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TOWN OF NORTH HEMPSTEAD
BOARD OF ZONING APPEALS
VIRTUAL ZOOM PUBLIC HEARING

Wednesday, March 23, 2022
10:04 A.M.

BOARD MEMBERS PRESENT:

- DAVID L. MAMMINA, A.I.A. - Chairman
- LESLIE FRANCIS, ESQ. Vice Chairman
- PATRICIA GOODSSELL, ESQ. Member
- DANIEL DONATELLI, ESQ. Member
- JAY HERNANDEZ - Member

ALSO PRESENT:

- DEBORAH ALGIOS, ESQ. - Deputy Town Attorney
- VIRGINIA WAGNER - Secretary
- MADELINE TAVANI - Stenographer

2 CHAIR MAMMINA: Okay. If everyone
3 will please rise and join Mr. Francis in the Pledge
4 of Allegiance.

5 (Pledge of Allegiance.)

6 CHAIR MAMMINA: Good morning, ladies
7 and gentlemen, and welcome to the Town of North
8 Hempstead Board of Zoning Appeals.

9 What I'd like to do is just take a
10 couple of minutes to speak about how we do things
11 here in case you've never been to a Zoning Board
12 before, you know, or if you've been to a Zoning
13 Board but one other than this town. We may do
14 things a little bit differently here.

15 So I guess the first thing that I'll
16 ask you to do, if you've never been here before,
17 don't be nervous. Just talk to us. And what we
18 will do is as each case is called, we will have the
19 Applicant identify themselves by just standing up
20 and walking up to the podium. I will then also ask
21 if there's anyone who wishes to speak regarding the
22 application either in opposition, you know, or in
23 support. You don't necessarily have to address
24 which one, but just hands up so the Board knows
25 that there are other people that wish to speak.

2 Everyone will give their name and
3 address to our virtual Court Reporter. I'm not
4 sure where he or she is, but they are doing that
5 remotely. And at that point, once you've given
6 your name and address, the podium then belongs to
7 the Applicant. And when I say that, what I mean is
8 you will present to the Board whatever your case
9 is, and the Board will then ask whatever questions
10 that we may see appropriate; and then, of course,
11 you'll have the opportunity to respond to those as
12 we ask them.

13 And at that point, if there is anyone
14 who wishes to speak, we'll just ask the Applicant
15 to have a seat, you know, wherever, and we will
16 then invite people one at a time. When they get up
17 the podium, you know, they will give their name and
18 address. They are to then put on the record what
19 they choose to put on the record. The Board will
20 have the opportunity to ask questions of them, and
21 maybe those questions will come from the testimony
22 that may arise from them and maybe they won't.

23 If you are two people that are here
24 together, it's okay if you come up together.
25 You'll just each give your name and ask that people

2 try and not talk over each other because someone is
3 typing out a record of what we're saying and they
4 can't record two people speaking at the same time.

5 When all of that is done and anyone
6 who wishes to speak had the opportunity to speak,
7 the Applicants -- and, typically, only the
8 Applicant will get a second turn at the podium
9 because, based on what's been said, the Board may
10 now have additional questions for the Applicant or
11 the Applicant may wish to refute or support, you
12 know, what might have been said by somebody else.
13 So when that is all done, the Board will then do
14 one of four things:

15 We will either approve the
16 Application, we will deny the Application and we
17 may reserve the Application, or we may continue the
18 Application. So approval and denial; that's easy,
19 we all know what that is. If we are going to
20 reserve the Application, that might be that we've
21 gotten all the information that we want from, you
22 know, from the Applicant, or you know, all of the
23 sides. But we have a -- you know, we want to take
24 a look at the site again, or there may have been
25 some documents that were submitted and we want to

2 read them, you know, more closely, so that, then
3 would, be a reserve.

4 If we were to continue the
5 Application, it might be that we'll ask the
6 Applicant, you know, or someone else who appeared,
7 you know, for a document that they may have or if
8 it's the Applicant, they may have a closing
9 document and a certificate of occupancy that's old,
10 and, you know, we want to take a look at that.

11 We may keep it open because we may
12 offer some alternative, you know, in terms of the
13 design. If you can chop this back or push this
14 over or whatever, and then we need to wait to that
15 drawing so that then when we do approve something,
16 you know, we've then approved it, you know,
17 correctly, you know, according to -- according to
18 what -- what we have offered.

19 So I guess with -- with all of that
20 said, what I will say, you know -- and sometimes
21 the Board is equally guilty -- and I know mine is
22 here somewhere -- but take your phone, hold them up
23 high. You know, we all rely on them, but please
24 turn the ringer off. If you need to make a phone
25 call, please feel free to at any time. We're all

2 ladies and gentlemen here; just walk around and,
3 you know -- or if you have to come this way, that's
4 fine. Just kind of go outside, you can make or
5 take, you know, your phone calls, you know,
6 that's -- you know, that's good.

7 And if there is someone who is coming
8 who is not here yet, we'll just ask that you please
9 ask them that same -- that same courtesy, you know,
10 so that, you know, we all give everybody, you know,
11 that opportunity. It can be very distracting if
12 somebody else's phone rings or we've even had the
13 Applicant's phone ring, and then that becomes
14 particularly difficult for them.

15 So I guess with all of that said, if
16 I've hit everything then -- okay. We have a
17 consensus that we've hit everything.

18 So if -- Virginia, if you would,
19 please. Any modifications to the calendar this
20 morning?

21 MS. WAGNER: Yes, Chairman. We have
22 an adjournment, continuation of Appeal #21166.
23 Jorge Pincay; 10 Third Avenue, Garden City Park;
24 Section 33, Block 121, Lot 6; in the Residence-C
25 Zoning District.

2 Variances from section 70-47.1.B and
3 70-47.B. To legalize a conversion of a dwelling
4 from a single-family to a two-family on a plot of
5 land that is too small and too narrow.

6 That will be heard on April 27th.

7 CHAIR MAMMINA: All right.

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1 Appeal # 21196

2 MS. WAGNER: So we will also have a
3 modification where we're going to move up Appeal
4 #21196, Fritz Moise; 203 Urban Avenue, Westbury;
5 Section 11, Block 27, Lot 75; in the Residence-C
6 Zoning District.

7 Variances from 70-100.2(A)(2) and
8 70-100.2(A)(4) to construct fencing in a front yard
9 and fencing that is too tall.

10 We're going to move that up to the top
11 of the calendar ahead of Appeal #21190.

12 So if you'd like to come up.

13 CHAIR MAMMINA: And then if anyone is
14 here for that first case that Ms. Wagner has -- you
15 know, has spoken about and read into the record and
16 will not be heard today, that will be on our April
17 calendar.

18 And then with that, I'd like to
19 welcome Mr. and Mrs. Moise. And please give your
20 name and address. And, again, you may both speak
21 simultaneously, and if your third family member
22 there wishes to speak, they'll have to put their
23 name and address.

24 MS. MOISE: My name is Georgetta
25 Moise, 203 Urban Avenue, Westbury 10590.

1 Appeal # 21196

2 MR. MOISE: Fritz Moise. Same
3 address.

4 CHAIR MAMMINA: Okay. So why don't
5 you tell us what you're -- about what you're asking
6 for. And, you know, then we'll take it from there
7 in accordance with what I said a little while.

8 MS. MOISE: All right. So we're here
9 for replacement of the fencing. We will comply
10 with the height required for the backyard and the
11 front yard, and it's very important to get a front
12 yard fence.

13 We have a child with special needs
14 and -- and we have a commercial road directly
15 parallel to the house, and it's high traffic and
16 it's very hard to contain her, even when you get
17 out of the house; so you try to get in the car, she
18 slips out of my hands many times. I'm not as fast
19 as she is anymore and -- and it's really dangerous.

20 There were a few instances where there
21 were accidents directly in front of the house. Our
22 neighbor to the left, he parks his car in front of
23 the house, and both cars being hit in two different
24 occasions.

25 Another commercial truck on a

1 Appeal # 21196
2 different instance directly in front of the house,
3 a commercial truck with some kind of steel loaded
4 hooked up an electrical wire, which fell on the
5 sidewalk, went up in middle of the road, pulled
6 some steel out of the truck which was on the
7 sidewalk. It's dangerous.

8 And being that she has special needs,
9 it's a little more difficult to contain her. She
10 has to be restrained in front of the house at all
11 times. If I need to get out and go to the car or
12 just get out of the house, she may just run. And
13 it happened on a few occasions, and my husband was
14 around, thank God.

15 VICE CHAIR FRANCIS: Your case is not
16 the first case we've heard involving a child with
17 special needs and a need for fencing. What we do
18 require -- not that we don't believe you, but just
19 to make the record complete -- we do need something
20 from a doctor.

21 MS. MOISE: Absolutely. I can provide
22 that. I don't have this right now. She is
23 enrolled with early intervention with Nassau
24 Department of Health; and, right now, she's going
25 through the transition process to Westbury School

1 Appeal # 21196

2 District's special education.

3 VICE CHAIR FRANCIS: Yep.

4 MS. MOISE: So I will be able to
5 provide paperwork. I have the paperwork from early
6 intervention. I didn't print out, I didn't think
7 it's needed, but I have it online.

8 VICE CHAIR FRANCIS: Okay.

9 MS. MOISE: I could email or I could
10 provide the paperwork on a later time.

11 VICE CHAIR FRANCIS: If what we could
12 is we could continue your case for you to submit
13 that to the BZA office.

14 MS. MOISE: Absolutely. It's no
15 problem.

16 VICE CHAIR FRANCIS: And then we
17 will -- if I don't know if you have an estimate or
18 something or some photos of the fence that you want
19 to put up, if you can give us.

20 MS. MOISE: We have the photo of old
21 fencing that's damaged and outdated.

22 And also in the backyard where we have
23 a hole where the baby fence is there and also our
24 dog went in the neighbor's yard, so we put a piece
25 of wood there. And if you lean against the fence

1 Appeal # 21196

2 it will collapse.

3 VICE CHAIR FRANCIS: Okay. We
4 actually do have it in the package, so the photos,
5 so we're fine.

6 MS. MOISE: Okay.

7 VICE CHAIR FRANCIS: If you can get us
8 the medical information, and then we can proceed to
9 do so.

10 MS. MOISE: Absolutely. I could do
11 that.

12 VICE CHAIR FRANCIS: Okay. All right.

13 MS. MOISE: From the doctor or from
14 the Department of Health?

15 VICE CHAIR FRANCIS: Doctor.

16 MS. MOISE: Because the doctor is
17 not -- not involved, only with the speech, she
18 can't speak.

19 VICE CHAIR FRANCIS: Okay.

20 MS. MOISE: The doctor is involved
21 with the speech but early intervention, the
22 Department of Health, that's what I'm dealing with
23 right now.

24 VICE CHAIR FRANCIS: Whatever you can
25 provide is fine.

1 Appeal # 21196

2 MS. ALGIOS: Just to add to
3 Mr. Francis' comments to you, the letter should
4 also just document why you need to confine her. So
5 why the fencing would be required.

6 So just as an example to you, the
7 Board had previously granted one where a child was
8 autistic and was a runner, so the child would bolt.
9 And we need some type of substantiation as to why
10 the fencing in the front yard is necessary.

11 MS. MOISE: Yes. We actually have a
12 psychologist appointment coming up in a couple of
13 days for a second-opinion diagnosis on autism.

14 MS. ALGIOS: So whatever documentation
15 you can get us, if you can get from more than one
16 authority, if you can get from the --

17 MS. MOISE: I will definitely make the
18 phone call required today.

19 And with the size of the fencing in
20 the backyard, we will definitely comply with that.
21 I was not aware of the height requirement, but
22 after that -- after it was denied, when I went
23 online and I read about the sizing, we are okay.
24 We want to go by the rules. The only problem is
25 the front yard which...

1 Appeal # 21196

2 CHAIR MAMMINA: So on your -- on your
3 Application, now you show 6-foot fencing on the
4 sides. So you'll accept 5-foot fencing?

5 MS. MOISE: Absolutely, yes. We don't
6 have a problem with that, and the back could be 6.

7 CHAIR MAMMINA: Yes, the back is
8 permitted to be 6.

9 And, you know, just I guess for anyone
10 else who is in the -- who is in the room. The --
11 the Board takes a very hard look at fencing. That
12 has come down, you know, from the Town Board, and
13 it's good for everyone to understand that what we
14 do -- I mean, we are semi-judicial --
15 quasi-judicial Board, you know, because we get to
16 make decisions that are binding, you know, by law.
17 We're not judges or anything. We're all just
18 regular people, you know, who have come here, you
19 know, through various mechanisms, typically as
20 community, you know, people who have been on civic
21 associations, and, you know, that sort of thing.

22 But the Town Board establishes what
23 the zoning is, and then we look at it and we do a
24 balancing test. In this case, we're doing a
25 balancing test where a 4-foot fence, no fence is

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2 permitted beyond the front setback of the house.

