli as an architect. Okay. But it -- it becomes a question for them to deal with.

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4 MS. NICOLOSI: Understood.

5

6 SECRETARY WAGNER: Okay. The next
7 person registered is Mr. Yosefzadeh.

8

9 MS. DEMIRCIYAN: Did Mr. Alegeri want
10 to talk or --

11

12 SECRETARY WAGNER: I'm sorry. Is that
13 her client, right?

14

15 MS. DEMIRCIYAN: Yes.

16

17 MEMBER GOODSELL: That's the owner.
18 Yes.

19

20 SECRETARY WAGNER: Yeah. He did. So
21 why don't we let him -- I'm sorry. So we'll
22 let Mr. Alegeri speak.

23

24 MR. ALEGERI: Hello? You there?

25

26 CHAIRMAN MAMMINA: Yeah. We hear you,
27 Mr. Alegeri.

28

29 MR. ALEGERI: Members of the Board, I
30 thank you for the opportunity in speaking. I
31 am the one that's going to be the most
32 directly affected by this building on the lot
33 line.

34

35 MS. DEMIRCIYAN: Mr. Alegeri, we just
36 need you to put your appearance on the
37 record. Your name and address.

38

39 MR. ALEGERI: Joseph Alegeri, 19
40 Orchard Street, Manhasset, New York 11702.

41

42 CHAIRMAN MAMMINA: Thank you.

43

44 MR. ALEGERI: Since I'm the one that's
45 going to be most directly affected by this
46 building, I would ask for some extra
47 consideration for the amount of time. I
48 notice that this is a long presentation. As
49 Bruce mentioned, the associates, I contradict
50 some of their comments and I believe that

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3 they're incorrect. I have some questions for
4 Ed Butt. So I hope that if they want to
5 answer my questions as I present them, you
6 allow the additional time.

7
8 CHAIRMAN MAMMINA: What will happen
9 Mr. Alegeri is you'll address all of your
10 questions and things to the Board and --

11
12 MR. ALEGERI: Right.

13
14 CHAIRMAN MAMMINA: You know, then
15 Mr. Migatz will reply to those.

16
17 MR. ALEGERI: Okay.

18
19 CHAIRMAN MAMMINA: You know, after,
20 you know, he -- gets last turn at that turn.

21
22 MR. ALEGERI: Okay. My first one is
23 -- I guess the first one is going to be for
24 Bruce.

25
26 SECRETARY WAGNER: Can you speak up a
27 little bit, sir. I'm sorry. We just have to
28 make sure stenographer can hear you.

29
30 MR. ALEGERI: The first question is
31 going to be for Bruce because he's saying
32 that the setbacks on the front of the
33 property, 13 -- 13 feet fall inline with the
34 other and in building an office building,
35 okay, you would have to maintain the 25 foot
36 front setback for a number of reasons. One
37 primarily for the installation for septic
38 systems which are required in the front of
39 the building and each one of those systems
40 require a 10 foot setback for one another and
41 the property line in the building. In the
42 Business "B", he is correct. You are allowed
43 to build on the lot line. Okay. So I will
44 give him that. But you're not going to get a
45 building of that size the way he's trying to
46 say that if the use was office in that exact
47 location with the same footprint would never
48 fly, because when you have a commercial
49 building, whether a doctor, medical, lawyers
50 office, there's a certain amount of square

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3 foot required for parking and parking is
4 required based on the square footage. So you
5 would need eight, nine, 10 parking spots. So
6 therefore, the building cannot be where it's
7 located. I built the building next door in
8 1998 and my -- we started with commercial
9 medical, I needed 10 parking spots and that's
10 what I had for the 25 foot setback and the
11 rear setbacks. So Bruce, with all due
12 respects, you're telling the Board that they
13 can take the same building and make an office
14 in the same location, same size, I think
15 you're wrong and Ed can probably verify that.
16 The other thing, Barry Nelson mentioned that
17 Business "A" you get a certain applications
18 you're allowed to build and the senior living
19 housing as delivered this assumes that this
20 is Business "A". This is Business District
21 "B", which doesn't allow that. So he's wrong
22 on those comments. Okay. The other thing is
23 the rear parking. You have a building 20
24 foot setback from the rear -- from the rear
25 lot line then you have a car that pulls into
26 there, parking for a building of that nature
27 has to be a minimum of 10 feet away for the
28 exhaust fumes for the cars above it. So you
29 have windows that are sitting above one story
30 above the -- the parking, which is 0 footage
31 from the lot line. What happens with the
32 exhaust, you know, fumes if the car is
33 running 15 to 20 minutes and a senior has a
34 window open? Okay.

35
36 MS. DEMIRCIYAN: Mr. Alegeri, you're
37 at about three minutes if you could finish up
38 your thoughts, please.

39
40 MR. ALEGERI: Well, I mean, Ed, has
41 there been any thought or consideration
42 moving the moving over to 32 Orchard Street?
43 That's only a one-story building. Okay. It
44 will be easier for construction. The
45 second-story building that's non-fire rated
46 is, like, 25 feet away. I know personally
47 for sure that the one-story, because I built
48 that extension, was concrete and fire rated
49 so that I would be more than willing to have
50 the driveway at my building. Okay. So you

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3 have that 15 foot or 12 foot setback and then
4 all the windows on the side of my building
5 for my bathrooms we'll still be able to see
6 out and operate. You want me to open up the
7 window and knock on a brick wall? I mean,
8 come on.
9

10 MS. DEMIRCIYAN: Mr. Alegeri, you're
11 at about -- you're at about four minutes now.
12 I'm going to ask you to stop speaking.
13 You've gone over your allotted time. The
14 Board has --
15

16 MR. ALEGERI: For the record, I think
17 it's unfair that you're cutting me off so
18 short when they had an hour to talk and
19 they're still going to talk some more. Okay.
20 I really think it's in justified with all due
21 respects. Okay.
22

23 MS. DEMIRCIYAN: Okay. Thank you for
24 your comments.
25

26 SECRETARY WAGNER: Okay. So now
27 Mr. Yosefzadeh, I had called you before and I
28 apologize. So, Michael, if you can make him
29 -- promote him to panelist.
30

31 MR. YOUSEFZADEH: Good afternoon. Can
32 you hear me?
33

34 SECRETARY WAGNER: Yes. We can.
35

36 MR. YOSEFZADEH: All right. Members
37 of the Board, thank you for letting me speak
38 today. My name is Daniel Yosefzadeh. I
39 oppose to this development. The developers
40 are seeking a self-creating hardship in
41 seeking approval from the Board of Zoning
42 Appeals to meet the zone needs and monitory
43 goals. There's no buffer proposed between
44 the development and my residence. I live
45 exactly to the north of this property. The
46 vehicle exhaust is the same of as what was
47 previously discussed about the cars exhaust
48 pouring into my backyard. The sunlights
49 going to be blocked, you know, that's the
50 southern sky. I feel like the sky exposure

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3 plane is not being adhered to with respect to
4 the town code. The building setbacks of
5 course do not meet any of the parameters
6 within the district. I'm not going to repeat
7 that. Proposed development will severely
8 impact the neighborhood and the quality of my
9 -- my life and my privacy. The balconies in
10 the back directly facing my backyard. I
11 don't like people looking into -- at my -- my
12 kids playing in the backyard, in the pool, or
13 if, you know, I'm -- if we're playing ball in
14 the backyard, I don't really like me new
15 neighbors of the third floor and second floor
16 looking over at me. Being so that this is
17 intended on being a senior care or adult
18 living establishment, there's a likelihood
19 that there will be additional ambulance calls
20 and police calls at all hours of the night.
21 So by this -- the way that building is
22 situated, it's very difficult for EMTs and
23 ambulances to get to the. Orchard is a one
24 way street from Plandome Road and it's narrow
25 and generally the road is lined both sides
26 with USPS trucks and -- and traffic so it's
27 dangerous and it prohibits for problematic
28 care reaching to the residents. Another
29 issue is about the septic systems. So my
30 property is exactly to the north where the
31 drawings in this case show dry wells and
32 septic tanks. That severely compromises my
33 garage, my backyard and all my landscaping
34 that I have. I don't foresee all of these
35 dry wells being installed where they're
36 intended to be to meet the building code. My
37 last point is the increase traffic. As it
38 is, cars are driving and u-turning in my
39 driveway. It's illegal. And this will only
40 add to that volume. Gaynor Avenue is the
41 first residential block immediately after
42 Orchard. So given the fact that there's
43 limited parking at the property and anybody
44 visiting it, they'll be u-turning into Gaynor
45 looking for parking where there is none. And
46 those are my comments. Most of my comments
47 repeat with what John Armentano and Maura
48 Nicolosi. Thank you.

49
50 CHAIRMAN MAMMINA: Thank you so much,

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3 sir.

4
5 SECRETARY WAGNER: Okay. I think Pat
6 O'Brien will be next.

7
8 MR. O'BRIEN: It's Donald O'Brien not
9 Pat.

10
11 SECRETARY WAGNER: I'm sorry?

12
13 MR. O'BRIEN: Donald O'Brien will
14 speak.

15
16 SECRETARY WAGNER: Donald?

17
18 MR. O'BRIEN: Yes.

19
20 SECRETARY WAGNER: Okay you're listed
21 as Pat on the screen. Okay. So just state
22 your name and address for the record.

23
24 MR. O'BRIEN: I'm Donald O'Brien, I
25 live at 158 Webster Avenue in Manhasset and
26 I'm the president of the Manhasset Park Civic
27 Association. I'd like to state the
28 following: The overall character of the
29 neighborhood on Orchard Street is primarily
30 residential. There are four signal-family
31 homes just east of the proposed development
32 at 25 Orchard Street have been converted to
33 office use. At the end of the street is
34 Georgetown Town Commons, 28 town homes. The
35 scale of these single-family homes and the 28
36 town homes, in my opinion, is important to
37 maintain. The character of Maple Place is
38 completely different from Orchard Street,
39 which is private homes. Maple Place has a
40 post office, two office buildings and a
41 garage all bordering the Long Island Railroad
42 racks. The two speeds are not comparable to
43 private homes on Gaynor Avenue. The proposed
44 senior housing with five apartments requires
45 major variances. The regulation stipulates
46 that a lot must be 40,000 square feet, the
47 proposal is for a lot with only 7,031 square
48 feet, which is 17 percent of the required
49 minimum square footage. Senior housing
50 requires a minimum width of 100 feet and the

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3 subject property is only 60 feet wide, which
4 is comparable to all but one lot in the
5 immediate area of more than 100 single-family
6 homes. The second and third floors of the
7 proposed building are 48 feet wide, 83 feet
8 long approximately 4,000 square foot each
9 which is 57 percent coverage of the lot.
10 This far exceeds all comparable lots in the
11 neighborhood and the Town of North Hempstead.
12 There is a distance of only 28 feet from the
13 rear of the building to the property line of
14 the neighboring single-family homes. There
15 is limited space to build a dry well and
16 instal a septic system for approximately 15
17 residents and a management office under the
18 second floor. Since the building has a
19 basement, the drainage for the dry well and
20 the septic tank will have extreme limitations
21 on this slab. The objective seems to be
22 (inaudible) facility for five families in a
23 space that normally accommodates one or two
24 families. The six parking spaces, the
25 garbage containers and the five HVAC
26 compressors further reduce the overall open
27 space. The only unencumbered space really is
28 the 10 foot wide driveway and the 13 foot
29 front lawn. Snow removal from the rear lot,
30 driveway and sidewalk is another major
31 concern. There is no onsite storage space
32 for the snow so it must be removed
33 completely. Orchard Street is congested and
34 the town ordinance prohibits placing the snow
35 on the street. A smaller senior building
36 requires variances of much less magnitude,
37 would enable the property to be developed as
38 a residential property by also maintaining
39 the scale and the character of the overall
40 neighborhood. Consideration must be given to
41 the precedent that an oversized development
42 sets upon a future development of the four
43 adjacent properties when they become
44 available. The total floor areas of the
45 three floors is approximately 10,000 square
46 feet and this is approximately 1.4 times the
47 square footage of the lot. This far exceeds
48 the floor area ratio in the area of North
49 Hempstead. I ask the Board to seriously
50 consider the residential character of the

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3 area. It must be maintained without
4 negatively impacting the residents of Gaynor
5 Avenue, or Georgetown Commons and the
6 surround Manhasset Park area. Thank you.
7

8 SECRETARY WAGNER: Okay. I believe
9 that's everyone who wanted to speak. Is
10 there anyone else who wishes to speak
11 regarding this appeal? Please raise your
12 hand in the chat. I don't see anyone.
13 Adrian, do you?
14

15 MS. DEMIRCIYAN: No. No, I don't see
16 anyone either.
17

18 CHAIRMAN MAMMINA: Okay. Then at this
19 point, Mr. Migatz, I guess you're -- you're
20 up.
21

22 MR. MIGATZ: Yes. Mr. Alegeri
23 misquoted me. I did not the say this same
24 building can be built. I said that a
25 building with the same footprint can be built
26 and I did make a note that as exactly how
27 large would depend upon the parking. But my
28 comment was that the same footprint can be
29 built as of right without any -- any
30 setbacks. I -- I -- I submitted the consent
31 by Mr. And Mrs. McGann. You have it. It
32 doesn't say anything about they object to it.
33 They have the right to change their mind, but
34 I did not misrepresent anything to the Board.
35 They -- they signed a consent form. Before I
36 call Eric Alexander, I just want to make a
37 few -- a few comments to -- to what has been
38 said in opposition. Now, Mr. O'Brien says
39 take into consideration the residential
40 character of the neighborhood. We're
41 proposing residences so I don't -- I can't
42 follow that logic. It is a mixed block.
43 There are residences and there are
44 businesses, but what we're proposing is
45 residential as opposed to another office
46 building. And there is a market for office
47 building. There's a lot of people now that
48 are working from home. We're building more
49 of these wee offices, where people rent out
50 offices for a day, a half day, what have you

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3 and there's a good market for that to be
4 built here. But we think that's not the best
5 thing for this community. People on Gaynor
6 Avenue, they bought property on -- people
7 live on the south side of Gaynor Avenue
8 bought property adjacent to a business
9 district. They have no expectation, no
10 reasonable expectation that these properties
11 won't be developed for business purposes with
12 three stories permitted as of right with
13 parking in the rear yard permitted as of
14 right. If you buy a house adjacent to a
15 business district, you have to expect that
16 there's going to be some development on that
17 -- on that business zoned property. I -- I
18 frankly cannot understand why people who live
19 on Gaynor Avenue would rather see an office
20 building in their backyard as opposed to a
21 residential building in their -- in their
22 backyards. But they're entitled to their
23 opinion. I just -- I just can't understand
24 that -- that opposition.

25 With that being said, I would like to
26 have Mr. Alexander to speak. I know
27 Mr. Mammia is familiar with Vision Long
28 Island. It is an organization that promotes
29 smart growth on Long Island and I've asked
30 him to review this project and to express his
31 opinions on the project. If you would
32 Mr. Alexander.

33
34 MR. ALEXANDER: Sure. Thank you,
35 Mr. Migatz. Thanks Members of the Board for
36 listening. It was great to listen to the
37 community also. Eric Alexander, director of
38 Vision Long Island planning organization.
39 Our address is 24 Woodbine Avenue in
40 Northport. We've supported the plan mixed
41 use development across the county for 20 some
42 odd years. We -- we do support this
43 application. We think it is a creative
44 approach to -- to really get some senior
45 units into the downtown area. There is age
46 population, there's a need for alternatives
47 for seniors to stay in the community. We
48 hear this in communities across Long Island.
49 When you extend your ability to live in a
50 community without a car, possibly in many

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3 cases, you can walk much longer than you can
4 drive. So it really enhances the quality of
5 life for a senior who wants to stay in the
6 neighborhood. That's access to the movies,
7 the restaurants, all sorts of things that the
8 community has to offer. We see it upgrading
9 a vacant spot, facility. We see a tax
10 benefit on this project, we see no school
11 kids coming in. We certainly see, again, the
12 ability to support the small businesses in
13 the community for the residents. We see
14 property values increase when transit
15 oriented development projects like this, new
16 senior units go into a neighborhood. So
17 these are all positives and benefits that we
18 see. Now, the term transit oriented
19 development across Long Island means much
20 larger projects. 30, 40 to 100 units, 200
21 units. This is a very modest proposal. It's
22 tailored to the community as it should be and
23 again, we're not talking 4 and six story
24 building heres. We're talking something that
25 generally meets the code. You guys will
26 decide ultimately weather these variances
27 issued should be granted.

28
29 CHAIRMAN MAMMINA: Mr. Alexander, you
30 froze.

31
32 MR. ALEXANDER: Sorry. Sorry about
33 that. So we see -- we see benefits from an
34 application like this. Obviously it has to
35 balanced with the residents' concerns
36 regarding construction and other matters.
37 But again, a very modest transit oriented
38 development proposal that provides some
39 opportunity for seniors and it's just hard to
40 see something wrong with that. And, you
41 know, we certainly respect your ability to
42 balance this and listen to the neighbors
43 needs and concerns. But we have spoken to
44 folks that are part of, you know, connected
45 to our organization in Manhasset and they
46 have been favorable. So we did pole some of
47 the people we can who adhere in meeting the
48 need to the neighborhood in Manhasset. So we
49 look forward to the consideration. So thank
50 you.

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4 CHAIRMAN MAMMINA: Thank you,
5 Mr. Alexander.

6 Mr. Migatz, anything else?
7

8 MR. MIGATZ: Nothing further. I thank
9 the Board for giving us the time to consider
10 this application and that I know it's an
11 unusual application looking at a 40,000
12 square foot requirement and we're only
13 proposing 7,000 plus. I understand that's a
14 little usual. But as I said, the density has
15 been kept consistent with 40,000 square feet
16 and I know you'll give a careful
17 consideration. We think it's something good
18 for Manhasset and we hope you agree. Thank
19 you.
20

21 CHAIRMAN MAMMINA: Thank you. And
22 just for the record, the Nassau County
23 Planning Commission is still pending.
24

25 SECRETARY WAGNER: No. Actually, they
26 gave -- they issued a local determination on
27 this recently.
28

29 CHAIRMAN MAMMINA: Okay. Thank you.
30

31 SECRETARY WAGNER: Adriana, there's --
32 there's a comment in the question and answer
33 -- there's a comment in the question and
34 answer section. Would you just take a look
35 at that and let me know.
36

37 CHAIRMAN MAMMINA: Yes. I saw that.
38

39 MS. DEMIRCIYAN: Well, I mean I do
40 believe Mr. Alegeri had a chance to speak and
41 Mr. Migatz did respond to him so. And as we
42 know, Mr. Migatz does get the final word. So
43 I believe that's, you know --
44

45 CHAIRMAN MAMMINA: Okay. Then we'll
46 close the hearing and --
47

48 SECRETARY WAGNER: Okay. So Adriana,
49 do you wanna -- just before we close the
50 hearing, address the hearing about whether we

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3 would accept any comments after the hearing
4 is closed.