3 But the balancing test says to us
4 here, we have a child that obviously needs space
5 and obviously needs to be protected. And so you
6 know, we are -- we are disposed to -- to allow that
7 fence where we may very well -- and most probably
8 would deny somebody else's fence unless they had,
9 you know, a good reason for it, you know, in the
10 front yard because the Town Board has decided that
11 they don't want fences in front yards. They want
12 to see continuous lawns in the front yards. And
13 they don't want to see 6-foot fences that look like
14 a fort, you know, when they're facing the street.

15 So you'll see a process here today.
16 I'm just explaining that, you know, so that if we
17 have other fence applicants here, this Applicant
18 has agreed you're allowed have a 5-foot fence in
19 the sides, she's agreed to the 5-foot fence on the
20 sides. You're allowed to have a 6-foot in the
21 back, she's agreed to a 6-foot in the back. And
22 she's agreed to -- we are, you know, we are of the
23 opinion that we are going to approve that 4-foot
24 fence when she presents the proper medical backup
25 and we have done that, you know, before as was said

1 Appeal # 21196

2 by the Town Attorney.

3 MS. MOISE: Yes, it's safety -- it's a
4 safety --

5 CHAIR MAMMINA: With that said --

6 MS. ALGIOS: Chairman, Chairman --

7 CHAIR MAMMINA: Please.

8 MS. ALGIOS: Just to clarify one
9 thing: So, basically, to this Town and other
10 municipalities, are required by federal law, the
11 Americans with Disabilities Act to make reasonable
12 accommodations for people with disabilities. And
13 so that is why, you know, this Board is inclined to
14 consider any evidence you have of your child's
15 disability and why a variance to allow that fence
16 in the front yard would be proper.

17 So as the Chairman said, you know,
18 typically, a fence like that is really never
19 allowed because our code does require that there be
20 no fencing in the front yard. So not even a height
21 limit, you just can't have it.

22 But with that said, the Americans with
23 Disabilities Act does require the Town to make
24 reasonable accommodations. So if you have evidence
25 of your child's disability and you present that,

1 Appeal # 21196

2 the Board will consider that.

3 MS. MOISE: I have some paperwork if I
4 can go on my email. I'm not sure I can provide
5 that right now and --

6 CHAIR MAMMINA: You'll forward that
7 all together. I apologize for interrupting you,
8 but you'll submit all of that together, and that
9 will be fine. And I thank Ms. Algios for --

10 MS. MOISE: Thank you so much.

11 CHAIR MAMMINA: -- for putting that on
12 the record.

13 But this is federal law that we do
14 that. Even though everybody here is present at the
15 same time, too, so we understand as well, and I
16 love dogs. That's not enough of a reason, but I do
17 love dogs.

18 MS. MOISE: We don't want them in the
19 neighbor's yard.

20 MS. WAGNER: After you submit the
21 information, the next possible date that the Board
22 could make a decision will be at the next hearing.

23 MS. MOISE: We will have to come back
24 here?

25 MS. WAGNER: No, you don't have to

1 Appeal # 21196

2 come back. So you submit the information, and then
3 the Board will be able to make a decision on your
4 Application until the Board hearing.

5 MS. MOISE: And that's April 6th.

6 MS. WAGNER: So we would let you
7 know -- if they did make a decision on that date,
8 they'll let you know.

9 CHAIR MAMMINA: And if you can't get
10 it back here by April 6 because you're waiting for
11 a document from an agency, that's okay too.

12 MS. MOISE: I will work on it right
13 away.

14 CHAIR MAMMINA: You'll bring that to
15 Ms. Wagner in the Zoning office; and, you know,
16 then she'll have that and let the Board know. And,
17 no, you do not have to come back.

18 MS. MOISE: All right. Perfect.
19 Thank you so much.

20 CHAIR MAMMINA: Thank you.

21 MS. MOISE: Thank you for
22 understanding.

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1 Appeal # 21190

2 CHAIR MAMMINA: Okay. Then,
3 Ms. Wagner, if you would please call the next case.
4 Thank you.

5 MS. WAGNER: Appeal #21190, Janet
6 Makhani; 2 Parkwood Drive, Great Neck; Section 2,
7 Block 365, Lot6; in the Residence-A Zoning
8 District.

9 Variances from Section 70-30.C and
10 70-30.B to construct additions and a cover over an
11 existing open terrace that are too close to the
12 street.

13 CHAIR MAMMINA: You've heard Appeal
14 #21190, Janet Makhani.

15 Is there anyone in the room who is
16 interested in the Application other than the
17 Applicant?

18 Seeing, I guess, three hands up.

19 MS. WAGNER: They're with the
20 Applicant.

21 CHAIR MAMMINA: Okay. So you're all
22 with the Applicant. You're not here to speak in
23 opposition to the Application.

24 MR. NEJATHINE: Good morning,
25 Mr. Chairman and Members of the Board. My name is

1 Appeal # 21190

2 Husank Nejathine (phonetic). I'm the engineer for
3 this project.

4 And we are here before the Board for
5 two insignificant variances for the existing house.
6 Both have to do the front yard requirement. This
7 house happened to be a corner lot, so we have two
8 front yards.

9 One of the variance request is that
10 there is a -- there's a one-story room here that
11 with the flat roof. And the homeowner continuously
12 experienced difficulty every time it rains. The
13 water gets in between, and they have to go and
14 spackle every year through the -- it has become
15 very expensive process, doing that every year and
16 the hardship of that.

17 VICE CHAIR FRANCIS: That's the
18 problem with the flat roofs.

19 MR. NEJATHINE: Exactly. Right.

20 So we decided to just put the roof,
21 covering roof over it. And this -- this is --
22 that's what it looks like, this is a covering roof.
23 And actually it's going to look very nice and adds
24 to the beautification of the area. That's --
25 that's (indecipherable).

1 Appeal # 21190

2 Now, the law requires a setback of
3 30 feet. But this -- this existing structure has
4 18.9, almost 19 feet from the lot line. So this is
5 one variance request. We're not changing the
6 footprint of the building, we're not moving any
7 walls in and out and nothing with that. So this is
8 just a covering to prevent rain water to get over
9 that flat roof and seep in or find its way inside
10 the room that causes.

11 CHAIR MAMMINA: Do you want to talk a
12 little bit about the shape of the site?

13 MR. NEJATHINE: The shape of the site
14 what?

15 MEMBER GOODSELL: The property.

16 CHAIR MAMMINA: Yeah, the property.

17 MR. NEJATHINE: Yeah, it's a corner
18 lot. It's a cape house, a small three-bedroom
19 house. It's a small house. But --

20 MEMBER GOODSELL: It's on quite a hill
21 isn't it, it's on a hill. The front yard is quite
22 high up.

23 MR. NEJATHINE: Yes.

24 CHAIR MAMMINA: Also, the -- also,
25 the -- correct me if I'm wrong, the site is

1 Appeal # 21190

2 essentially a triangle and --

3 MR. NEJATHINE: Yes.

4 CHAIR MAMMINA: -- and while at the
5 front of the site, you have a very excessive amount
6 of front yard because of the taper of the site, in
7 that very point it gets reduced to 18.9 feet.

8 MR. NEJATHINE: Right.

9 CHAIR MAMMINA: But is probably almost
10 50 feet at this very first setback point.

11 MR. NEJATHINE: Yes, you do have. At
12 the closest section of this building to the front
13 yard is 18.9. Further down here is much, much,
14 much more than that.

15 CHAIR MAMMINA: And there is already
16 an existing piece of construction there, correct?

17 MR. NEJATHINE: Yes, yes. You're not
18 moving the walls; you're not doing anything. It's
19 just covering the roof, and we design it so it
20 would match the house and comes out actually very
21 nice, good looking for the area as well.

22 VICE CHAIR FRANCIS: I don't know. Do
23 you know the -- when this house would be
24 constructed? My guess would be earlier part of the
25 20th century. This is not new construction.

1 Appeal # 21190

2 MR. NEJATHINE: No, no, no. It's a
3 long time standing. Yes, yes, it's a long time
4 standing. This is one variance.

5 The other -- the other variance is
6 this house has a three bedroom and very small
7 office. As the family, the homeowner's family
8 grows, they need room proper size bedrooms for the
9 children. So we adding -- we adding 2 feet, 2.9, 3
10 feet by 18 feet on this and 5 feet on that side,
11 and 5 feet on that side and 5 feet and 18 feet on
12 this.

13 In order to make a proper size of the
14 bedroom they actually have that office, they're
15 going to make it a little larger so they have nice
16 size bedroom for the children.

17 MEMBER DONATELLI: Is that what's
18 marked as one-story addition on the Application?

19 MR. NEJATHINE: Yes.

20 CHAIR MAMMINA: Okay. So your
21 variance, though, is promulgated by the average
22 front yard setback --

23 MR. NEJATHINE: Yes.

24 CHAIR MAMMINA: -- not by the size of
25 bedrooms.

1 Appeal # 21190

2 MR. NEJATHINE: Exactly. Right,
3 right.

4 CHAIR MAMMINA: So it's not floor
5 area --

6 MR. NEJATHINE: Right.

7 CHAIR MAMMINA: -- it's strictly
8 setback --

9 MR. NEJATHINE: It's based on the
10 200 feet average.

11 CHAIR MAMMINA: And you're filling
12 in --

13 MR. NEJATHINE: Right.

14 CHAIR MAMMINA: -- that existing
15 portion.

16 MR. NEJATHINE: Yes.

17 CHAIR MAMMINA: -- of the -- of the --

18 MR. NEJATHINE: Very small.

19 CHAIR MAMMINA: -- site.

20 MR. NEJATHINE: Five and a half feet
21 from that side.

22 VICE CHAIR FRANCIS: Almost the same
23 thing but from the detached garage.

24 MEMBER DONATELLI: I have no
25 questions.

1 Appeal # 21190

2 MEMBER HERNANDEZ: I'm trying to
3 understand. I'm trying to understand what you're
4 actually doing. If you don't mind, I have a couple
5 of questions.

6 MR. NEJATHINE: Sure.

7 MEMBER HERNANDEZ: You now have what
8 appears to be almost like an enclosed porch with a
9 flat roof which is --

10 MR. NEJATHINE: Yes.

11 MEMBER HERNANDEZ: -- it's not an
12 enclosed porch. It looks like a picture window
13 from the photograph from the street. When I looked
14 at it from the street, it looked like it was a
15 picture window.

16 MR. NEJATHINE: Yes.

17 MEMBER HERNANDEZ: You're proposing --

18 MR. NEJATHINE: It has no window.
19 It's open.

20 MEMBER HERNANDEZ: Big window.

21 MR. NEJATHINE: Right.

22 MEMBER HERNANDEZ: Now, in your
23 drawings, your elevations, you were showing that
24 with a much smaller window. So I'm assuming you're
25 going to close that window down, right?

1 Appeal # 21190

2 MR. NEJATHINE: On top of that.

3 MEMBER HERNANDEZ: On your elevations,
4 on the drawings that you have here, the window
5 appears to be smaller.

6 MR. NEJATHINE: No, no, this has no
7 window. This is just an existing area. We're just
8 putting a roof over it.

9 MEMBER HERNANDEZ: If you look at the
10 fireplace above in the middle, it's to the left of
11 the fireplace, the picture window.

12 VICE CHAIR FRANCIS: Yeah, it's in the
13 picture window.

14 MEMBER GOODSELL: No, no, but that's
15 there. That's already there.

16 MR. NEJATHINE: This is there already.
17 We're not touching this. This is on top of that.

18 MEMBER HERNANDEZ: Correct.

19 MR. NEJATHINE: This is already there.

20 MEMBER HERNANDEZ: David, can you look
21 it that, please.

22 Look at the photograph that he has at
23 the end of his packet showing the house and the
24 picture window and look at that picture window that
25 he's showing there. Either my eyes are fooling me

1 Appeal # 21190

2 or I know he's building on top of that. I'm trying
3 to understand what they're doing, and it doesn't
4 reflect --

5 MR. NEJATHINE: Well, that window is
6 there. All we're is just we just put the post up
7 there, and we're putting a roof over it.

8 MEMBER HERNANDEZ: Correct. You're
9 making a covered porch over that.

10 CHAIR MAMMINA: Yeah.

11 MEMBER HERNANDEZ: But you're
12 modifying that lower level. I just want to
13 understand it. I have no problem with what -- I
14 just want to understand it.

15 CHAIR MAMMINA: What I think it is, as
16 I'm looking at it, it appears that there's stucco
17 across the bottom. Then there's a band of brick --

18 MEMBER HERNANDEZ: Of brick -- of
19 stone.

20 CHAIR MAMMINA: And I think the window
21 is out of scale.

22 MEMBER HERNANDEZ: It's way out of
23 scale.

24 CHAIR MAMMINA: Yeah. The window is
25 way out of scale.

1 Appeal # 21190

2 MEMBER HERNANDEZ: Okay. So you're
3 not touching that. That stays.

4 MR. NEJATHINE: Right.

5 MEMBER HERNANDEZ: You're going to
6 build above that --

7 MR. NEJATHINE: Yeah.

8 MEMBER HERNANDEZ: -- the covered
9 porch.

10 Where is that other small section that
11 you're adding, the one that I can't find.

12 MR. NEJATHINE: It's in the back.
13 That's in the back. It's right here. One of them
14 is -- this one is on the second floor.