5

6 CHAIRMAN MAMMINA: Thank you.

7

8 MS. DEMIRCIYAN: Yes. I just did want
9 to make it clear for the record that we will
10 closing the hearing and we will not be -- as
11 per the notice, any opposition from 60
12 minutes before the hearing started unless you
13 came to speak at the hearing so at this point
14 in time, we're closing the record and no
15 further comments or opposition will be
16 accepted by the Board for consideration. But
17 any comments, you know, and anything
18 submitted at the hearing today will be
19 considered by the Board.

20

21 CHAIRMAN MAMMINA: Okay. So we will
22 close the record on this and this may or may
23 not be decided today. I do not think that it
24 will on the basis of the -- on the rest of
25 the calendar. As I have said earlier and,
26 you know, I will say it again for the benefit
27 of everybody. These Zoom meetings are open.
28 They fully observe the sunshine laws that are
29 required. So everyone is -- is permitted to
30 -- to tune into them as we deliberate in
31 person virtually. So you can hear, you know,
32 the back and forth over of the Board and, you
33 know, what our considerations and things are
34 when we make a decision. And, you know, when
35 we come to further discuss, you know, this
36 application. So thank you all and thank you
37 all for your comments.

38

39 MR. MIGATZ: Thank you.

40

41 MR. BUTT: Thank you.

42

43 MR. MIGATZ: Enjoy the rest of the
44 day.

45

46 SECRETARY WAGNER: Before we close
47 out, can I just have a quick conversation
48 with you Adriana, in private before we close
49 this hearing?

50

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3 CHAIRMAN MAMMINA: Sure. Go ahead.

4
5 MS. DEMIRCIYAN: You can call me.
6 Yes.

7
8 MEMBER GOODSSELL: While that's going
9 on, David, I think there's a lot of material
10 here to consider. I know there are some
11 things I want to reread and just I'm not
12 prepared to make a decision on this today.

13
14 CHAIRMAN MAMMINA: Me neither. Me
15 neither. There's -- there's a lot here. At
16 a minimum, I want to go back to the site and
17 have an understanding.

18
19 MEMBER GOODSSELL: Exactly. Exactly.
20 As I do too.

21
22 CHAIRMAN MAMMINA: Take a good hard
23 look at all of it.

24
25 MEMBER GOODSSELL: I think that the
26 objection should know that we're going to
27 read all of their objections and that we're
28 going to consider everything that they've
29 said. I don't have a problem closing the
30 meeting.

31
32 SECRETARY WAGNER: Okay. Mr. Migatz,
33 we just wanted to address the -- the question
34 that came up about the -- the coverage
35 calculation. Are you confident that that's
36 correct the way it's presented?

37
38 MR. MIGATZ: I don't -- since I'm not
39 the architect although I did play one on TV
40 once, but I will have Mr. Butt address that.
41 But 85 percent coverage is allowed in
42 Business "B" so.

43
44 SECRETARY WAGNER: No. I'm not
45 questioning the -- the, you know, the
46 disapproval wouldn't change in terms of the
47 code sections that were cited, but in terms
48 of making the record accurate, is something
49 that, you know, if it needs to be addressed?
50

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3 MR. MIGATZ: I'll have -- I'll have --
4 I don't think Ed Butt is still with us. But
5 I will ask him to double check that and if
6 there is a mistake on that -- on that
7 calculation, it will be corrected. But it
8 doesn't -- I mean, it doesn't affect, like
9 you said, the disapproval notice and it
10 doesn't affect --

11

12 SECRETARY WAGNER: Right. So wouldn't
13 it be something that you want on the record,
14 the correct number that we would -- so
15 instead of closing the record, we would take
16 that into consideration and --

17

18 MR. MIGATZ: I mean, if you want --
19 you're suggesting to keep the record open for
20 limited purpose of correcting a mistake on
21 the plan. Is that what you're saying?

22

23 SECRETARY WAGNER: Adriana, what do
24 you -- Adriana, what do you -- what's your
25 thoughts on it?

26

27 MS. DEMIRCIYAN: Yeah. We can
28 continue it with the limited -- with the
29 limited purpose of confirming that the
30 calculations made by the architect are
31 correct in this.

32

33 MR. MIGATZ: That's fine. No problem.

34

35 CHAIRMAN MAMMINA: Okay.

36

37 SECRETARY WAGNER: Okay. So just for
38 that purpose we're keeping the record --

39

40 MS. DEMIRCIYAN: Just for that purpose
41 so it is limited to -- to confirming that
42 calculation only. If the Board finds that
43 acceptable.

44

45 SECRETARY WAGNER: Chairman, is that
46 okay with you?

47

48 CHAIRMAN MAMMINA: Fine with me. Yes.
49 MEMBER FRANCIS: Yes.

50

1 Proceedings

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3 CHAIRMAN MAMMINA: Anyone else have a
4 problem with that?

5

6 MEMBER FRANCIS: No.

7

8 MEMBER GOODSELL: None at all.

9

10 CHAIRMAN MAMMINA: Okay. So I think
11 that's --

12

13 MR. MIGATZ: Motion to close.

14

15 SECRETARY WAGNER: Yes. We're closed.

16

17 CHAIRMAN MAMMINA: We will continue
18 solely for the -- the verification of the
19 calculation of the lot cafeteria rage. So
20 otherwise closed. Okay. Thank you all.

21

22 MR. MIGATZ: Thank you.

23

24 SECRETARY WAGNER: Thank you.

25

26 MR. MIGATZ: Have a good day.

27

28

29

30 SECRETARY WAGNER: Do we want to take
31 a short break before the next appeal?

32

33 MEMBER GOODSELL: I need a short
34 break. I just -- I only need five minutes,
35 but I need a short break.

36

37 CHAIRMAN MAMMINA: Thank you.

38

39 SECRETARY WAGNER: Why don't we take a
40 10 break.

41

42 CHAIRMAN MAMMINA: That's great.

43

44 MEMBER DONATELLI: 10 is great. Do
45 you want to let Jay know.

46

47 SECRETARY WAGNER: Poor Jay. I forgot
48 about Jay.

49

50 (A recess was taken.)

1 APPEAL #21177

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SECRETARY WAGNER: Next Appeal No. 21177, KMO 360 Manhasset, LLC, (Peloton signs); 1950 Northern Boulevard, Manhasset, Section 3, Block 219, Lot 9 in the Business "A" Zoning District. Variances from 70-196(J)(1)(f) to install two signs that are too high above ground.

CHAIRMAN MAMMINA: You heard Appeal No. 21177 KMO 360 Manhasset, LLC (Peloton signs).

MS. JIMENEZ: Hi. Can you hear me?

CHAIRMAN MAMMINA: Yes. We can.

MS. JIMENEZ: Okay. I'm trying to get onto the video. There I go.

CHAIRMAN MAMMINA: There you are.

MS. JIMENEZ: Hi. Good afternoon.

CHAIRMAN MAMMINA: Good afternoon.

MS. JIMENEZ: Okay. So Peloton is requesting two signs at 1950 Northern Boulevard at the overall height of 22 feet 5 inches on the parking lot elevation.

MEMBER DONATELLI: Sorry. Your name and address first.

MS. JIMENEZ: I'm sorry. My name is Lydia Jimenez, All in Permits, 71 Henrahan Avenue, Farmingville, New York 11738.

SECRETARY WAGNER: And if you could just try to speak a little bit slower so that the stenographer can--

MS. JIMENEZ: Sure.

SECRETARY WAGNER: Thank you.

MS. JIMENEZ: Peloton is requesting two signs at 1950 Northern Boulevard at the overall height of 22 feet five inches on the

APPEAL #21177

1
2
3 parking lot elevation and a height of 19 feet
4 Northern Boulevard which creates the
5 allowable 18 foot height. The signage at the
6 new height of 22 feet and five inches and 19
7 feet matches the height of the existing side
8 of the adjacent tenants which will result in
9 a more uniformed aesthetic for the shopping
10 center.

11
12 CHAIRMAN MAMMINA: Can you tell us a
13 little bit about the signs themselves. How
14 they're constructed and --

15
16 MS. JIMENEZ: The signs are of
17 aluminum acrylic. They're one and a half
18 inch deep fabricated retainer-less letters
19 with the returns at .63 aluminum and their
20 faces are a white Plexiglass and they have a
21 white LED illumination.

22
23 CHAIRMAN MAMMINA: Okay.

24
25 MEMBER GOODSELL: Do they both say
26 Peloton or does one say something different?

27
28 MS. JIMENEZ: They both say Peloton
29 and they both have the same dimensions at 11
30 foot three quarters of an inch and one foot
31 six inches.

32
33 MEMBER GOODSELL: And is one in the
34 front of the building and one in the back of
35 the building?

36
37 MS. JIMENEZ: Yes. One faces Northern
38 Boulevard and the other faces the parking
39 lot.

40
41 MEMBER GOODSELL: Can you tell me what
42 store was there before Peloton?

43
44 MS. JIMENEZ: Lululemon.

45
46 MEMBER GOODSELL: That's what I
47 thought. Sometimes it difficult to spot
48 which store it is because they are several
49 that are changing. But I did see the correct
50 one.