15 MEMBER HERNANDEZ: Okay. The two --
16 the left and right corner in the back you're
17 putting (indecipherable.)

18 MR. NEJATHINE: Yes.

19 MEMBER HERNANDEZ: Got it.

20 MR. NEJATHINE: Because it's a corner
21 property it considered, I have two fronts.

22 MEMBER HERNANDEZ: Right. Absolutely.

23 CHAIR MAMMINA: Thank you. Just
24 clarifying the record.

25 MR. NEJATHINE: Yep, sure.

1 Appeal # 21190

2 MEMBER DONATELLI: All right.

3 Anything further?

4 CHAIR MAMMINA: Nope, don't think so.

5 MEMBER DONATELLI: So, Mr. Chairman,
6 for the reasons stated, I actually drove by the
7 property, and I'm as -- as was noted, it is on a
8 corner lot. It is -- does have a very substantial
9 setback toward the one side; but, of course, the
10 way the road curves, it is an irregularly shaped
11 lot and but it is preexisting.

12 And the Applicant is merely building
13 as stated, so I make a motion that we grant the
14 Application.

15 CHAIR MAMMINA: We have a motion from
16 Member Donatelli.

17 Do we have a second?

18 MEMBER HERNANDEZ: Second.

19 CHAIR MAMMINA: Seconded by Member
20 Hernandez.

21 Ms. Wagner, please poll the Board.

22 MS. WAGNER: Member Goodsell.

23 MEMBER GOODSSELL: Aye.

24 MS. WAGNER: Member Hernandez.

25 MEMBER HERNANDEZ: Aye.

1 Appeal # 21190

2 MS. WAGNER: Member Donatelli.

3 MEMBER DONATELLI: Aye.

4 MS. WAGNER: Vice Chairman Francis.

5 VICE CHAIR FRANCIS: Aye.

6 MS. WAGNER: Chairman Mammina.

7 CHAIR MAMMINA: Aye.

8 The Application is granted.

9 MR. NEJATHINE: Thank you very much.

10 CHAIR MAMMINA: Thank you all.

11 MR. SAHN: Have a nice day, gentlemen.

12 MEMBER GOODSELL: Very good.

13 MS. WAGNER: Just to reiterate for all
14 of the upcoming Applicants, if you could just speak
15 very clearly in the microphone and spell your name
16 because the court reporter is doing this remotely,
17 and she's indicated that it's difficult for her to
18 here some of the names. And she would just like to
19 get the spellings correctly, so we would appreciate
20 if you could just -- and speak as clearly and
21 slowly as you can. Thank you.

22 CHAIR MAMMINA: Okay. Thank you,
23 Ms. Wagner.

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Appeal # 21191
MS. WAGNER: Next appeal, Appeal

#21191. Chaojun Fan; 5 Knickerbocker Road
Manhasset, Section 3, Block 50, Lot 125; in the
Residence-A Zoning District.

Variances from Section 70-30.B and
70-31.B to build an addition to a house that is too
close to the street and too close to the side
property line.

CHAIR MAMMINA: We've heard Appeal
#22191, Chaojun Fan.

Is there anyone in the room interested
in the application other than the Applicant?

(No response.)

CHAIR MAMMINA: Seeing no one, please
give your name and address. And as Ms. Wagner
said, spell out your last name, please.

MR. MUNISTERI: Good morning and thank
you, Members of the Board, Mr. Chair. My name is
Marc Anthony Munisteri, architect. That's
M-U-N-I-S-T-E-R-I. My office is located at 1563
Bellmore Avenue in Bellmore. And today I'm
appearing for my clients, Mr. and Mrs. Fan and Mr.
Lin, who are the owners and occupants of the
subject property.

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Appeal # 21191
So today we're requesting variances

for a proposed second story which does not meet the primary front yard setback and having less than the required side yard setback for this corner property.

I would like to note that is a modest 9-foot by 21-foot addition which would consist of a small entry sitting area, a bedroom and a small balcony which is designed directly in line and over the existing nonconforming first-floor addition.

Our request is to reduce the primary front yard setback on Old Mill Road from the required 35 feet setback to 26.65 feet, a total reduction of 8.35 feet.

We would also like to reduce the side yard setback from the required 10 foot to 9.13 feet, a reduction of 10 and a half inches. And, again, those setbacks, we are requesting are preexisting setbacks, and we are not asking for any additional encroachments.

MEMBER DONATELLI: Do you have elevations of the project?

MR. MUNISTERI: I do, sir.

MEMBER DONATELLI: Because I don't

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Appeal # 21191
think we have them in the package that was
submitted to us.

MR. MUNISTERI: Can I submit -- they
are 11 by 17s, but they're pretty clear -- excuse
me, 18 x 24s.

MEMBER DONATELLI: Were they submitted
with the package, though?

MR. MUNISTERI: I'm sure they were.

CHAIR MAMMINA: All right. None of us
have that.

MEMBER GOODSELL: We don't have that.
Do you have extra copies?

MR. MUNISTERI: I have one copy.
Typically, they wouldn't let us make the full
submission unless we had everything.

MEMBER GOODSELL: It's gotta get from
you to us.

VICE CHAIR FRANCIS: You've been
before us numerous times.

MR. MUNISTERI: Yes, sir.

VICE CHAIR FRANCIS: And your package
is always complete, so this is a little weird.

CHAIR MAMMINA: No big deal. You
always score hundreds.

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Appeal # 21191
(CROSSTALK)

CHAIR MAMMINA: I guess the question we have is, which drawing shows what's being built?

MR. MUNISTERI: In what manner, floor plan or elevation?

CHAIR MAMMINA: We have a rear elevation, side elevation, side elevation.

MR. MUNISTERI: And no floor plan?

CHAIR MAMMINA: No, no, we have a floor plan. I'm saying no elevation. You're in position on the neighbor is the height in proximity. So where -- where is that?

MR. MUNISTERI: So the front elevation is not affected by this issue.

CHAIR MAMMINA: No, no. Forget about the front elevation. That's what I'm asking. Which elevation is it?

MEMBER GOODSELL: You want to refer to this back again?

MR. MUNISTERI: I mean, I apologize. I don't understand the question.

CHAIR MAMMINA: I'm assuming, then, this is perfect -- I'm assuming that it's the side elevation on the left.

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Appeal # 21191

MR. MUNISTERI: It is the side elevation on the left. One second.

CHAIR MAMMINA: I'm looking at the left-hand side of your drawing, 8-4.0.

MEMBER HERNANDEZ: Is that the neighbor on Knickerbocker? Is that the neighbor on the other street; is that correct?

MR. MUNISTERI: Yes.

CHAIR MAMMINA: Okay. So here's -- here's my point is that, in an Application such as this we're going to ask that that roof be made as a gable -- excuse me, as a hip rather than as a gable. Because now that neighbor is looking at a 24-foot-high wall.

MR. MUNISTERI: Not a problem.

CHAIR MAMMINA: Instead of a 17-foot-high wall.

MR. MUNISTERI: Mr. Chairman, that's not a problem.

CHAIR MAMMINA: Okay.

MR. MUNISTERI: And totally understand what's behind it, yes.

CHAIR MAMMINA: It's not as -- as imposing.

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Appeal # 21191
MR. MUNISTERI: Obtrusive.

Absolutely.

CHAIR MAMMINA: Okay. Deborah, so do we continue this?

MEMBER HERNANDEZ: Yeah, continue it.

CHAIR MAMMINA: For the drawing.

So, okay. What we'll do is we'll continue the Application. You submit back to Ms. Wagner, and you don't need to come back.

MR. MUNISTERI: I know the run.

CHAIR MAMMINA: So you know the drill. And then you'll be all good.

MR. MUNISTERI: Thank you. You guys have a great day.

VICE CHAIR FRANCIS: You too, Mr. Munisteri.

CHAIR MAMMINA: Hold on one second.

MS. WAGNER: Just to clarify, is he submitting new plans to show a --

CHAIR MAMMINA: That on 84.0, the elevation has a gable -- has a gable end now, and he'll hip that end, you know, instead. If you want to mark it on here, you can.

MR. MUNISTERI: It's going to be

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Appeal # 21191
reflected on all the drawings.

MS. WAGNER: Once again, upon
submission of those plans, the Board will not be
able to make a decision until at least the next
hearing date.

MR. MUNISTERI: Understood.

MS. WAGNER: And then if it's
submitted after that date, will be the following.

MR. MUNISTERI: You'll have it
tomorrow.

MS. WAGNER: That's a possibility that
they'll make a decision.

MR. MUNISTERI: I can also deliver
them by hand to their homes if you like. I'm
joking. Thank you.

CHAIR MAMMINA: Thank you. Okay.

1 Appeal # 21192

2 MS. WAGNER: Next Appeal #21192.

3 Michael Rashti; 7 Secor Drive South, Port
4 Washington; Section 5, Block 78, Lot 24; in the
5 Residence-A Zoning District.

6 Variances from Section 70-28 and
7 70-102.C(5)(b) to construct an enclosed porch that
8 covers too much of the property, and spa equipment
9 that is too close to the side and rear property
10 lines.

11 CHAIR MAMMINA: Having heard the
12 Application, anyone other than the Applicant?

13 (No response.)

14 CHAIR MAMMINA: Okay. Not seeing
15 anyone. So, please -- yeah, yeah.

16 MR. NICOLAIDES: Good morning,
17 Commissioners. It's nice to see you in person this
18 time without the Zoom call and the shields and
19 everything else, so it's a little more personal.

20 I -- unfortunately, the owner who
21 intended to participate, thinking it was a Zoom
22 call, is out of state. So if you don't mind, I'm
23 going to call him just so he's available to me in
24 the event that there's any questions, and I'll just
25 have him quietly on the phone, just in case anybody

1 Appeal # 21192

2 needs him.

3 CHAIR MAMMINA: That's fine.

4 MR. NICOLAIDES: All right. Michael,
5 just stay tuned in case we need you. Yep. We're
6 good. Okay.

7 Again, good morning. My name is Harry
8 Nicolaides, N-I-C-O-L-A-I-D-E-S.

9 PHONE SPEAKER: Michael, just stay
10 tuned in case we need you.

11 MR. NICOLAIDES: Get rid of that.

12 I'm representing the owners, the
13 Rashtis. Our firm is N2design & Architecture, PC.
14 We're located at 315 Main Street, Port Washington,
15 New York.

16 I distributed a package that will be
17 our presentation today, so this way you could
18 follow along with it, along with two letters of
19 support. The letters of support are the affected
20 house immediately next to the variance matters of
21 the proposed screened porch and the pool equipment
22 and also the home behind them that would be
23 affected by the rear yard setback at issue.

24 There are two matters that we're
25 really before you for, the lot coverage, which by

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2 screening the porch, we actually already have the
3 approval for the open porch, and it's actually well
4 into construction. But by putting screens on the
5 same porch, we now have to count it into the lot
6 coverage, which we didn't before, which now brings
7 us over.

8 The other matter is located pool
9 equipment -- it's actually not pool equipment; it's
10 a hot tub that are setback behind the minimum
11 10-yard setback -- 10-foot setback of the rear
12 yard. So those are the two matters before us.

13 The first page in our presentation
14 highlights where these two matters are located.
15 There's a gray area where it says proposed screen
16 porch, and that is already existing. And then we
17 highlight underneath the pool equipment that's
18 closer to the rear yard. We'll cover these one at
19 a time, and so we can understand the reason we
20 are -- feel there's a reasonable request for a
21 variance.

22 If you can go to page 2 of -- the
23 other image is the front of the existing house,
24 just as a reference. The second page depicts our
25 proposed, approved and now well under construction

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2 design for the home. It's a renovation to an
3 existing house. You can see the photo -- the
4 images on the bottom show the open porch that's now
5 built with a roof, and it's opened virtually on
6 three sides. And because it's open on three sides,
7 it is allowed to have a roof and not count towards
8 lot coverage. The next slide has both the
9 elevations of the proposed and approved rear porch.
10 And then underneath, the side view of the same.
11 And these have been approved by the Building
12 Department.

13 Page 4 shows the now same porch with
14 the screens on it. Now, the conversation here is
15 pretty simple. Our client met with us. We talked
16 about giving them an open porch along with other
17 renovations, and they all fit within the lot
18 coverage that is within this property. The
19 property is a little tight, they're downsizing from
20 a much larger home. And, frankly, their larger
21 home had a screened porch that they loved for 32
22 years.

23 So he casually mentioned to me one
24 day, well, we're going to screen it. I said, oops,
25 you can't screen it. The same exact porch that the

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2 North Hempstead Zoning allows to exist, once you
3 put screens on it, is no longer allowed within the
4 lot coverage exemption. So that's really why we're
5 here.

6 CHAIR MAMMINA: There's a lot coverage
7 exemption.

8 MR. NICOLAIDES: Well, the lot -- it
9 doesn't -- this is -- this is North Hempstead, by
10 the way.

11 CHAIR MAMMINA: Okay. Well, I'm
12 learning something.

13 MR. NICOLAIDES: Yeah, I always come
14 to you with things that aren't typical because the
15 typical things we don't need to come here for.

16 But in the unique phrasing of North
17 Hempstead Zoning, if you take the same exact porch
18 that's not part of your calculations for lot
19 coverage and you put screens on it, it then counts
20 as part of -- effectively part of the living area
21 of the house. And --

22 CHAIR MAMMINA: Okay.

23 MR. NICOLAIDES: -- it was a new one
24 by me too. Please.

25 CHAIR MAMMINA: -- floor area --

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2 MR. NICOLAIDES: We have the floor
3 area coverage --

4 CHAIR MAMMINA: No, no. I'm just
5 saying it's something that I have to look at on my
6 own time.

7 MR. NICOLAIDES: And by all means.

8 CHAIR MAMMINA: Because I can see.

9 MEMBER GOODSELL: By putting screens
10 on this open porch where you can walk out the door
11 and you can walk out into the backyard. By putting
12 screens there's no -- they're restricting
13 themselves. There's no outside egress from that --

14 MR. NICOLAIDES: We have a door.

15 MEMBER GOODSELL: There's a door?

16 MR. NICOLAIDES: Yeah, there's a
17 door -- so, yeah, and absolutely you're right, we
18 need to be able to get out. But the intent really
19 is not to let the bugs come in, this house is, you
20 know, within view of the water. And they're a
21 little concerned, you know, in their new lifestyle,
22 this is going to be, you know, an issue of comfort.
23 So that's the first matter, and we'll go back to
24 it, but let me at least address the second matter
25 while we're here.

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2 What else is unique about this
3 property -- and if you can go to page 5. Page 5
4 just summarizes the lot coverage. Again,
5 originally, prior to the screening of the porch, we
6 had literally 9.85 square feet remaining. You can
7 see we built to the limit of what was allowed, and
8 by now calculating it as a porch with screening,
9 we're at 225 square feet over the lot coverage.
10 Same porch, same place. So we wanted to at least
11 be clear. Everything else we've satisfied in the
12 zoning.

13 The next page, 6 of 9, really it's
14 there as a reference. This is the home they're
15 currently living in for the last 32 years. It's in
16 Port Washington where they're enjoying the screens
17 on their porch, and this is what they really wanted
18 to replicate, moving here and downsizing and making
19 this really their final home. They're retiring and
20 really want a much more affordable place to spend
21 their final years in Port Washington.

22 Page 7 addresses the setback matter
23 regarding the pool equipment.

24 (CROSSTALK.)

25 CHAIR MAMMINA: It's confusing.

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2 MEMBER DONATELLI: It is confusing.

3 Let me take a look.

4 MR. NICOLAIDES: Page 7, if you can go
5 to that. So we can take a look at the
6 dimensionals. What's really unique, again, about
7 this property is directly behind them, there's a
8 small access road for members only that belong to
9 Manhasset Bay Estates to get to their beach. So
10 there's actually no home behind them.

11 The real distance behind them to the
12 rear -- to the end of the rear yard of the
13 immediate neighbor behind them is actually 21 feet,
14 9 inches. Again, because of the unique nature of
15 this property, their -- the stockade fence that's
16 there, the screening, the homeowners ask can we put
17 the pool equipment rather than ten feet from the
18 rear property line, 5-foot-5 from the rear property
19 line. As I said, for all practical matters, it's
20 actually almost 22 feet from the property behind
21 them.

22 Now, we did get a letter of support in
23 your packet from that rear neighbor with absolutely
24 no objections. We also got a letter of support
25 from the immediate neighbor to the left, which

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2 would be again adjacent to the pool equipment and
3 the enclosed porch or the screened porch, offering
4 no objection and support.

5 VICE CHAIR FRANCIS: And the setback
6 with regard to the side neighbor is?

7 MR. NICOLAIDES: We are satisfying
8 that. When we first submitted it was 9-foot-6, we
9 moved it to 10. It was silly on our part. For
10 6 inches, why an argument?

11 If you can go to the next photograph,
12 it's page 8, it puts things in context. You can
13 see the aerial image that's attached. The dotted
14 lines that show that access road and you can see
15 how far away the rear of the property behind them
16 is.

17 That's the image on top. And then two
18 images below actually show you both the stockade
19 fences and that access road we were referring to.

20 MEMBER GOODSELL: So part of your
21 Application then is to move the stockade -- the
22 existing stockade fence back it looks like.

23 MR. NICOLAIDES: We're simply
24 replacing it.

25 MEMBER GOODSELL: Okay. Because I see

1 Appeal # 21192

2 the existing stockade fence, and then I see
3 proposed existing stockade fence.

4 MR. NICOLAIDES: We're actually
5 putting a second one because the one behind them
6 isn't theirs.

7 MEMBER GOODSSELL: Okay.

8 MR. NICOLAIDES: And we're telling you
9 we're double-protecting this from any view, any
10 noise, any impact. And that's all as of right
11 along with landscaping that they intend to do for
12 themselves on their side of the fence.

13 And the last page, just for reference,
14 and again speaks a little bit of the homeowners.
15 They're long-time Manhasset residents -- I'm
16 sorry -- Port Washington residents. The first home
17 was at 9 Mural Road; the second home was 11
18 Terrace. These are beautiful old homes, and the 1
19 Plum Beach Point Road is the home that they're
20 currently in for the last 32 years. And that's
21 where -- this one is their last stop, hopefully,
22 for many years to come.

23 MEMBER DONATELLI: Right. So the
24 photographs that appear on page 9 are the
25 Applicant's prior --

1 Appeal # 21192

2 MR. NICOLAIDES: Correct.

3 MEMBER DONATELLI: -- home. They're
4 not instances that have come before this Board?

5 MR. NICOLAIDES: They're simply here
6 to show you that -- the lifestyle and the
7 commitment of this family to Port Washington.

8 CHAIR MAMMINA: Okay.

9 MEMBER DONATELLI: The enclosed porch,
10 will it be heated?

11 MR. NICOLAIDES: There is radiant heat
12 that we're putting in even when it was an open
13 porch, simply because for their comfort. They
14 really like porches. I don't know how else to
15 describe it, but...

16 CHAIR MAMMINA: I guess where I was
17 confused before, but I just think if -- I know you
18 very well as an architect. I mean, you're a very
19 smart guy. And I guess where I was confused before
20 was that I was understanding you to say that --
21 that the porch did not count as lot coverage.

22 MR. NICOLAIDES: When it was open with
23 no screens on the perimeter.

24 CHAIR MAMMINA: So then, I'll still
25 have to check that just for my own brain.

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2 MR. NICOLAIDES: Yeah, believe me, we
3 went back and forth with the Building Department a
4 few times --

5 CHAIR MAMMINA: That's very odd.

6 MR. NICOLAIDES: -- because it was odd
7 to us.

8 CHAIR MAMMINA: That's very odd.

9 MR. NICOLAIDES: And as I said, we
10 have a permit. And the porch is basically built
11 until the conversation about screens came up.

12 CHAIR MAMMINA: Right. Got it.

13 MR. NICOLAIDES: And that's what
14 brings us here.

15 MEMBER DONATELLI: And will the
16 screens -- will there be a potential to enclose it
17 with glass?

18 MR. NICOLAIDES: I suppose the
19 potential for anything exists. But their intention
20 is to use little clips so they can take them off as
21 needed, the screens.

22 MEMBER DONATELLI: So it's just going
23 to be screens?

24 MR. NICOLAIDES: Right, exactly.

25 CHAIR MAMMINA: No glass.

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2 MR. NICOLAIDES: And listen, they
3 could have popped screens in here and never told
4 anybody, but that's not the nature of this client.
5 Once we made it clear to them that this did require
6 variance, we're here to make sure it's done to code
7 and correctly.

8 I suspect nobody would have ever been
9 the wiser if they had just put screens in, but
10 that's -- that's not our style. It's not their
11 style.

12 CHAIR MAMMINA: Right.

13 MEMBER DONATELLI: Any other
14 questions?

15 MR. NICOLAIDES: Perhaps in the
16 future, that may be a matter of the zoning that
17 could be looked at, honestly.

18 MEMBER DONATELLI: It's interesting.
19 Well, as the Chairman said --

20 (Sidebar conversation.)

21 MEMBER DONATELLI: As I started saying
22 -- as the Chairman said previously -- I'm going to
23 paraphrase -- it's always good to learn something
24 new, and I appreciate your bringing that to our
25 attention. We never stop learning.

1 Appeal # 21192

2 MR. NICOLAIDES: My pleasure.

3 MEMBER DONATELLI: Life lessons.

4 While I am typically reluctant to allow a variance
5 on lot coverage, there really is -- this is a space
6 that is now going to have screens that previously
7 did not have screens. And the radiant heat was
8 already approved as part of the open porch.

9 Forgive me before I go down that road,
10 though, did we address the spa equipment?

11 MR. NICOLAIDES: I've addressed it.
12 If you have any questions regarding, it was
13 simply --

14 MEMBER DONATELLI: You don't have any
15 questions for that?

16 MEMBER HERNANDEZ: Unique
17 circumstance. The purpose was to keep it away from
18 the neighbor; and the road, the road keeps it away
19 from the neighbor.

20 MR. NICOLAIDES: We're keeping it
21 21 feet 9 inches from the property line of the
22 neighbor.

23 MEMBER DONATELLI: So, therefore,
24 continuing with my comments then, I make a motion
25 that we grant the Application as proposed.

1 Appeal # 21192

2 MEMBER GOODSSELL: Well, I would second
3 it because it seems that you can't do anything
4 about the lot coverage by half screening the porch,
5 all or anything.

6 MR. NICOLAIDES: It's a little bit of
7 "almost pregnant."

8 MEMBER GOODSSELL: Exactly. And it
9 doesn't seem that we could come back to you and say
10 you can't have a screened porch because it exceeds
11 lot coverage, half screen the porch because it
12 makes no sense. It makes absolutely no sense, so I
13 second the motion.

14 CHAIR MAMMINA: All right. We have a
15 motion by Member Donatelli and a second by Member
16 Goodsell.

17 Please poll the Board.

18 MS. WAGNER: Member Goodsell.

19 MEMBER GOODSSELL: Aye.

20 MS. WAGNER: Member Hernandez.

21 MEMBER HERNANDEZ: Aye.

22 MS. WAGNER: Member Donatelli.

23 MEMBER DONATELLI: Aye.

24 MS. WAGNER: Vice Chairman Francis.

25 VICE CHAIR FRANCIS: Aye.

1 Appeal # 21192

2 MS. WAGNER: Chairman Mammina.

3 CHAIR MAMMINA: Aye.

4 The Application is granted.

5 MR. NICOLAIDES: Thank you all. I
6 appreciate your help, and I'll bring another new
7 twist in the future.

8 MEMBER DONATELLI: Not too many in one
9 day, please.

10 MR. NICOLAIDES: Exactly. I'm not
11 sure I could handle it either.

12 CHAIR MAMMINA: My brain goes on
13 overload.

14 MR. NICOLAIDES: Thank you so much.

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1 Appeal # 21193

2 CHAIR MAMMINA: Thank you.

3 Ms. Wagner, would you please call the
4 next appeal?

5 MS. WAGNER: Appeal #21193. Robert
6 Wong; 69 Roger Drive, Port Washington, Section 5,
7 Block 161, Lot 50; in the Residence-C Zoning
8 District.

9 Variances from 70-51.A and 70-52 to
10 legalize a rear deck that is too close to a side
11 property line and too close to a rear property
12 line.

13 Just for the record, there has been
14 correspondence submitted to the record and shared
15 with the Applicant.

16 And are you Mr. Wong?

17 MR. WONG: Yes, good morning.

18 MS. WAGNER: Some additional
19 correspondence did come in yesterday that I will
20 forward to you as well.

21 MR. WONG: Sure.

22 MS. WAGNER: Similar to what has
23 been --

24 MR. WONG: Absolutely, absolutely.

25 MS. WAGNER: Is there anybody here?

1 Appeal # 21193

2 CHAIR MAMMINA: I'm sorry. You heard
3 Appeal 21193; Robert Wong.

4 Is there anyone in the room interested
5 in the Application other than the Applicant?

6 (No response.)

7 CHAIR MAMMINA: Seeing no one, please
8 give your name and address.

9 MR. WONG: Good morning. My name is
10 Robert Wong, 69 Roger Drive, Port Washington, New
11 York 11050.

12 So good morning. Thank you for
13 allowing me to share my appeal to apply for a
14 variance for my existing deck --

15 CHAIR MAMMINA: I'm going to apologize
16 for interrupting you.

17 MR. WONG: That's okay.

18 CHAIR MAMMINA: I don't like to do
19 that.

20 Ms. Algios, could we just speak with
21 you and Ms. Wagner for a second.

22 (Whereupon, an off-the-record
23 discussion was held.)

24 CHAIR MAMMINA: Okay. My apologies.
25 If you want to give it a startover again, you know,

1 Appeal # 21193

2 that's fine.

3 MR. WONG: Absolutely, absolutely.

4 Good morning, again. Thank you for
5 allowing me to share my appeal to apply for
6 variance for an existing deck. The request
7 consists of asking for a variance of 36 inches,
8 which is about 3 feet in the side of the home off
9 the deck and two feet in the back of the home. The
10 existing deck.