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MEMBER HERNANDEZ: This is one of those stores that goes through one parking to the other?

MS. JIMENEZ: Yes.

MEMBER HERNANDEZ: That's the reason to have two signs. So it's only one per side?

MS. JIMENEZ: Yes.

MEMBER DONATELLI: And so that the height of the sign facing Northern Boulevard is really in keeping with the height of the stores to the left and to the right. Is that correct?

MS. JIMENEZ: Yes.

MEMBER DONATELLI: And how about the sign --

MS. JIMENEZ: And as well as the parking lot.

MEMBER DONATELLI: Okay. And -- and -- and so therefore, you are also saying that the sign in the parking lot is also the height of it is in keeping with the stores to the left and to the right?

MS. JIMENEZ: Yes.

MEMBER HERNANDEZ: Does this building itself have like a stripe up there where the sign naturally would go?

MS. JIMENEZ: Yes.

MEMBER HERNANDEZ: Those stores basically have their signs at the same -- at the same height or level of grade?

MS. JIMENEZ: Yes.

CHAIRMAN MAMMINA: This is certainly

1 APPEAL #21177

2
3 not an unusual application for this shopping
4 center. I'd like to -- I'd like to see the
5 signs constructed the way these are
6 constructed. So, you know, the illumination
7 is -- I -- I have no issue, you know, with
8 that. I mean other than the height,
9 everything else complies.

10
11 MEMBER HERNANDEZ: Mr. Chairman, if
12 there are no other questions or comments from
13 the Board as this sign is consistent with the
14 other signs in the -- in the building itself
15 or in the shopping center and it would fit
16 smoothly with the -- with the shopping center
17 itself, I move that we grant the application
18 as requested.

19
20 CHAIRMAN MAMMINA: Okay. We have a
21 motion by Mr. Hernandez and do we have a
22 second?

23
24 MEMBER DONATELLI: I will second it.

25
26 CHAIRMAN MAMMINA: Seconded by Mr.
27 Donatelli. Please pole the Board.

28
29 SECRETARY WAGNER: Member Goodsell?

30
31 MEMBER GOODSELL: Granted. I mean,
32 yes. Thank you.

33
34 SECRETARY WAGNER: Member Hernandez?

35
36 MEMBER HERNANDEZ: Yes.

37
38 SECRETARY WAGNER: Member Donatelli?

39
40 MEMBER DONATELLI: Aye.

41
42 SECRETARY WAGNER: Vice-Chairman
43 Francis?

44
45 MEMBER FRANCIS: Aye.

46
47 SECRETARY WAGNER: Chairman Mammina?

48
49 CHAIRMAN MAMMINA: Aye. So the
50 application is granted.

APPEAL #21177

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MEMBER GOODSELL: I didn't mean to make that decision, I just blanked on the right words. I guess it happens every so often.

CHAIRMAN MAMMINA: Every now and again.

MS. DEMIRCIYAN: I had just -- I just wanted to let the record reflect that there was no opposition and no hands were up in opposition.

CHAIRMAN MAMMINA: Thank you.

SECRETARY WAGNER: Thank you, Adriana. Ms. Jimenez, you get the prize for the quickest appeal that we've heard today.

MS. JIMENEZ: Thank you. Thank you.

MEMBER GOODSELL: God bless you.

SECRETARY WAGNER: Not your presentation, but overall.

MS. JIMENEZ: Thank you.

CHAIRMAN MAMMINA: Thank you.

SECRETARY WAGNER: Thank you.

MS. JIMENEZ: Have a great day.

CHAIRMAN MAMMINA: Bye-bye.

SECRETARY WAGNER: You too.

1 APPEAL #21178

2
3 SECRETARY WAGNER: The next appeal is
4 Appeal No. 21178, Ichiddo Albertson, LLC
5 (Jesco Company) 1014 Willis Avenue,
6 Albertson, Section 7, Block 230, Lot 45 in
7 the Business "A" Zoning District. A
8 conditional use from 71-226.A and variance
9 from 70-103.A(1) to construct renovations to
10 convert an existing commercial space to a new
11 restaurant (a conditional use) with not
12 enough parking on site.

13
14 CHAIRMAN MAMMINA: You heard Appeal
15 No. 21178, Ichiddo Albertson, LLC, Jesco
16 Company. That's J-E-S-C-O, C-O.

17
18 MS. LEIS: Thank you. Good afternoon.

19
20 CHAIRMAN MAMMINA: Good afternoon, Ms.
21 Leis.

22
23 MS. LEIS: Goof afternoon again,
24 Chairman, Members of the Board. If Sean
25 Mulryan was not already promoted to panelist,
26 I ask that he be promoted as well. Thank
27 you. So I represent the applicant herein.
28 So the property is located within the
29 Business "A" Zoning District. It's a
30 shopping center that's on approximately 5.3
31 acres on Willis Avenue and at intersection
32 with IU Willis Road. So we're seeking to
33 convert a 1,750 square foot regional space
34 that was formerly the bakery to the new ramen
35 restaurant. If you're looking at the site
36 plan, it's going between Visualize and
37 Unleashed by Petco. So this is a proposed
38 restaurant with 58 total seats. So the
39 change in use from a bakery to a restaurant
40 requires a conditional use permit, as well as
41 a parking variance. So the proposed
42 restaurant is expected to be opened seven
43 days a week with hours of 11 a.m. to nine
44 p.m. and that's on Sunday through Thursday
45 and on Friday and Saturday they'll be open
46 from 11 a.m. to 10 p.m. so they're expecting
47 anywhere from five to eight employees working
48 at anyone time with five being at the off
49 peak hours and eight at peak. As for
50 deliveries, they expect dry goods once --

APPEAL #21178

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3 once a week and fresh and frozen food
4 products are expected twice a week. So the
5 owner is familiar with running operations of
6 a business. He owns 10 other Ichiddo Ramen
7 restaurants out of New York State. So our
8 first request to this Board is for the
9 conditional use permit pursuant to Code
10 Section 70-126.A. so this use will
11 complement the other uses within this
12 shopping center which is anchored by Food
13 Emporium on one end and Citi Bank on the
14 other end. There is other retail food uses,
15 retail stores, personal service shops and
16 other restaurants. Also, as you -- if you're
17 looking at the plans, item 16 shows that the
18 restaurant will provide the refrigerator
19 storage for garbage. I did discuss with the
20 owner the conditions that come with the
21 conditional use approval for restaurants.
22 He's familiarize with it and he's in
23 agreement with the terms. This use will be
24 consistent with the Business "A" Zoning along
25 Willis Avenue and also be in harmony with the
26 surround uses in the area. So our second
27 request for this Board is for the parking
28 variance. That's pursuant to Section
29 70-103.A(1) for the change in use from retail
30 food use to a restaurant that increases the
31 total required parking for the space from six
32 spaces would have been previously required to
33 now 26 spaces and that's calculated at the
34 one space per 80 square feet of floor area
35 plus the one space per three feet of linear
36 bar area. So given the other mixed uses in
37 the center, the total required parking for
38 the site is going to be 272 parking spaces
39 where the existing site has 256 off-street
40 parking spaces. So our request for the
41 deficiency of the 16 spaces. So at this
42 time, I would like to turn the presentation
43 over to Sean Mulryan who has been -- who
44 prepared the traffic engineering report.

45
46 MR. MULRYAN: Good afternoon. Sean
47 Mulryan, Mulryan Engineering, 1225 Franklin
48 Avenue in Garden City, New York. I know the
49 Board has had a long morning so I'll try to
50 keep my comments brief and to the point. Our

APPEAL #21178

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3 office prepared a parking and traffic
4 engineering study. It's been submitted to
5 the Board. The study was presented to look
6 at the existing parking within the shopping
7 center. We took counts on Friday and
8 Saturday evening, which coincides with the
9 peak floor retail and for restaurants. Those
10 counts were done between 12 and three and
11 five and eight. They were done on both days,
12 Friday and Saturday. We found that there is
13 ample parking within the existing facility.
14 This is a small restaurant that's going to
15 occupy one store front. There are a few
16 other vacant retail facilities. We took that
17 into account as well. We found that there is
18 ample available parking to accommodate not
19 one the proposed restaurant which will be one
20 of a handful of other restaurants that are
21 currently located here. But there is also
22 ample parking available for those other
23 stores when they do become occupied once
24 again. This is an application for a special
25 use permit and for a parking use variance.
26 It's very similar to other applications that
27 I've handled in front of the Board and the
28 use requires a parking variance because
29 typically when these shopping centers are
30 built, they are built strictly as retail or
31 as a box for units to come into and when it
32 becomes a restaurant, the parking requirement
33 increases and brings us before the Board.
34 This shopping center was built over 50 years
35 ago. It's well established. It has a known
36 clientele going to the supermarket and to the
37 bank and to other uses within the facility.
38 Restaurant use tends to help a shopping
39 center where the employees can go and eat at
40 the shopping center where they work and the
41 residents in the area can have a verity of
42 food uses available. Once again, there's a
43 pizzeria and other restaurants in this
44 facility. So people that are coming here for
45 lunch will just have another option. So we
46 don't believe that there will be any off
47 street parking associated with this use or
48 any of the other vacant retail spaces within
49 the center, because there's available parking
50 provided that will accommodate those uses.

1 APPEAL #21178

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3 So if there's any questions for the Board,
4 I'll be happy to try and answer them.