11 As you will see in my answer will
12 support my request for this variance. This deck
13 was built in 1998 specifically, submitted in the
14 Building Department were plans showing that it was
15 installed.

16 My architect, Schneider Architectural
17 Works have submitted a request for a variance
18 stating that the lot is situated at the end of a
19 cul de sac which is an irregular lot and, as such,
20 is an irregular shape. The irregularity is
21 creating a tight condition on the side yard where
22 the deck is located. In addition, the house is
23 further than the neighboring houses, as shown in
24 the survey, creating a tighter rear yard
25 constraint.

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2 We ask that you approve this variance
3 for the side yard of 2.66 feet, which is very
4 minimal. 5 feet minimum required by code and the
5 rear yard of 11 and a half feet, which is 12 feet
6 required by code, which is only a half a foot,
7 6 inches, for the existing wooden deck.

8 In addition to that, I have a picture
9 of the front of the home which shows that the deck
10 does not obstruct any views from the front of
11 the --

12 MEMBER HERNANDEZ: You want to hand
13 that up to us?

14 MR. WONG: Yes, absolutely.

15 So it's in the back of the home.
16 It's -- the landscape is meticulously cared for.
17 The home is used as a rental for the last 21 years.
18 My high-end clients are cared for meticulously.
19 The typical clients I have, whether they're CEOs,
20 CFOs or just entrepreneurs who want the lifestyle
21 of Port Washington.

22 In addition to that, the lot is
23 situated at the end of the cul de sac, as such is
24 an irregular shape. The irregularity is creating a
25 tight condition aside, which I just mentioned. And

1 Appeal # 21193
2 as the deck was installed 23 years ago in 1998,
3 behind the home, this deck is not available from
4 the homes across Main Street to the main cul-de-sac
5 of the cul-de-sac since the purchase of the home
6 over 20 years ago.

7 This home is also a house that creates
8 revenue for me. This is my main revenue stream.
9 I'm a licensed realtor. I'm a licensed property
10 manager. And this is one of the main reasons why
11 the property is taken care of very meticulously.

12 And what I'm requesting a minor
13 approval for a variance for three feet, or three
14 and a half feet and two and a half feet on the
15 side.

16 Here's -- here are the -- here's
17 another exhibit, the actual plans that were
18 submitted back in 1998 of the deck.

19 MEMBER GOODSELL: Mr. Wong, it's not
20 visible to me, what is directly behind that
21 property? What is that green area that seems big
22 there?

23 MR. WONG: That's a good question.
24 Behind the property is Lions Field. So what we
25 have about 50 feet of trees and forests and the

1 Appeal # 21193

2 gray, and then it feeds into the baseball field.

3 MEMBER GOODSSELL: And then behind your
4 property, there's a downhill?

5 MR. WONG: Yes, there's a downhill.
6 Yes, there's a slope, correct.

7 MEMBER GOODSSELL: Okay.

8 MR. WONG: And here's a copy of the
9 application that was built in 1998. It has not
10 been modified since 1998.

11 MEMBER GOODSSELL: Let me take a look.

12 (Sidebar conversation.)

13 CHAIR MAMMINA: May I ask again if
14 there's anyone else who wanted to speak on the
15 Application, just so we're sure.

16 (No response.)

17 CHAIR MAMMINA: Okay. Seeing no one.

18 MEMBER GOODSSELL: There were several
19 oppositions that were submitted that were read.

20 CHAIR MAMMINA: Letters, strictly
21 letters.

22 MR. WONG: I know my neighbors very
23 well.

24 MEMBER HERNANDEZ: In the last case,
25 there was a natural buffer behind the house and

1 Appeal # 21193

2 doesn't affect any neighbors.

3 MEMBER DONATELLI: So, Mr. Chairman,
4 as you previously mentioned, we are called upon by
5 statute to do a weighing test. And, certainly,
6 I've heart the Applicant's Application this
7 morning. We've also reviewed the file that was
8 submitted with the Application. I know that there
9 was some opposition from some of the neighbors, and
10 I've gone over that and I've taken that into
11 account.

12 Still, I personally am in favor of
13 this application. There is a substantial buffer
14 due to where the house is situated. I would note
15 that it is an irregularly-shaped lot and that the
16 lot does come in so that the setback is really --
17 the variance pertains to the setback as the lot
18 comes in.

19 But I feel that because of the siting
20 of the property and its proximity to Lions Field
21 and the buffer, I do believe that I'm in favor of
22 granting the Application.

23 So I make a motion that we grant the
24 Application.

25 CHAIR MAMMINA: We have a motion from

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Appeal # 21193

Member Donatelli. Do we have a second?

MEMBER GOODSSELL: I will second.

CHAIR MAMMINA: We have a second from
Member Goodsell.

Please poll the Board.

MS. WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

MS. WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

MS. WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

MS. WAGNER: Vice Chairman Francis.

VICE CHAIR FRANCIS: Aye.

MS. WAGNER: Chairman Mammina.

CHAIR MAMMINA: Aye.

So the Application regarding the deck
is approved.

MR. WONG: Thank you very much.

CHAIR MAMMINA: Thank you.

1 Appeal # 21138

2 CHAIR MAMMINA: So, Ms. Wagner, I
3 guess whatever time you'd like to call the next
4 case.

5 MS. WAGNER: Next Appeal, Appeal
6 #21138. George Babayev; 41 Stirrup Lane, Roslyn
7 Heights, Section 7, Block 219 Lot 5; in the
8 Residence-AA Zoning District.

9 Variances from 70-102.C(1),
10 70-102.C(2) (a) [5] and 70-100.1.A to construct a
11 pool forward of a rear building line and
12 encroaching into a side yard, a pool enclosure
13 forward of a rear building line and encroaching
14 into a side yard, and pool equipment in a side
15 yard.

16 CHAIR MAMMINA: You've heard Appeal
17 #21138; George Babayev.

18 Is there anyone in the room interested
19 in the Application other than the Applicant?

20 (No response.)

21 CHAIR MAMMINA: Seeing no one.

22 So I see three of you, you're up here.
23 If all three of you are going to speak, we'll ask
24 that everyone will put their name onto the record.
25 And you're all welcome to speak, just one at a

1 Appeal # 21138

2 time.

3 MR. BABAYEV: Good morning, Members
4 and Chairman. My name is George Babayev. The
5 property at subject is 41 Stirrup Lane, Roslyn
6 Heights, New York 11577.

7 I just want to start out to say that I
8 moved to this property in 2019. I came from a
9 beautiful neighborhood in Jamaica, Queens; Jamaica
10 Estates, actually. And ever since I moved, as we
11 all know, we were hit and struck with COVID. And
12 having grandchildren, living in an apartment
13 building and scattered around, and, you know, not
14 only did I go through it, but we all did, have
15 found it very difficult to see a grandchild stuck
16 in an apartment. And I had to move them into my
17 house and, at that time, decided to move forward
18 and do things where it's convenient and have my
19 property and kids enjoy themselves.

20 Now, as we got older, we understand
21 that we are less interested -- interesting to the
22 younger generation. So I'm trying to modify my
23 living space to make it accommodating, you know, to
24 be a grandfather who is loved and, you know, to be
25 a grandfather to have children want to be around

1 Appeal # 21138

2 them.

3 So with that being said, today I have
4 Jerry -- who is in here -- Cicciari, and my pool
5 developer, Bob from All Island Pool, will speak on
6 my behalf. So thank you very much, gentlemen.

7 MR. CICCARI: My name is Jerry
8 Cicciari, architect. C-I-C-C-I-A-R-I. My office
9 is 120 Hayrick Lane in Commack, New York.

10 I wanted to speak to the Board. Do
11 you want the green cards?

12 CHAIR MAMMINA: Right there, sir.
13 Thank you.

14 MR. CICCARI: I note that there's
15 only four there. Three, as of this morning, still
16 have not responded to the certified mail. But they
17 were duly, personally, sent by -- to all seven
18 residences by myself on March 8th. I think the
19 tag -- the stickers.

20 Do you want the whites also?

21 VICE CHAIR FRANCIS: Yes.

22 MR. CICCARI: Everything is properly
23 submitted as per your requirements. I also have a
24 couple of pictures I'd like to submit in case you
25 haven't seen the property.

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2 The first pictures are actually the
3 back of the house that we normally would call the
4 back of the house because it's actually a side yard
5 because of this unusual shaped property.

6 The second full picture is actually
7 showing the side yard, looking at the rear yard and
8 the area where the pool is going to go.

9 I would like to bring up to the
10 Chairman and the Board -- if you remember, I was
11 here in December.

12 MEMBER GOODSSELL: You were, yes. And
13 we see the plans have been modified.

14 MR. CICCARI: That was the plan that
15 we had submitted, and there was great discussion
16 that we're going to continue to this and make some
17 adjustments. And we did that. Okay. Why we're
18 here today, to come back to show that we eliminated
19 where the pool is located, we eliminated the
20 sitting area, we eliminated the pergola, we
21 eliminated the cabana area. And we moved the pool,
22 which was the bigger question that we had at the
23 other hearing.

24 Because of the unusual site, it's how
25 we're here. We were forced into doing something

1 Appeal # 21138
2 video but just listening. And one of your concerns
3 at that time was that if you ever move a pool
4 around the corner, even though we are staying even
5 with the garage, so it's a technicality, are we in
6 the back or not in the back. But you were worried
7 about a blind spot.

8 So I was at the National Pool Show
9 after it in January, after your meeting, and
10 there's something brand-new. I was shocked. I'm
11 actually offering it to every one of my clients
12 now. It's an artificial intelligence camera that
13 sits up, and it knows the difference between dogs,
14 cats or humans. It also monitors into a panel in
15 your house, and it also monitors into any
16 smartphone, and if it ever senses an adult in the
17 water, it knows when that adult would possibly be
18 struggling. It can differentiate that. It sends
19 out an alert to everybody that's involved. You can
20 have it on every person in your house smartphone.
21 You can have it on a monitor in the house.

22 So in my mind, you did have that
23 concern. And when I saw that, I told the owner
24 that that's something we must add to the project,
25 and that will be included in the actual design for

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2 the safety of the grandchildren that he's very --
3 you know.

4 And I can submit this. This is
5 information on that product that never existed,
6 it's brand-new technology. It's called artificial
7 intelligent, and it's designed only for swimming
8 pools.

9 MEMBER GOODSSELL: That's excellent. I
10 don't know if it will ever replace the required
11 fence or that it will ever replace blind spot. But
12 it's certainly is an addition to a safety feature.

13 MR. DRUCKER: So I thought of this a
14 particular project and what you said, the Board had
15 said at this time, and I'm just trying to help.

16 MR. CICCARI: And with that,
17 Mr. Chairman and Members of the Board, if you have
18 any questions, we're all here to respond.

19 MEMBER GOODSSELL: I must say that the
20 homeowner, I'm looking at the prior plans that were
21 in front of us and the current plans, and our
22 concern with the prior plans was even though you
23 could fit everything in, and you did put it in
24 there, you have made a real effort to comply with
25 what the Board is asking as far as sight lines and

1 Appeal # 21138

2 setbacks are concerned.

3 And I, for one, am impressed that you
4 did listen to the Board and your new plans do show
5 most of what we were looking for.

6 MR. CICCARI: Thank you. We tried
7 very hard.

8 MEMBER GOODSSELL: I'm sure the other
9 Board Members will have other questions for you.

10 MR. CICCARI: Hope not.

11 (Sidebar conversation.)

12 MEMBER GOODSSELL: It says "easy
13 self-installation." The swim cam can be
14 self-installed like a ring doorbell.

15 MR. DRUCKER: Yes. We're going to
16 take care of the installation.

17 MR. BABAYEV: Not by me, I have two
18 left hands.

19 MEMBER GOODSSELL: I'm always amazed
20 when the technology helps us increase safety such
21 as device that lets the homeowner know when the
22 pool water has been disturbed because that also
23 exists.

24 MR. DRUCKER: That probably is that
25 anything can do that. A duck going in. This

1 Appeal # 21138

2 actually will also react to that, but it knows when
3 it's a person. That's the incredible part.

4 VICE CHAIR FRANCIS: It's a great
5 feature.

6 CHAIR MAMMINA: For my grandchildren.

7 MR. DRUCKER: Great.

8 VICE CHAIR FRANCIS: Cool, it's very
9 cool. Okay.

10 MEMBER GOODSELL: Mr. Chairman, I have
11 taken a look at the plans which I have from the
12 last presentation and the current plans. And as I
13 mentioned, I am pleased and impressed that the
14 homeowner has modified the plans to a great extent
15 and has removed some of the items that we indicated
16 were not really agreeable to us and has modified
17 the yard to include better sightlines and to remove
18 the cover over the seating area, the dressing room,
19 the showers, has relocated the pool equipment.

20 And I think the only thing I would
21 like to point out to the homeowner is that this
22 house existed where it is when it was purchased.
23 Okay. This was built this way. This is not new
24 construction. So since it was built this way, it's
25 really not a hardship on the homeowner because the

1 Appeal # 21138

2 homeowner knows what the yards are.

3 And I think, based upon your new
4 plans, in my opinion, I would approve this because
5 this, in fact, creates a more modest yard, which
6 accomplishes some of the same goals that the
7 homeowner wish to do with the original plans.

8 So --

9 CHAIR MAMMINA: Okay. We have --

10 MEMBER GOODSSELL: -- with that in
11 mind, I make a motion that we approve the plans as
12 modified.

13 CHAIR MAMMINA: We have a motion by
14 Member Goodsell.

15 Do we have a second?

16 MEMBER HERNANDEZ: Seconded.

17 CHAIR MAMMINA: Seconded by Member
18 Hernandez.

19 Ms. Wagner, please poll the Board.

20 MS. WAGNER: Member Goodsell.

21 MEMBER GOODSSELL: Aye.

22 MS. WAGNER: Member Hernandez.

23 MEMBER HERNANDEZ: Aye.

24 MS. WAGNER: Member Donatelli.

25 MEMBER DONATELLI: Aye.

1 Appeal # 21138

2 MS. WAGNER: Vice Chairman Francis.

3 VICE CHAIR FRANCIS: Aye.

4 MS. WAGNER: Chairman Mammina.

5 CHAIR MAMMINA: Aye.

6 The Application is granted.

7 And very nice job on the rendering,
8 gentlemen.

9 MR. CICCARI: You made my birthday
10 more pleasant. I can go eat cake now.

11 MEMBER GOODSELL: 39 again?

12 MR. CICCARI: No, I'm celebrating my
13 37th 39th.

14 MEMBER GOODSELL: Okay.

15 CHAIR MAMMINA: There you go.

16 MR. CICCARI: Thank you.

17 CHAIR MAMMINA: I'm 35.

18 MEMBER DONATELLI: So am I.

19 CHAIR MAMMINA: I'm 35.

20 MR. CICCARI: Thank you very much.
21 Have a great afternoon.

22 CHAIR MAMMINA: You too.

23 MEMBER GOODSELL: Very good, very
24 good.

25

1 Appeal # 21194

2 MS. WAGNER: Next Appeal, Appeal
3 #21194. Pietro Calleo; 37 Amherst Road, Albertson;
4 Section 9, Block 122, Lot 1; in the Residence-B
5 Zoning District.

6 Variances from 70-41.B and 70-101.B to
7 construct an addition that is too close to the side
8 property line and a portico that is too close to
9 the street.

10 CHAIR MAMMINA: You've heard Appeal
11 #21194. Pietro Calleo.

12 MR. COHEN: Yes.

13 CHAIR MAMMINA: Is there anyone in the
14 room interested in the Application other than the
15 Application?

16 (No response.)

17 CHAIR MAMMINA: So seeing no one,
18 please give your name and address.

19 MR. KOHAN: Good morning, Chairman,
20 Vice Chairman, Members of the Board.

21 My name is Marcello Kohan, architect.
22 My company name is Delargent Design, which is
23 located in Merrick in 2963 Holiday Park Drive,
24 Merrick --

25 CHAIR MAMMINA: For our reporter who

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2 is on virtually, that last name is, K --

3 MR. KOHAN: K-O-H-A-N.

4 CHAIR MAMMINA: Thank you.

5 MR. KOHAN: Okay.

6 CHAIR MAMMINA: Go ahead.

7 MR. KOHAN: So I've been retained by
8 my client, Mr. Pietro Calleo, the owner of the
9 property, to file an Application for an extension
10 to the eastern side of his house that will include
11 an attached two-car garage and also for the
12 addition of an open porch at the front.

13 As you can see on the drawings that
14 were submitted, you know that there is currently an
15 existing detached garage on that side of the house,
16 which sits about 5 feet away from the property on
17 the eastern side. And we are intending to demolish
18 that detached garage and make room for an attached
19 garage. The zoning pertaining to this property, as
20 you know, it's Residential B. The existing the lot
21 area is 7,306 square feet.

22 CHAIR MAMMINA: Just, Kohan, just slow
23 down one little bit for our Reporter.

24 MEMBER HERNANDEZ: She's typing.

25 MR. KOHAN: Sorry, sorry.

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2 CHAIR MAMMINA: That's quite all
3 right.

4 MR. KOHAN: So should I repeat myself?

5 CHAIR MAMMINA: That's okay. She will
6 let us know.

7 MR. KOHAN: So as I was saying, that
8 neither the proposed lot coverage nor the prepared
9 floor area will represent the problem since the
10 maximum lot coverage allowable is 2,192 square
11 feet, which is the 30 percent required. And the
12 proposed addition will produce a lot coverage of
13 1,566 square feet, which is 21.4 percent of the lot
14 area, which is still way below the maximum allowed.

15 And as far as the floor area goes, the
16 maximal allowed 45 percent, it's a 3,288 square
17 feet, and we are proposing 2,199 square feet, with
18 equivalent to 30.1 percent, which is, again, way
19 below the maximum allowed.

20 Section 70-41.B of the Town of North
21 Hempstead's requires a minimum side yard of 7 feet
22 on a corner lot. Our extension will produce a side
23 yard of 4 feet 5 inches. It is our intention also
24 to have an open porch over the existing entrance.
25 Section 70-101.B of the Town of North Hempstead

1 Appeal # 21194

2 states that an open porch should not encroach more
3 than 5 feet into the required front yard.

4 The existing front yard at that site
5 is 27 feet, 5 inches. And the proposed addition of
6 the porch will make it 23 feet, 5 inches which is
7 less than the 25 feet required. And we believe
8 that both the review side yard for the attached
9 garage and the addition of the small porch will not
10 produce any negative impacts whatsoever on any of
11 the neighboring properties, as they will blend with
12 the existing physical characteristics of the
13 existing houses.

14 So I thank you for your time and look
15 forward to a positive determination.

16 MEMBER GOODSELL: Mr. Kohan, in
17 looking at this property, I don't think I've ever
18 seen a garage in the way the current garage exists.

19 MR. KOHAN: Me neither.

20 MEMBER GOODSELL: And I'm amazed that
21 a car could even fit into it.

22 Do you happen to know how old that is?

23 MR. KOHAN: Yes. The house was built
24 originally in 1946, and there was an original
25 survey. When we did the research, we found

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2 drawings that indicated that the garage was indeed
3 located where it is obviously and separated five
4 feet.

5 CHAIR MAMMINA: If I may, I -- I have
6 the exact same house.

7 MR. KOHAN: Really.

8 MEMBER GOODSELL: Interesting.

9 CHAIR MAMMINA: It was built by Mr.
10 Levitt.

11 MR. KOHAN: This one also.

12 CHAIR MAMMINA: It was a Levitt house,
13 and it was called a Levitt colonial because it has
14 a basement, it has three bedrooms upstairs, and it
15 has a second bathroom on the first floor when you
16 walk in and --

17 MR. KOHAN: Exactly.

18 CHAIR MAMMINA: -- the garage with my
19 little tiny convertible BMW, I had to put the top
20 down and climb out in order to get -- it's only
21 9 feet wide on the outside, and it's barely 9 feet
22 wide on the inside.

23 But I think, at that point in history,
24 and the person that we bought the house from had
25 lived in the house since Levitt had built it. And

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2 he said, back in those days, with these big, long
3 boats of a car, he said even if he pulled the car
4 into the garage, the door wouldn't close.

5 MEMBER GOODSSELL: That's exactly what
6 I was thinking.

7 So I see how impractical the current
8 garage is except for a golf cart. I can't imagine
9 parking in it.

10 MR. KOHAN: Exactly.

11 MEMBER GOODSSELL: What is the setback
12 from the side yard of the current garage, and what
13 is the setback --

14 MR. KOHAN: Actually, the current
15 garage -- I think you -- I believe you do have a
16 copy of the --

17 MEMBER GOODSSELL: I'm looking at the
18 survey, and I'm just trying to --

19 MR. KOHAN: Right now, the detached
20 garage, it's in line with the front of house, which
21 is 27 feet 5 inches. So we're proposing --

22 MEMBER GOODSSELL: That's from the
23 front.

24 MR. KOHAN: From the front.

25 MEMBER GOODSSELL: How about from the

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2 side, is that 9.7, or am I misreading that?

3 MR. KOHAN: No, it is -- let me see
4 the survey.

5 MEMBER GOODSSELL: To the adjoining
6 neighbor.

7 MR. KOHAN: 9.7 feet, 9.7 feet.

8 MEMBER GOODSSELL: Okay.

9 MR. KOHAN: So, obviously, when we
10 propose the new extension, we need to take into
11 consideration the required front setback, so we
12 need to set the garage back.

13 MEMBER HERNANDEZ: I can't read the
14 numbers because they're too small, and I can't blow
15 it up because they fade away.

16 What is the distance between the
17 proposed garage and the side yard?

18 MR. KOHAN: Okay. It is --

19 MEMBER HERNANDEZ: What is the actual
20 setback?

21 MR. KOHAN: The front setback, as I
22 said --

23 MEMBER HERNANDEZ: The side yard.

24 MR. KOHAN: 4 feet, 5 inches. It's
25 supposed to be 7 feet.

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2 MEMBER HERNANDEZ: And the width of
3 the two-car garage is?

4 MR. KOHAN: 20 feet.

5 MEMBER HERNANDEZ: (Indecipherable.)

6 MR. KOHAN: Yes.

7 MEMBER HERNANDEZ: And I don't -- I
8 have to see, it's so hard because when we look at
9 it, we see the house as-is. It depends on how far
10 the neighbor -- the neighbor's garage on the other
11 side.

12 MR. KOHAN: It's on the other side.
13 If you would like, I have a picture of the
14 actual -- the existing front of the house as well
15 as the schematic rendering of it.

16 (Sidebar conversation.)

17 MEMBER DONATELLI: The question has
18 come up, the -- where you are showing the new
19 master bedroom on the second floor, and then the
20 house jogs out for the new two-car garage. Is that
21 width currently the same of the -- of the two-car
22 garage?

23 MR. KOHAN: Actually, in the rear,
24 it's only -- we only proposing a one-story
25 addition. It's not a two-story addition.

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2 And behind the garage it's -- let me
3 tell you a little bit of a story of this. My
4 client are elderly people and they have mobility
5 problems, so they want to have their living
6 quarters and everything on the first floor. So we
7 are -- we are providing behind the garage, a master
8 bedroom with a master bathroom and also for the
9 laundry, so they do have to climb up the stairs to
10 reach the second floor.

11 MEMBER HERNANDEZ: In the side setback
12 for that rear extension, is that the code?

13 MR. KOHAN: Yeah, yeah, yeah. It's
14 7 feet, 8 inches.

15 CHAIR MAMMINA: You see the pyramid
16 that was one of the roof shapes, it was 25 feet by
17 25 feet.

18 MEMBER GOODSELL: So what you're
19 saying the back part --

20 MR. KOHAN: Right, it complies --
21 Exactly, only the garage portion.

22 MEMBER HERNANDEZ: I'm looking at it,
23 but the numbers are so small I can't see them.

24 MR. KOHAN: Yeah, sorry about it.

25 MEMBER HERNANDEZ: So the garage is 20

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2 by 20?

3 MR. KOHAN: 20 by 20, yes.

4 MEMBER HERNANDEZ: So that's the
5 section --

6 MR. KOHAN: That's the section that
7 encroaches onto the required side yard, exactly.

8 MEMBER HERNANDEZ: And the neighbor on
9 that side appears to have some kind of a family
10 room or something there with greenery.

11 MR. KOHAN: But the greenery -- I
12 mean, we -- obviously, there is a fence now and
13 lots of greenery outside as well. So like I said
14 before, it's not going to affect, in any way, our
15 neighbor.

16 VICE CHAIR FRANCIS: (Indecipherable)
17 survey in where your driveway ends. So your
18 driveway appears almost (indecipherable.)

19 MR. KOHAN: That was -- that was
20 existing. We're not modifying the driveway in any
21 way.

22 VICE CHAIR FRANCIS: The driveway
23 appears almost at the property line, meaning that
24 that greenery that's there now is from the street
25 (indecipherable.)

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2 MR. KOHAN: Well, they're both,
3 there's lots of greenery in both.

4 (Sidebar conversation.)

5 VICE CHAIR FRANCIS: All right.

6 Mr. Chairman, having gone over the
7 documentation submitted prior to the hearing and
8 hearing a very good presentation by Mr. Kohan, I
9 would move that we grant the Application.

10 CHAIR MAMMINA: We have a motion by
11 the vice Chairman Francis.

12 Do we have a second?

13 MS. WAGNER: Wait, wait, wait. You
14 gotta let me know for when you're doing that.

15 CHAIR MAMMINA: That's what you get
16 for thinking.

17 MS. WAGNER: I just want to -- the
18 court reporter is saying she's having trouble
19 hearing you. Did somebody make a motion?

20 VICE CHAIR FRANCIS: I did.

21 CHAIR MAMMINA: Yeah, Leslie.

22 Second?

23 MEMBER DONATELLI: Second.

24 CHAIR MAMMINA: We'll give it to

25 Mr. Donatelli --

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2 VICE CHAIR FRANCIS: He was a split
3 second ahead.