5

6 CHAIRMAN MAMMINA: Any questions?

7

8 MEMBER DONATELLI: No questions.

9

10 MEMBER GOODSSELL: No. I -- I just
11 have a comment. I'd have to agree with Mr.
12 Mulryan. I mean, I've been in that shopping
13 center during the Christmas rush and there
14 are always spaces available. I know we
15 calculate the number of spaces based upon
16 floor area, but I would suspect there is not
17 going to be a parking issue. And I, as one
18 Board member would welcome another food
19 establishment. There a couple of vacant
20 stores in there and I think a food
21 establishment is good thing.

22

23 CHAIRMAN MAMMINA: I think also it's
24 self-limiting. You know, if I can't find a
25 parking space, you know, I'm not gonna, you
26 know, walk a quarter of a mile with my bowl of
27 ramen. So it really has no threat to any --

28

29 MEMBER GOODSSELL: I hope he's going to
30 do takeout.

31

32 MEMBER FRANCIS: That was going to be
33 my next question actually.

34

35 CHAIRMAN MAMMINA: I'm curious what
36 ramen is, because I ate ramen in college when
37 I had no money.

38

39 MEMBER DONATELLI: No. No. This is
40 very different.

41

42 MEMBER FRANCIS: Upscale. Upscale
43 ramen.

44

45 CHAIRMAN MAMMINA: Upscale ramen.

46 Okay.

47

48 MEMBER GOODSSELL: You just pay more,
49 David. That's all.

50

1 APPEAL #21178

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3 MEMBER FRANCIS: David, this doesn't
4 come in the little bag that you're used to
5 and you address the hot water to.

6

7 CHAIRMAN MAMMINA: In the paper
8 packet, right?

9

10 MEMBER DONATELLI: All right. So
11 Mr. Chairman, unless the Board has any
12 comments, I make a motion that we grant the
13 application subject to the standard
14 restaurant conditions.

15

16 CHAIRMAN MAMMINA: We have a motion
17 by, Mr. Donatelli.

18

19 MEMBER GOODSSELL: And I will second
20 the motion.

21

22 CHAIRMAN MAMMINA: Seconded by Ms.
23 Goodsell. Please poll the Board.

24

25 SECRETARY WAGNER: Member Goodsell?

26

27 MEMBER GOODSSELL: Aye.

28

29 SECRETARY WAGNER: Member Donatelli?

30

31 MEMBER DONATELLI: Aye.

32

33 SECRETARY WAGNER: Member Hernandez?

34

35 MEMBER HERNANDEZ: Aye.

36

37 SECRETARY WAGNER: Vice-Chairman
38 Francis?

39

40 MEMBER FRANCIS: Aye.

41

42 SECRETARY WAGNER: Chairman Mammia?

43

44 CHAIRMAN MAMMINA: Aye.

45 The application is granted with the
46 standard restaurant conditions.

47

48 MEMBER GOODSSELL: I think Member
49 Hernandez voted three or four times with that
50 echo that he's got.

1 APPEAL #21178

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4 MEMBER HERNANDEZ: My apologies.

5

6 CHAIRMAN MAMMINA: Good to see you,
7 Sean.

8

9 SECRETARY WAGNER: Jessica, is this
10 the same ramen place that's in Port
11 Washington?

12

13 MS. LEIS: It's different ownership.

14

15 SECRETARY WAGNER: But it's the same
16 kind of food?

17

18 MS. LEIS: Same concepts. Yeah.

19

20 SECRETARY WAGNER: It's really good.
21 I just tried it, like, a couple of months
22 ago.

23

24 MEMBER DONATELLI: It's very different
25 from the stuff in the packages that we all
26 had in college.

27

28 SECRETARY WAGNER: That my son eats
29 every day after school.

30

31 MS. DEMIRCIYAN: And just to make
32 clear for the record, there was no opposition
33 submitted.

34

35 SECRETARY WAGNER: Thank you. And
36 nobody spoke.

37

38 MS. DEMIRCIYAN: Yup. Yes, sir.

39

40 MS. LEIS: Thank you so much.

41

42 SECRETARY WAGNER: There was somebody
43 who was registered to speak, but I don't see
44 them here. Mr. Escobar.

45

46 MS. DEMIRCIYAN: I don't see anyone
47 with their hand up and I don't see him.

48

49 SECRETARY WAGNER: Yeah. So he's not
50 -- he didn't come onto the hearing.

1 APPEAL #21178

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4 MS. DEMIRCIYAN: Was there any written
5 opposition by Mr. Escobar?

6

7 SECRETARY WAGNER: I don't believe --
8 I don't believe he -- let me just check his
9 e-mail, but I think he just said he wanted to
10 speak but --

11

12 MS. DEMIRCIYAN: Okay. Well he's not
13 here.

14

15 SECRETARY WAGNER: Let me just check
16 and see.

17

18 MEMBER HERNANDEZ: If he is on the
19 call raise your hand.

20

21 CHAIRMAN MAMMINA: Right.

22

23 MEMBER HERNANDEZ: And let us know who
24 you are on the call.

25

26 SECRETARY WAGNER: You know what, let
27 me give him a call just to make sure. We
28 just took a vote, but --

29

30 MS. DEMIRCIYAN: Ginny, I think if he
31 -- he didn't show up.

32

33 SECRETARY WAGNER: Yeah. You don't
34 think so? Okay. I'm -- I don't know why he
35 wouldn't have.

36

37 CHAIRMAN MAMMINA: I would agree with
38 that.

39

40 MEMBER HERNANDEZ: We have asked him
41 to identify himself if he's on the call right
42 now to give him a chance to speak.

43

44 SECRETARY WAGNER: I don't see
45 anybody.

46

47 MS. DEMIRCIYAN: If we were in person
48 we wouldn't be calling people.

49

50 MEMBER FRANCIS: No, exactly I would

1 APPEAL #21178

2

3 agree.

4

5 CHAIRMAN MAMMINA: Okay. All right.

6 So ladies and gentlemen, thank you.

7

8 SECRETARY WAGNER: Thank you.

9

10 MEMBER HERNANDEZ: Maybe he fell

11 asleep like I did before in that long, long

12 deposition.

13

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APPEAL #21102

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SECRETARY WAGNER: Next appeal, Appeal No. 21102, Target Corporation (signs); 1400 Union Turnpike, New Hyde Park, Section 8, Block 235, Lot 56 in the Business "AA" Zoning District. Variances from 70-196(J) (1) (a), 70-196(J) (1) (b), 70-196(J) (1) (f), and 70-196(J) (1) (i), to erect signs that exceed the number allowable on a wall. Signs that are too tall, too large, and too high above the ground and that are not similar to other signs in the same shopping center.

CHAIRMAN MAMMINA: You heard Appeal No. 21102, Target Corporation (signs).

MS. PREVETE: Good afternoon, Mr. Chairman, Members of the Board. My name is Diana Prevete, I'm an attorney with the law firm of Albanese and Albanese, 1050 Franklin Avenue, Garden City, New York 11530.

CHAIRMAN MAMMINA: Good afternoon.

MS. PREVETE: I'm here again representing the lessee of the property who is also the applicant, Target Corporation. They're seeking a variance for five signs for it's proposed Target store within Lake Success shopping center, 1400 Union Turnpike, New Hyde Park, New York. As you all know, it's formally the Sears store. This is a continued hearing. We were last here on September 1 and at that time, we decided to do some redesign on the signs. So that's why we're back here today. We're proposing two signs for the east side of the building, two signs for the north side of the building and one sign for the west side of the building. Available with me today is Joseph Mayou who is the senior architect with Target, Arlene Melley of Ultimate Signs, Shannon Perez of Ultimate Signs and Robert Peck the agent for the owner of the shopping center is with me here today in my office. As I said, there was a hear on September 1. At that time we were proposing six signs for the building. I respectfully request in order to move this along, that the Board incorporate the minutes

1 APPEAL #21102

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3 of the public hearing from September 1, 2021
4 under Appeal No. 21002 into the record for
5 the hearing on this appeal, this way you will
6 have some of the background and I won't have
7 to repeat myself.

8
9 CHAIRMAN MAMMINA: So incorporated.

10
11 MS. PREVETE: Okay. Thank you,
12 Mr. Chairman. I submitted one consent form
13 from Estelle O'Brien at 85 Joseph Street in
14 New Hyde Park. It wasn't notarized, but
15 since Ms. O'Brien took the trouble to send me
16 a back a consent form, I submitted it for the
17 record.