4 CHAIR MAMMINA: -- college bowl, you
5 remember that? I used to try to do that when I was
6 in sixth grade.

7 Please poll the Board, Ms. Wagner.

8 MS. WAGNER: This is a motion to
9 grant.

10 CHAIR MAMMINA: Motion to grant. Yes,
11 yes.

12 MS. WAGNER: Member Hernandez.

13 MEMBER HERNANDEZ: Aye.

14 MS. WAGNER: Member Goodsell.

15 MEMBER GOODSELL: Aye.

16 MS. WAGNER: Member Donatelli.

17 MEMBER DONATELLI: Aye.

18 MS. WAGNER: Vice Chairman Francis.

19 VICE CHAIR FRANCIS: Aye.

20 MS. WAGNER: Chairman Mammina.

21 CHAIR MAMMINA: Aye.

22 The Application is granted.

23 MR. KOHAN: I appreciate it.

24 CHAIR MAMMINA: Thank you.

25 And I will say off the record...

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2 (Whereupon, an off-the-record

3 discussion was held.)

4 MS. WAGNER: Chairman, could we take a
5 five-minute break?

6 CHAIR MAMMINA: Sure can.

7 MS. WAGNER: Before we can continue,
8 so we're taking a five-minute recess.

9 (Whereupon, a short break was taken.)

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1 Appeal # 20944

2 MS. WAGNER: Next Appeal #20944.

3 Kevin Earls; 104 Hamilton Drive, Roslyn; Section 9,
4 Block 653, Lot 28; in the Residence-A Zoning
5 District.

6 Variance from 70-29.C to construct a
7 sunroom that is larger than permitted.

8 CHAIR MAMMINA: You've heard Appeal
9 #20944. Kevin Earls.

10 Is there anyone in the room interested
11 in the Application other than the Applicant?

12 (No response.)

13 CHAIR MAMMINA: Seeing no one, please
14 give your name and address.

15 MR. KRUSE: Mark Vincent Kruse,
16 architect. Last name is spelled K-R-U-S-E. I'm
17 with RMB, located at 308 East Meadow Avenue, East
18 Meadow, New York 11554.

19 Good afternoon. I'm here before you
20 this afternoon with Mr. Kevin Earls, who is the
21 owner of the subject property located at 104
22 Hamilton Drive in Roslyn.

23 The request before you is permission
24 for request to construct a sunroom addition at the
25 rear of the dwelling that is larger than permitted.

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2 As you'll see by the lot size calculations, the
3 gross floor area calculation will not allow for
4 construction in a Residence A zone more than 4,000
5 square feet. The dwelling itself has an existing
6 gross floor area of 3,954.42 square feet.

7 The addition, which is a four seasons
8 sunroom, is proposed. It is an addition having an
9 area of 231 square feet, which would bring the
10 total coverage as per the denial upwards of above
11 the 4,000 square feet. By virtue of -- I believe
12 it's -- I believe it's 261 total.

13 The property itself, as you see, is
14 unusual in nature for the Residence A zone. It is
15 quite large. It is larger than the minimum lot
16 area of 8,500 square feet. The parcel itself has
17 17,646 square feet. In instances such as those
18 when the parcel is larger than 14,000 square feet,
19 it's recognized that the zoning would then be
20 regulated under a Residence AA district, which
21 thereby permit a 5,200 square foot total lot
22 coverage.

23 Unfortunately, based on the wedge
24 shape of the property, the minimum side yard
25 requirement is unable to be maintained throughout

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2 the width of the property. You'll note, though,
3 that -- however, that the minimum side yard of 15
4 feet on either side of the dwelling is more than
5 sufficient or substantiated by the rear corners of
6 the parcel, having a southern side yard setback of
7 16.5 feet and a northern side yard setback of 17.5
8 at the corners of the rear of the dwelling.

9 This sunroom enclosure is a
10 preengineered enclosure, manufactured through Four
11 Seasons Sunrooms. It is approximately 12 by 19, it
12 is designed to be unheated, and it is servicing the
13 lower portion of the split-level dwelling. As
14 you'll note, that the property is split-level, so
15 there is a raised portion of the deck that serves
16 the main living area. And this enclosed sunroom,
17 as it would indicate is to be unheated, would be
18 off the slab level of the home, which is directly
19 adjacent to the yard and the masonry patio.

20 Concerning the original construction
21 of the dwelling, the original constructed dwelling
22 was built in 1958, so the established setbacks have
23 been, you know, created as a result of the original
24 construction. As part of this morning's request,
25 I've submitted 12 affidavits or signed consent

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2 forms from the property owners immediately adjacent
3 to the dwelling on both sides as well as across the
4 street from the dwelling.

5 The property is bordered to the rear
6 by the union school district of Herricks. So there
7 is no affected residential parcels to the rear of
8 the property.

9 The overall height of the structure is
10 designed at 10 foot, 4 inches and, as indicated,
11 it's more of three seasons greenhouse, you know,
12 sunroom space as opposed to construction that would
13 even, you know, at this point afford for further
14 renovation or even construction above without
15 complete removal, or, you know, reconstruction.

16 CHAIR MAMMINA: The one-story
17 building, is that like a cabana, or what is in the
18 rear yard?

19 MR. KRUSE: It's a pool house, yes.

20 CHAIR MAMMINA: It's a pool house.
21 Okay. Does that count within the floor area?

22 MR. KRUSE: Yes, it does.

23 MEMBER GOODSELL: Mr. Cruz, would it
24 be fair to say that Four Seasons Sunrooms makes
25 standard size, that it's not possible to shave off

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2 the excess square footage where you're going over
3 the permissible amount by simply changing the
4 dimensions that the Four Seasons doesn't
5 manufacture?

6 MR. KRUSE: They will build increments
7 in modules. However, as indicated, the entirety of
8 the request is for the entire constructed portion.
9 There is no means in which we could have off a
10 portion and still be below the 4,000 square feet.

11 CHAIR MAMMINA: And it's, what,
12 12 feet deep, so 11 on the inside approximately
13 or...

14 MR. KRUSE: Yes, it's approximately
15 1,110 as a projection from the house and 19 feet in
16 width, across the home.

17 CHAIR MAMMINA: We're very, very
18 careful with floor area ratio, and we don't give
19 out a lot of floor area ratio. That is, probably
20 the vast majority are denied.

21 But what I will say here is that the
22 irregular shape of the lot -- let me back up. I
23 mean, if we had the 15-foot side yard, you would be
24 okay because you go to 5,200 square feet based on
25 the size of the lot. The lot is very large.

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2 MR. KRUSE: Well, the lot itself is
3 17,000.

4 CHAIR MAMMINA: Right.

5 MR. KRUSE: So it's well above, it's
6 not more than twice that of a Residence A
7 requirement.

8 CHAIR MAMMINA: And a lot of that
9 jogging, nothing in the back.

10 Because, I mean, if this were, you
11 know, an otherwise conforming lot in all other
12 ways, I think the -- I think the answer would be
13 no. You know, in this case, I mean the floor area
14 that you're adding is in the back of the house, you
15 know, so I could look at this and say, well, you
16 know, the intent of the 15 feet, you know, is you
17 know to take additional bolt that might end up in
18 other parts of the house, you know, and be in
19 there.

20 But, you know, that 15 feet probably
21 happens, you know, about -- I don't know 10 feet
22 away from where the 10 feet is on, you know, on the
23 one side and, you know, maybe even less where the
24 12 feet is on, you know, is on other side. So
25 you're 4 feet off on one side; you're 3 feet, a

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2 little less than that, 3-foot-9 on, you know, on
3 the other side.

4 You know, so that aggregate that, you
5 know, that you would have, you know -- is
6 completely unchanged by the addition of that floor
7 area. But putting that aside, there's no bulk
8 that's being built anyplace else, you know, on the
9 side. And I think that the piece of property is --
10 you know, is unique, you know, and as I've already
11 said, you know, it sits completely within the --
12 within the back of the -- of the house. I don't
13 know. What does anyone else think?

14 MEMBER DONATELLI: I would add that
15 but for something like a side yard setback that is
16 not relatively minor, but for that, this house
17 is -- this lot is oversized, it -- it has less of
18 an impact that it might have been, had this been an
19 ordinary-sized lot, so I personally also would be
20 in favor of granting the Application.

21 A sunroom is not -- it is, by
22 definition, glass. It is, first of all, not seen
23 from the outside. Secondly, it's really light and
24 very -- even if seen from some -- some rear angle,
25 so I would also be in favor.

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2 CHAIR MAMMINA: I would also go one
3 step further in separating this, you know, from --
4 you know, from other potential Applications is that
5 that pool house, if that were a garage, it would
6 not count as floor area.

7 You know, in this case it does count
8 as floor area, you know, so you know, there are --
9 there are a few things that are making this even
10 further unique. And that was a reason why I asked
11 the question as to whether or not it counted as
12 floor area. So, certainly, if we picked that up,
13 let's say is a garage, and we turned it and put it
14 where the sunroom was, it would be significantly
15 smaller than -- the sunroom is significantly
16 smaller than the pool house.

17 MEMBER GOODSSELL: It's really not
18 going to impact the neighborhood in any kind of a
19 negative way. And the lot size, if it were a
20 square lot, it certainly would be -- this could be
21 built almost as of right. So it is an
22 unusual-shaped lot. So I don't have, I will be
23 (indecipherable).

24 MEMBER DONATELLI: So, Mr. Chairman, I
25 make a motion that we grant the Application.

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2 MEMBER GOODSSELL: And I will second
3 the motion.

4 CHAIR MAMMINA: So we -- we have a
5 motion by Member Donatelli and seconded by Member
6 Goodsell.

7 Ms. Wagner, would you please poll the
8 Board.

9 MS. WAGNER: Member Goodsell.

10 MEMBER GOODSSELL: Aye.

11 MS. WAGNER: Member Hernandez.

12 MEMBER HERNANDEZ: Aye.

13 MS. WAGNER: Member Donatelli.

14 MEMBER DONATELLI: Aye.

15 MS. WAGNER: Vice Chairman Francis.

16 VICE CHAIR FRANCIS: Aye.

17 MS. WAGNER: Chairman Mammina.

18 CHAIR MAMMINA: Aye.

19 The Application is granted.

20 MR. KRUSE: Thank you very much.

21 CHAIR MAMMINA: Thank you, thank you
22 both.

23 MR. KRUSE: Enjoy.

24

25

1 Appeal # 21195

2 MS. WAGNER: Next Appeal #21195.

3 Timothy Latchana; 703 Irving Street, Westbury;
4 Section 10, Block 37, Lot 24; in the Residence-C
5 Zoning District.

6 Variance from 70-102.C(5) (a) to
7 legalize a semi-inground pool and pool equipment
8 that are too close to the rear and side property
9 lines.

10 CHAIR MAMMINA: You've heard Appeal
11 #21195 lTimothy Latchana.

12 Is there anyone in the room interested
13 in the Application other than the Applicant?

14 (No response.)

15 CHAIR MAMMINA: Seeing no one, please
16 give your name and address. If both of you wish to
17 speak, just give your name and address separately,
18 and that's all.

19 MS. LATCHANA: Good afternoon,
20 Chairman and Board Members. My name is Alethea
21 Latchana. And I'll spell it, A-L-E-T-H-E-A. The
22 last name is L-A-T-C-H-A-N-A. And this is my
23 husband.

24 MR. LATCHANA: How you guys doing? My
25 last name again, L-A-T-C-H-A-N-A. All right.

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2 MS. LATCHANA: And as we said, we are
3 here for you guys that we would like to -- I'm
4 sorry, I'm nervous.

5 CHAIR MAMMINA: Don't be nervous.
6 Deep breaths. Okay.

7 MR. LATCHANA: Okay.

8 CHAIR MAMMINA: Deep breaths. And
9 just talk to us. I mean, there's no reason for you
10 to be nervous.

11 MR. LATCHANA: All right. Well, we're
12 here to hopefully get this variance to legalize our
13 semi in-ground pool.

14 Starting off on, I guess, a bad note
15 that the pool is already there. In our rush after
16 getting the house, we, obviously -- you know, we
17 wanted to kind of build it up a little bit and kind
18 of enjoy our lives away from the inner city. We
19 went with a company that was recommended to us from
20 our friends in the town of South Oyster Bay. So we
21 used the company, and we're like, okay, we're going
22 with a big company, Three Brothers pool installers.

23 We thought that we adhered to all the
24 codes and they were doing the permit Applications
25 for us when the guy came with the -- he came with a

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2 big yardstick, starting setting the setbacks for
3 the pool and the yard and check the power lines and
4 we had PSEG come in there and do the drop stick
5 test.

6 And so, you know, we thought
7 everything was pretty smooth until we got our
8 violation notice after we installed solar panels on
9 our roof. And so it all came to us as a big
10 surprise, and that brings us here today to
11 apologize, first and foremost, for, you know, going
12 around I guess the entire code.

13 CHAIR MAMMINA: That's fine.

14 MR. LATCHANA: And, pretty much, we're
15 here to do things the right way. We understand
16 that what's done is done; it's in there already.
17 We know that we can do our utmost to follow all the
18 safety guidelines and even go above and beyond.

19 So, you know, we usually have a cover
20 on the pool 24/7, which is either the winter cover
21 for the pool or spring. Summertime, we have other
22 nettings that go over the top.