18 Just a little background, on February
19 5, 2020, the Board granted Target a
20 conditional use permit to permit interior
21 alteration to the first floor and the sellar
22 of the old Sears building as a new Target
23 store under Appeal No. 20841. On December
24 15, 2021, this Board again granted approval
25 for Target to amend the previously granted
26 conditional issue permit to use not only the
27 first and the sellar, but also the second
28 floor and that was under Appeal No. 21157. I
29 also submitted copies of those decisions so
30 the Board would have them for the record. As
31 the Board knows, this is a rather long
32 shopping center. It's 2,100 linear feet
33 along Union Turnpike. The subject building
34 proposed for Target, is at the western most
35 end of the shopping center. At the eastern
36 most end is the freestanding HSBC Bank and
37 also Shake Shack. I submitted the tax map,
38 the zoning map, this is a Business "AA"
39 District and I also submitted photos of the
40 old Sears building with the signs still up,
41 as well as the -- the, you know, the building
42 as it exist today pretty much and other signs
43 within the shopping center. So you have
44 those for the record. I believe the clearest
45 way to -- to kind of go about this is to go
46 by elevation. So I'll start with the east
47 elevation. The redesigned signs, again,
48 proposed two signs for the east elevation.
49 We have a bulls eye which is 10 feet. This
50 bulls eye requires a variance because of the

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3 size of it. It exceeds 24 square feet. It's
4 actually 100 square feet and we're also
5 proposing a small bulls eye at this location
6 which is four feet. This wall sign requires
7 a variance, because, again, it's vertical
8 measurement is more than two feet. It's
9 actually four feet. And then variance are
10 required because there are two signs on the
11 east elevation. So that's another variance
12 required for the east elevation. In general,
13 these two revised signs for the east side are
14 actually smaller than what was previously
15 proposed. The difference as far as the
16 variances are concerned, the 10 foot bulls
17 eye is actually located the at a higher
18 elevation than previously proposed. It's
19 located at 30 feet instead of 27. But
20 basically the signs are in the similar
21 location as to what was previously proposed.
22 If we go to the north elevation, we've
23 actually -- we've got two signs proposed for
24 the north elevation. We've eliminated one
25 sign on the north elevation. We have an
26 eight foot bulls eye with a Target as you can
27 see proposed. Again, this requires a
28 variance because of the vertical measurement
29 from eight feet instead of four and a half
30 feet. And we also require variances
31 obviously because there are two signs located
32 on the north elevation. There's a CVS sign
33 and the Target with the bulls eye. The CVS
34 sign pretty much complies. The only
35 difference being that we've actually lowered
36 it from the previous location so no height
37 variance is required for the CVS sign, but
38 because it's two signs on the north
39 elevation, a variance is required for
40 multiple signs.

41
42 CHAIRMAN MAMMINA: Ms. Prevete,
43 correct me if I'm wrong, but if you have a
44 pharmacy in the store, are you required to
45 have a sign for that?

46
47 MS. PREVETE: Yes, Mr. Chairman. I
48 was going to explain that that is a required
49 sign. We're required to show that there is a
50 pharmacy in the store and that's why we have

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3 it there. But we did lower the height. It
4 complies as far as size, it's just that it's
5 a second sign on the north elevation.

6 We have also made the Target with the
7 bulls eye sign on this north elevation a
8 little bit higher. It was at 25.4 feet in
9 the previous design. It's now at 29 feet.
10 The west elevation only has one sign. Again,
11 it's a 10 foot bulls eye. No Target wording
12 just a bulls eye. Again, this requires a
13 variance because of the size. It's 24 square
14 feet that's permitted under the code. This
15 is 100 square feet. And in addition, the
16 west elevation bulls eye requires a height
17 variance because it is located at 30 feet.
18 The previously proposed sign was at 25 and a
19 half feet. So again, this is a little bit
20 higher. And then we were disapproved because
21 all the signs in the shopping center
22 according to code have to be uniform in
23 appearance. So that's the last variance
24 that's required for all of the signs that I
25 have just gone through. So we have
26 eliminated one sign. In the packet of
27 materials that I sent over, there's Exhibit
28 F1 and F2, which is two drawings that show
29 the previously proposed signs, which is F1.
30 It says on the bottom current, but it's
31 actually the previously proposed signed.
32 Keep going. It's F1 and F2. Let me see.

33
34 CHAIRMAN MAMMINA: I think you passed
35 it.

36
37 SECRETARY WAGNER: You submitted it
38 with the original packet?

39
40 MS. PREVETE: I submitted it with --
41 there's a list of exhibits that I submitted.
42 I don't know if it got there, but I have, you
43 know, the tax map and all of those.

44
45 CHAIRMAN MAMMINA: Tax map is down
46 here.

47
48 SECRETARY WAGNER: Yeah. I don't know
49 if this is -- are these the exhibits that I'm
50 showing right now or --

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4 MS. PREVETE: These look like it's the
5 application.
6

7 SECRETARY WAGNER: Okay. Well, I can
8 bring up the -- I can bring up the old
9 application that you submitted to us. I have
10 that.
11

12 MS. PREVETE: Okay.
13

14 SECRETARY WAGNER: Hold on.
15

16 MS. PREVETE: And I'll just tell you
17 what the differences are, because I have
18 that. If you pull up the old application --
19 right. Okay. So if you pull up the old
20 application, you can see -- let's see. This
21 is the east elevation. Okay. There were two
22 signs proposed for the east elevation, that
23 hasn't changed. The north elevation, three
24 signs were proposed. What they did was they
25 got rid of the bulls eye that was in
26 dependant. That was located here. And made
27 it all one sign and they got rid of this and
28 now this is basically been moved to the west
29 side. So what we've done essentially is
30 gotten rid of the third sign on the north
31 elevation. If you look at the current plans,
32 there's still two signs on the east
33 elevation. The one by the door is much
34 smaller and it's just a red bulls eye. On
35 the north elevation, we just have the bulls
36 eye with the Target and then of course the
37 CVS. And on the west elevation, we just have
38 the bulls eye. One of the things which we've
39 done when we redesigned the signs is, we've
40 reduced the red metal cladding on the
41 exterior walls by about 60 percent. So we've
42 eliminated about 4,078 square feet of the red
43 metal cladding. So that you can see here.
44 They've inserted windows, they've reduced the
45 size of the cladding here, here and also
46 here. So on both the east elevation and the
47 north elevation there is much less of the red
48 cladding, as well as on the west elevation.
49 So there's 4,078 square feet less of the red
50 cladding. It's been reduced to 2,848 square

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3 feet of red cladding instead of 6,926 square
4 feet. That was one of the major concerns
5 that the Board had. They thought it was too
6 much red, it was really too obtrusive and the
7 people at Target tried to then break it up
8 and make it a lot less square footage. They
9 inserted windows on the east elevation and
10 also windows on the north elevation, and
11 reduced a lot of the red cladding. In
12 addition, the square footage of the signs
13 have been reduced by 25 percent. So it's
14 gone from 693 square feet of signage to 521
15 square feet of signage. As I've said, we
16 reduced the number of signs from six to five
17 and the only thing that really has been
18 increased as far as the magnitude of
19 variances are height variances that are
20 required of the signs that are being
21 currently proposed. As I said, the Board had
22 essentially two major concerns when we were
23 before the Board in September of 2021. The
24 amount of red cladding and also the fact that
25 there were multiple signs on two of the
26 elevations so that's why we eliminated one
27 sign and as Mr. Mammina pointed out, the CVS
28 Pharmacy sign on the north elevation is
29 really required by law. So that's why that
30 elevation has two signs. Okay. As far as
31 the need for these signs and at the current
32 locations, on the east and west elevations,
33 the variances for size result from the
34 building department interpretation of the
35 zoning code that these signs face a parking
36 lot. In reality, the signs on the east and
37 west elevations actually face Union Turnpike,
38 not just the parking area and they need to be
39 larger than 24 square feet that's permitted
40 by the code. Target is going to be the new
41 anchor tenant and obviously it's really not
42 feasible to reduce the size of the signs to
43 24 square feet, when we're talking about an
44 anchor tenant. On the east and north
45 elevations, the variances for multiple signs
46 on these walls are necessary because the one
47 sign on the east elevation, the little red
48 bulls eye is -- is necessary just to identify
49 the door to the Target for people walking in
50 the shopping center or driving in the

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3 shopping center, because it's more at eye
4 level. In addition, as we've discussed, the
5 CVS sign is required by law. The sign that's
6 located on the east elevation at, like, about
7 30 feet, the large 10 foot bulls eye, that's
8 necessary in order to basically locate the
9 store for cars traveling west on Union
10 Turnpike. On the east, north and west
11 elevations, the high variances for the Target
12 signs and the bulls eye are located so as to
13 be at the optimal location for visibility.
14 The height of the letters and the bull eyes
15 are necessary to identify the anchor store
16 and it's not feasible to locate the signs at
17 18 feet above grade, because of the
18 visibility and also because there's a canopy
19 located at the building. This is applicant's
20 trademark and national branding as we've
21 discussed previously. The colors are either
22 white background and a red bulls eye and red
23 letters or red background with the white
24 bulls eye and white letters. In accordance
25 with Targets branding and trademark with the
26 horizontal format of the signs proposed, the
27 bulls eye is positioned to the left of the
28 word Target so you can see that on the north
29 elevation. There are other signs that I
30 submitted copies of photographs, which you
31 should have eventually placed in the file. I
32 submitted photographs of the Target signs in
33 Westbury and Elmont that are very similar to
34 these signs, as far as the red cladding and
35 the white Target lettering and the white
36 bulls eye. If you're incorporating the
37 minutes from the previous hearing, I did note
38 for the record that there had been multiple
39 variance for height within the shopping
40 center and I submitted copies of those
41 decisions. There were -- there were
42 variances for heights for the Express sign at
43 23 feet, Deli King at 20 feet, Sears was
44 permitted at 29 feet, Bed Bath and Beyond is
45 at 27 feet and eight inches. And there are
46 also multiple variances for the size of the
47 signs within the shopping center. Previously
48 Sears had three signs and they all exceeded
49 the permitted area. One variance for one of
50 the signs was 261 square feet. None of these

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3 Target signs come anywhere near 261 square
4 feet. There are also size variances for the
5 size of the signs for Odd Job, Bed Bath and
6 Beyond, Children's Place and Work'N'Gear.
7 These were all the past. Some of these
8 tenants are no longer there. But there's a
9 pretty consistent history of granting both
10 height variances and size variances for the
11 signs within the shopping center. Just to go
12 through the elements of practical difficulty
13 here. Whether an undesirable change will be
14 produced in the character of the neighborhood
15 or detriment to nearby properties if the
16 variances are granted. We -- we believe that
17 there will be no undesirable change produced
18 in the neighborhood or detriment to nearby
19 property. It's a commercial area. It's on
20 Union Turnpike. There are parking areas
21 immediately adjacent to Union Turnpike and
22 these signs are not visible really to any
23 residential area. Whether the benefits
24 sought by the applicant can be achieved by
25 another feasible method other than a
26 variance. Target is going to be the new
27 retail anchor taking the place of Sears,
28 which has -- which closed in 2018 and -- and
29 vacated in 2018. It's been a long time
30 coming and they are very anxious to get this
31 store up and running. They believe that
32 these signs will be necessary to help people
33 locate the Target. It's going to be a new
34 anchor store here. With respect to the
35 variances for multiple signs. I think I've
36 explained that. You can't really avoid it on
37 the north elevation because of the CVS sign
38 being required by law and on the east
39 elevation, you know, it's just really
40 important for people to be able to locate the
41 actual main doors of the facility if you're
42 within the shopping center. So that's why
43 there are two signs there and the small
44 Target bulls eye is very unobtrusive and very
45 small. With respect to the height variances,
46 I think I've explained that. We can't really
47 locate them much lower than where they're
48 proposed right now. This is a similar
49 location as far as the height is concerned as
50 to where the Sears signs were located and

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3 it's necessary for them to be visible to cars
4 traveling on Union Turnpike from both the
5 east and the west. Whether the signs in the
6 shopping center are uniform in appearances.
7 I guess it's a difference of opinion about
8 that. It's our position that there is really
9 no uniform appearance within the shopping
10 center. Other than possibly most of the
11 signs have channel letters. These are
12 channel letter signs so we believe that, you
13 know, to the extent that there is any sort of
14 uniformity, we're in compliance with that
15 section of the law. Whether the variances
16 are substantial. As the Board knows, there's
17 multiple cases at hold that where you have
18 multiple substantial variances you're more
19 likely to have an impact on adjoining
20 properties. Percentage of deviation is not
21 the only indicator of whether variances are
22 substantial. You have to look at the
23 totality of all the relevant facts and use a
24 common sense appraisal of the circumstances
25 to gauge whether they're substantial. Given
26 the circumstances here, the location and
27 positioning of the building, in fact as an
28 anchor tenant, we don't believe that these
29 variance can be considered substantial.
30 Whether the proposed variance will have an
31 adverse impact on physical or environmental
32 conditions. We believe, really, the only
33 physical or environmental condition is a
34 physical one or visual one. We have gone
35 back to the drawing board after the September
36 hearing and made a major redesign of the
37 signs so that the concern that the Board had
38 about any visual impact was ameliorated. So
39 we believe that this -- these signs as
40 proposed and redesigned will not have and
41 adverse impact on physical or environmental
42 conditions. We believe that if you balance
43 the benefit to the applicant against the
44 detriment to the community, health and safety
45 and welfare, there really is no determent to
46 the health, safety and welfare of the
47 community. So the benefit to the applicant
48 does outweigh any detriment for granting the
49 variance. So we believe that the variances
50 are warranted here. If the Board has any

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questions, we do have our sign people here. We also have Joe Mayou from Target here. If there's any questions I can't answer, we can address them with any of the people that we have here and Mr. Peck is also here to address any questions.

CHAIRMAN MAMMINA: My feeling, you know, is and I know that aesthetics don't come into what we do, but, you know, this go around, you know, is aesthetically much nicer. Not saying that the other one was bad. I don't mean it that way. But, you know, there is just a nice proportion to this now, the scale of it, you know, works. To me, a building this big it's more than just the sign or the red. I mean, I really like what they did with the overall building. I remember the Sears building since I was a little boy and it was just bricks.

MS. PREVETE: Yeah. It's true.

CHAIRMAN MAMMINA: No, they really did -- to me, this looks very nicely proportioned, very nicely balanced. And I do feel that scaling back on the red while I realize it's not part of the sign per se, but it reads in the overall composition, you know, I think that this looks good at this point. Lesley, I know that you were concerned about the amount of red. What do you think?

MEMBER FRANCIS: I think the applicant did an excellent job on reducing the visual impact of that red. I'm very, very happy with the outcome of this redo.

MEMBER GOODSSELL: I would also like to comment, Ms. Prevete, so many people have asked me when Target is opening. I think they could -- you said you -- you need a visual impact. You could leave a trail red breadcrumbs and people would come. They're like when is Target coming. So just so you know, Target's reputation perceives itself. I, for one, am very grateful that design team

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3 went back and listened to us and did another
4 design, but the neighborhood is really more
5 concerned with when the doors are gonna open.

6
7 MS. PREVETE: They're about to submit
8 their building permit application after
9 receiving the amendment to the conditional
10 use permit. It's supposed to be in by, like,
11 February 1. So it's going to take time to
12 build it out, but it's coming. It's coming.
13 And we did try to go back and address the
14 Boards concerns and -- and, you know, they're
15 my client, but I think I they did a very good
16 job of addressing it.

17
18 MEMBER GOODSELL: I agree.

19
20 CHAIRMAN MAMMINA: We appreciate it.

21
22 MEMBER DONATELLI: Agreed. I just
23 want to say for the record that I too am very
24 appreciative that the applicant did take our
25 prior comments to heart and I also really
26 have no objection to the application.

27
28 SECRETARY WAGNER: Ms. Prevete, I do
29 have the exhibits that you submitted. Did
30 you want me to bring them up at all?

31
32 MEMBER HERNANDEZ: No, I just stopped
33 speaking because I didn't want to over --
34 over speak someone else. The comment I
35 wanted to make was exactly as everybody else
36 has said who was concerned about the red,
37 because although as you just pointed out that
38 the sign is the bulls eye of the words Target
39 Ms. Prevete said it much earlier. She said
40 it is a red background with a white letter
41 Target or red Target with a white background.
42 So it works only because you see the two
43 colors together.

44
45 MEMBER DONATELLI: Sure.

46
47 MEMBER HERNANDEZ: So expectedly
48 although the background is not the sign.

49
50 MS. PREVETE: Right.

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MEMBER HERNANDEZ: Without this background, it wouldn't work. So yes, I am also very pleased that they reduced it because I told you before it looked way out of proportion to have a massive, you know, field of red with a -- I mean, a 100 square foot Target is big enough without having 600 or 800 square feet of red behind it or whatever the number is.

MS. PREVETE: Yeah. Yeah. They did a major reduction in the square footage on the red and I think it does -- it does make for a much better look.

MEMBER DONATELLI: Do we have any members of the public who want to comment?

MS. DEMIRCIYAN: I don't see any.

SECRETARY WAGNER: I don't see anybody.

CHAIRMAN MAMMINA: All right. Then if we can get a motion, you know, on this, we can we can move it along. Motion?

MEMBER DONATELLI: I'll make a motion that we grant the application.

CHAIRMAN MAMMINA: Motion by Mr. Donatelli.

MEMBER GOODSSELL: And I will second the application.

CHAIRMAN MAMMINA: Seconded by Ms. Goodsell. Please poll the Board.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

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3 SECRETARY WAGNER: Member Donatelli?
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5 MEMBER DONATELLI: Aye.
6
7 SECRETARY WAGNER: Vice-Chairman
8 Francis?
9
10 MEMBER FRANCIS: Aye.
11
12 SECRETARY WAGNER: Chairman Mammina?
13
14 CHAIRMAN MAMMINA: Aye.
15 So the application is -- is granted.
16 And thank you, Diana and thanks to your -- to
17 you client. I think it's as big boxes go,
18 it's hard to say boy that's a nice looking
19 building, but I think this will -- I think
20 this will -- this will -- this will look
21 nice.
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23 MS. PREVETE: Thank you very much. I
24 appreciate it. Take care.
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SECRETARY WAGNER: Okay. Before we let -- conclude the regular meeting, we need to adopt SECRA and we have a reopening request.

CHAIRMAN MAMMINA: Okay. Do we have a motion on SECRA.

MEMBER FRANCIS: I'll make a motion.

CHAIRMAN MAMMINA: I have a motion to accept SECRA be Mr. Francis.

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Seconded by Mr. Hernandez. All in favor.

MEMBER DONATELLI: Aye.

MEMBER HERNANDEZ: Aye.

MEMBER FRANCIS: Aye.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: SECRA is adopted five zero.

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3 Now, with the reopening request it
4 needs to be unanimous. This is -- I sent
5 over the request, I believe I sent the
6 request today. It's request to open --
7 reopen Appeal No. 21127 Sylvia Mezlar at 15
8 Pubins Lane in New Hyde Park. It was a fence
9 variance that was denied. She sent in a
10 request because she felt that certain
11 information was not taken into consideration
12 when --

13
14 MEMBER GOODSELL: Virginia, is this
15 the new trend when somebody loses they want a
16 rehearing, they want a do-over? I mean, this
17 is the second time it's happened since I've
18 been on the Board and I don't know how often
19 this does happen.

20
21 SECRETARY WAGNER: Well, if new
22 information is presented then I guess it's in
23 the Board purview to consider whether it is
24 new information or whether there was, you
25 know, something -- that's something that, I
26 guess, Adriana can speak to. But, you know,
27 whether there was something that wasn't --

28
29 MS. DEMIRCIYAN: Ginny, was there
30 something submitted along with the reopening
31 request?

32
33 SECRETARY WAGNER: Well, her feeling
34 is that the, I believe, if you read the
35 letter that the --

36
37 MEMBER GOODSELL: I have it in front
38 of me here.

39
40 MS. DEMIRCIYAN: I didn't get a copy
41 of the letter.

42
43 SECRETARY WAGNER: You didn't get a
44 copy? I'm sorry. You know what, I probably
45 sent it to the -- let me send it over to you.

46
47 MEMBER HERNANDEZ: What was the case
48 number?

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50 MS. DEMIRCIYAN: What?

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MEMBER HERNANDEZ: What is the Case Number?

SECRETARY WAGNER: 21127.

MS. DEMIRCIYAN: 21127.

SECRETARY WAGNER: It was a fence on a corner property and, you know, she was -- her appeal included she felt that people were looking in at people that -- her daughter on the property. I don't know if you recall that.

CHAIRMAN MAMMINA: I do remember that.

MEMBER GOODSELL: We heard this in October, I think. I'm just looking up the dates that we heard it.

CHAIRMAN MAMMINA: 21127, Ginny?

SECRETARY WAGNER: Right. Yes, I sent over the request to reopen this morning.

CHAIRMAN MAMMINA: Yeah. I saw that.

MEMBER GOODSELL: Yeah. Now I'm looking at the original pictures. I remember this is over in Garden City Park.

SECRETARY WAGNER: Right. You know, and that's what -- that's why the reopening request needs to be unanimous because there needs to be an agreement that there's sufficient reason to reopen the appeal and that there was --

MEMBER FRANCIS: I thought we addressed the issue of safety with regard to the fence and the retaining wall. Unless I'm mistaken.

MEMBER HERNANDEZ: What date did we hear the case on?

MEMBER DONATELLI: Sorry. Jay, what was that?

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MEMBER HERNANDEZ: What day did we hear the case on?

CHAIRMAN MAMMINA: August 13.

MEMBER GOODSELL: August 13? That was the date of disapproval. I thought we heard it on --

CHAIRMAN MAMMINA: I'm sorry. I'm sorry. That's the disapproval. Yeah.

MEMBER GOODSELL: Yeah. October 15. It was on the October 15 calendar.

MEMBER HERNANDEZ: October 15. Thank you.

MEMBER GOODSELL: We drove passed it, we discussed it and we gave the homeowner a -- we're not going to approve what you're asking but we would approve and then David went through the various heights that we would approve. Now that I look at the property, I remember that and I'm just looking at her letter to see if anything has changed. I think we did consider her concerns in this letter.

MEMBER FRANCIS: Yeah. I do too.

MS. DEMIRCIYAN: It seems the only thing -- based on her letter, the only thing that has changed is she is now saying that she would be willing to lower the height of the fence. That obviously, in my opinion, would require a whole new set of drawings to be submitted to the building department. I don't know how you guys handle new plans that are submitted.

CHAIRMAN MAMMINA: She's not going to get the fence where she wants it and I think that's going to be her major thing here. She wants it to come right out to the street and --

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3 MS. DEMIRCIYAN: So the heights not
4 even the problem. She has setback issues.

5
6 CHAIRMAN MAMMINA: I think.

7
8 MEMBER GOODSSELL: Yes. Because she
9 drew us a diagram as to where she wanted the
10 fence and I'm looking at it, and David
11 pointed out to her that she could cutoff this
12 little triangle piece. She could put a fence
13 between the back of the house and the back
14 corner and she wasn't happy because it cuts
15 off too much of the usable space in the
16 backyard. But I didn't find it credible that
17 it -- it -- you can't use the backyard under
18 any circumstances then that that didn't --
19

20 MEMBER HERNANDEZ: Is this the house
21 at the entrance to a cul-de-sac?
22

23 MEMBER GOODSSELL: Yes.

24
25 MEMBER HERNANDEZ: She's complaining
26 about the triangle that cutoff off by not
27 letting her --
28

29 MEMBER GOODSSELL: Correct.

30
31 SECRETARY WAGNER: Well, but she --
32 but her -- I think what she's say is that
33 there's a retaining wall there and so her
34 argument is if there's no fence there, that
35 someone could fall off that curb and hurt
36 themselves.
37

38 CHAIRMAN MAMMINA: A retaining wall?
39

40 MEMBER GOODSSELL: Yes. There is. It
41 looks to be about a --
42

43 MEMBER HERNANDEZ: That is her
44 property.
45

46 MEMBER GOODSSELL: It looks to be about
47 a foot high and it's between the sidewalk and
48 her backyard and the fence sits on top of it.
49

50 MEMBER HERNANDEZ: Right. She's

Proceedings

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3 complaining of the --

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5 MS. DEMIRCIYAN: What's the address?

6
7 SECRETARY WAGNER: 15 Pubins Lane in
8 New Hyde Park.

9
10 CHAIRMAN MAMMINA: I think her major
11 thing is that she -- she erected a fence
12 without a permit and she probably paid a lot
13 of money for that fence, you know. And, you
14 know, she doesn't want to take it down.

15
16 MEMBER GOODSELL: Would it be possible
17 before we make a decision, because we can
18 make this decision next week because it's a
19 reopen, to go back and I'll go back and look
20 at the property again because this is about a
21 mile from where I live.

22
23 CHAIRMAN MAMMINA: Okay.

24
25 MEMBER GOODSELL: And I did submit a
26 lot of pictures, but to give her the benefit
27 of the doubt, I'll go back and look at it.

28
29 MEMBER HERNANDEZ: What's the address
30 again, Patricia.

31
32 SECRETARY WAGNER: 15 Pubins Lane in
33 New Hyde Park.

34
35 MEMBER HERNANDEZ: 15 what? 15
36 Common? I'm sorry. I didn't hear you.

37
38 SECRETARY WAGNER: 15 Pubins,
39 P-U-B-I-N-S.

40
41 MEMBER GOODSELL: It's in the Garden
42 City Park area.

43
44 CHAIRMAN MAMMINA: Yeah. You know,
45 the fence part is on Atlas Court.

46
47 MEMBER HERNANDEZ: Yeah. That's
48 exactly the house.

49
50 CHAIRMAN MAMMINA: Yeah. That's where

1 Proceedings

2
3 the cul-de-sac -- there's a very short
4 cul-de-sac and it Ts in.

5
6 MEMBER HERNANDEZ: She wants the fence
7 to curve around the circle of the cul-de-sac
8 and we told her the fence has to go straight
9 back.

10
11 CHAIRMAN MAMMINA: Yeah.

12
13 MEMBER HERNANDEZ: So you cutoff a
14 very small triangle on the side of the house.

15
16 MEMBER GOODSELL: If I read her letter
17 correctly, her point now is if I do that,
18 somebody could easily walk off the end of the
19 cul-de-sac. Again, I'm finding that a little
20 -- excuse me. Walk off the end of the
21 retaining wall. First of all, this is her
22 private property. I'm not sure who is
23 walking on there except her family members.
24 And second of all, it's -- it's -- I'm not --
25 I'm not really buying this argument, but to
26 give her the benefit of the doubt I will go
27 back and look at it.

28
29 CHAIRMAN MAMMINA: Okay. Because one
30 -- one foot higher this is hardly a retaining
31 wall. I see it. I see the picture, but
32 that's as it -- as goes toward her backyard.

33
34 MEMBER HERNANDEZ: At the end of her
35 property meeting up with her neighbor there's
36 one, two, three, four blocks.

37
38 CHAIRMAN MAMMINA: Right.

39
40 MEMBER HERNANDEZ: A retaining wall of
41 four blocks and that's surrounded by -- it's
42 all full of shrubbery and trees.

43
44 CHAIRMAN MAMMINA: Yes.

45
46 MEMBER HERNANDEZ: A poodle wouldn't
47 fall of the retaining there.

48
49 SECRETARY WAGNER: Okay. Do you want
50 to wait until next weeks hearing to decide?

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CHAIRMAN MAMMINA: Sure.

MEMBER GOODSELL: It's only a week.
It's only a week.

CHAIRMAN MAMMINA: I can pass by
there.

SECRETARY WAGNER: Yeah. And then
because if it's reopened, then you will
actually hear it once again. So -- so we
will reserve this until next week.

MEMBER GOODSELL: I'm all for
considering applications based on all of
available information. But I'm not in favor
of creating a precedent that if somebody
looses, they can come back and reargue with
us. Now we're -- we're -- we do have a case
that we agreed to open again. I believe it's
going to be heard next week, but again, I
don't like the precedent that it sets that
you can just come back and reargue the same
thing.

SECRETARY WAGNER: Right. But I think
-- I mean, I -- I think that people are
allowed to make The request and the Board can
deny the request if there's not enough
evidence.

CHAIRMAN MAMMINA: Sure. Anybody can
ask.

MS. DEMIRCIYAN: I think that as fair
characterization.

SECRETARY WAGNER: I think that's --
so I don't think there's anything else that
we need the stenographer for before we move
into the reserve calendar. Does everyone
agree, Adriana?

CHAIRMAN MAMMINA: Yeah. I would
agree.

MS. DEMIRCIYAN: Yeah. I think we did

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everything we needed to do.

SECRETARY WAGNER: So Nicole Basile,
you are done.

(TIME NOTED: 3:36 p.m.)

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C E R T I F I C A T E

I, NICOLE L. BASILE, do hereby certify that
the within transcript is a true, accurate and
complete transcript of the proceedings which
took place in the above matter.

Nicole L. Basile

NICOLE L. BASILE