23 We have a Siberian Husky at home who
24 is very smart, so we already have cameras that
25 overlook the pool. And everything is pretty much

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2 didn't go into your backward to look at your pool.
3 I did drive by.

4 MR. LATCHANA: Right.

5 VICE CHAIR FRANCIS: So the one
6 question I have -- and I don't want to assume
7 anything. I would imagine that you have a
8 rear-yard neighbor.

9 MR. LATCHANA: Yes.

10 MS. LATCHANA: Yes.

11 MR. LATCHANA: We're actually good
12 friends with this -- we're good neighbors. We've
13 been at the property now, I would say, three and a
14 half years. We really haven't had any problems
15 with any of the neighbors around us. Every time we
16 do some sort of construction, including the pool,
17 we let everybody around us know, hey, we're going
18 to do a pool, before we even started on it which
19 was pretty much what we were supposed to do with
20 you guys. We did with our neighbors and everybody
21 was pretty okay with it. Nobody had any real
22 issues.

23 You can't actually see the neighbor's
24 yard and vice versa; they can't see our yard from
25 their backyard because of the fencing that they

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2 have in their property lines. So, you know, it's
3 typically 5-foot fences.

4 MS. LATCHANA: 6.

5 MR. LATCHANA: 6-foot fences in the
6 rear yard. So none of those fences are our own
7 fences, which that's our next step, hopefully, if
8 everything goes well today. We will be putting in
9 the permit Application, which I think they are
10 already in for the fencing in our front yard. And
11 whatever you guys require, we're going to adhere to
12 that without another variance, hopefully.

13 MEMBER GOODSELL: What fencing do you
14 have now around the pool or the pool area?

15 MR. LATCHANA: On the title of our
16 house, it shows chain link fencing. I can tell you
17 guys 100 percent that that fencing no longer
18 exists. Half of the fence is up; I'm not sure what
19 happened to the other half of the fence.

20 MEMBER GOODSELL: So you have a 6-foot
21 fence across the back of the property behind the
22 pool.

23 MR. LATCHANA: Yes, someone has a
24 6-foot fence, correct.

25 MEMBER GOODSELL: And on the side of

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2 the pool the side closest to your neighbors, how
3 high is that fence?

4 MR. LATCHANA: 6-foot.

5 MEMBER GOODSELL: And the fence that
6 you have, I noticed you have a fence next to the
7 garage, and that goes from the garage to the
8 property. How high is that fence?

9 MR. LATCHANA: 6-foot as well. That's
10 a wood stockade fence.

11 MEMBER GOODSELL: Are you aware of the
12 fence height requirements?

13 MS. LATCHANA: So the company that we
14 hired to help us with the variance, they told us
15 that that part of the fence is too high. We didn't
16 know that. But he said if we put the fencing
17 around our whole property for the backyard, we
18 could leave it the height that it is. I guess
19 that's not true.

20 MEMBER GOODSELL: We have regulations
21 on height for fences. But I realized what's in
22 front of us is the pool. When you are in the pool,
23 are there any other fences in your backyard that
24 prevent access to the pool, or is it the whole
25 backyard that's fenced?

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2 MS. LATCHANA: The whole backyard is
3 fenced.

4 MEMBER GOODSELL: Okay. And did the
5 town explain to you the requirement of the fence
6 around the pool?

7 MS. LATCHANA: No.

8 MEMBER GOODSELL: A separate fence.
9 Would you be willing to comply with the Town's
10 requirements for a separate fence?

11 MS. LATCHANA: Of course. But I'm
12 having some trouble. So you're saying that the
13 pool needs to have a fence from the ground up how
14 many feet, or you're talking about on the
15 perimeter?

16 MEMBER GOODSELL: What I'm trying to
17 point out to you is that a pool in the backyard,
18 you may have your backyard completely fenced, but a
19 pool has separate fencing requirements. And what
20 we're asking is whether you're willing to comply
21 with those requirements. The town will go over
22 with you what they are.

23 I don't see any fences on your survey
24 that you presented to the Board other than the
25 fences that go from the front of the house to the

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2 side, from the side and across the back.

3 MS. LATCHANA: Yeah. Of course, we
4 will comply with what is needed.

5 MR. LATCHANA: We have the fence that
6 goes on top of the pool and the separate locking
7 gate. Do you want to?

8 (Sidebar conversation.)

9 MEMBER DONATELLI: May I ask a
10 question. I was listening to your presentation,
11 and I think you said that three brothers came out
12 and they measured and they put stakes in the ground
13 or whatever?

14 MR. LATCHANA: Yeah.

15 MEMBER DONATELLI: Did they tell you
16 they were complying with code?

17 MR. LATCHANA: So, actually -- I'm a
18 contractor myself. I don't really -- I don't often
19 take people's words without doing my own research
20 afterwards. This is the stupidity on my part.
21 When I double-checked what they had told us, which
22 is four feet away from each fence, we thought, oh
23 great, we're in compliance.

24 I looked up the code, and this is the
25 really stupid part, is that I actually looked up

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2 the Town of Hempstead and not North Hempstead, and
3 that's when I got a little tripped up when we got
4 the violation. I was like, this is no problem,
5 we're in compliance, and then we found it was 10
6 feet. So it's really our fault for not looking
7 more into where we purchased it and what town we
8 were living in for the past three years.

9 MEMBER DONATELLI: And when did you
10 have this done?

11 MR. LATCHANA: How long -- when was
12 this?

13 MS. LATCHANA: 2020.

14 MR. LATCHANA: In 2020, in the
15 summertime.

16 VICE CHAIR FRANCIS: Once you got the
17 violation, did you get back in touch with Three
18 Brothers?

19 MR. LATCHANA: Yes, yes, we did.

20 VICE CHAIR FRANCIS: What was their
21 response?

22 MR. LATCHANA: They gave the company
23 that installed the fall, which was Aqua Fiber, and
24 we said, basically, hey, we got a violation. I
25 thought we pulled permits for this, and the girl on

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2 the phone --

3 MS. LATCHANA: Basically said -- I'm
4 sorry -- she said that we should contact a company
5 to help us remove these, like, issues. So we
6 contacted JL Drafting, and that's all they helped
7 us with. And now we've been working with them.

8 VICE CHAIR FRANCIS: You know,
9 unfortunately, you're in a bad position that Three
10 Brothers Pool put you in.

11 MR. LATCHANA: Right.

12 MS. LATCHANA: Yeah.

13 VICE CHAIR FRANCIS: You know, in
14 terms of where you are right now, I'd like to see
15 you present us some evidence of how much it would
16 cost to move this pool.

17 MS. LATCHANA: We already looked into
18 that. It would be well over what we could afford.

19 VICE CHAIR FRANCIS: Could you get
20 that in writing and submit it to us?

21 MS. LATCHANA: Yeah.

22 VICE CHAIR FRANCIS: Because as far as
23 I'm concerned, Three Brothers Pool should be on the
24 hook for whatever it cost to move that pool.

25 MR. LATCHANA: They're going to blame

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2 Aqua Fiber, which is -- those are the guys that got
3 sent out to us to do the excavation, and they
4 pretty much double-checked Three Brothers' word,
5 which is, we're in compliance, and they came there
6 with the marking paint and kind of set everything
7 up for us. Called PSEG, got the drop stick test
8 done. So I mean, I'm not really too sure about how
9 nobody brought it up that this was not --

10 MEMBER HERNANDEZ: The point is that
11 someone that worked on the installation --

12 MR. LATCHANA: Right.

13 MEMBER HERNANDEZ: -- did not do their
14 job right.

15 MR. LATCHANA: They pointed us in the
16 wrong direction.

17 MEMBER HERNANDEZ: And they did their
18 job wrong. Whoever did it, did it wrong.

19 MR. LATCHANA: Right. So I can tell
20 you guys that the installation itself costed us
21 well over \$4,500, plus the cost of the pool, and
22 that was for the initial "let's put the pool in the
23 ground." So I can tell you that it will probably
24 be well over that just to move the pool because now
25 you're looking at breaking up the cement under the

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2 pool. And just my knowledge as a contractor
3 putting it out there.

4 VICE CHAIR FRANCIS: What was the cost
5 of the pool?

6 MR. LATCHANA: The pool costed, I
7 think the total was 11,500 with installation. So
8 you know, I think --

9 MS. LATCHANA: No. That's without --
10 he's wrong. I don't have the paperwork, but I
11 don't have it with me, but I can get it. It was
12 without installation to get it -- the people to
13 come and excavate and actually put the pool in, it
14 was like 5,000, like he said, like \$4,500.

15 MEMBER GOODSELL: Well, I think what
16 the Board is asking you, we know that it will cost
17 money to move.

18 MS. LATCHANA: Yes.

19 MEMBER GOODSELL: Could you give us an
20 estimate from a company that shows how much it
21 would cost to move it back to the 10-foot setback
22 and then you would in be compliance? And we'd,
23 like, see, you know, from an estimate. And we
24 believe your word but from an estimate to see what
25 the dollars and cents are.

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2 CHAIR MAMMINA: Let me ask one other
3 question. An in-ground pool requires a 6-foot
4 fence, and the reason for the 6-foot fence, based
5 on having gone through the Town Board transcripts
6 when that was -- that was introduced sometime in
7 the 1980s. The reason for the 6-foot fence was as
8 a deterrent for kids doing something that was
9 referred to as "pool hopping."

10 Now, I don't know, maybe I was too
11 nice a kid, I never pool-hopped, and then I never
12 even thought about it. They've had a few beers,
13 you know, they go over a lack of a fence or
14 whatever, they roll off into the pool, and, you
15 know, you've got an issue. I'm not even sure, you
16 know, if what I'm saying, you know, makes any sense
17 or I even fully mean it.

18 If we had a 6-foot fence around those,
19 just those two sides, you know, of the pool, to
20 protect, you know, those two areas where it's
21 short, I'm saying it will look completely
22 ridiculous and you provide us with the information
23 that Member Goodsell and Member Francis had, you
24 know -- had asked for, would that be something that
25 you would find acceptable, you know, as a solution

1 Appeal # 21195

2 of us mitigating --

3 MR. LATCHANA: Right.

4 CHAIR MAMMINA: -- the intent of the
5 Town Board?

6 MR. LATCHANA: Well, I mean, in all
7 honesty, whatever you guys would suggest, we would
8 obviously comply.

9 MS. LATCHANA: But we already actually
10 have that pending. We put permits in to put the
11 fence because of what this company told us to do.
12 So we already have the paper going, so we will put
13 in the 6-foot fence, both sides of where the pool
14 corner is right now.

15 MR. LATCHANA: Well, even if you guys
16 wanted the top mount fencing that goes on the outer
17 perimeter of the topside of the pool, I would do
18 that also. We don't really -- looks is not really
19 a thing for us. We're willing to go above and
20 beyond to satisfy any requirement.

21 MEMBER GOODSELL: I think what we're
22 trying to do is we're not trying to create an
23 economic hardship. But, you know, if you pay
24 \$11,000 for a pool and another 5,000 for
25 installation and it costs \$25 to move, we're going

1 Appeal # 21195

2 to take that into consideration. On the other
3 hand, if it costs 10,000 to move, we're going to
4 take that into consideration as well.

5 MR. LATCHANA: Right. We appreciate
6 you guys, you know, but thank you.

7 CHAIR MAMMINA: I have to say, give us
8 the information regarding the, you know -- the pool
9 to the best of your capability.

10 I would also suggest knowing -- and
11 that -- that fence application, you know, if we
12 could see that as well to be certain that that
13 fence is where, you know -- at least in my mind it
14 is, and you know, I'm just one Board member.

15 And Mr. Donatelli has something he
16 wanted to add.

17 MEMBER DONATELLI: I have another
18 request. Do you have a copy of the contract that
19 you signed for the pool?

20 MS. LATCHANA: Yeah, we have --
21 definitely.

22 MEMBER DONATELLI: If you would please
23 make a notation to submit that to the -- to the
24 office as well.

25 MS. LATCHANA: Okay.

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2 MR. LATCHANA: You don't remember
3 that?

4 VICE CHAIR FRANCIS: And off the
5 record.

6 (Whereupon, an off-the-record
7 discussion was held.)

8 CHAIR MAMMINA: So we'll continue
9 this.

10 VICE CHAIR FRANCIS: You don't have to
11 come back. You have to just submit the
12 documentation that we asked for.

13 CHAIR MAMMINA: And I would say, any
14 questions that you have, Ms. Wagner is one of the
15 nicest people on earth.

16 VICE CHAIR FRANCIS: You can believe
17 what she says.

18 CHAIR MAMMINA: Yeah, that's okay.
19 Mr. Pereta, I don't know if I'd called him. I'm
20 not sure.

21 MS. LATCHANA: So when you say --

22 CHAIR MAMMINA: Just call the office
23 if you have any questions.

24 MS. LATCHANA: So when you say "submit
25 that documentation," should we go through the

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2 company or just straight off?

3 CHAIR MAMMINA: Just -- yeah, okay. I
4 wouldn't go back to the company. Give us the
5 original document, whatever the contract was
6 with -- with Three Brothers, and, you know -- and
7 the contract with the pool installer and --

8 MR. LATCHANA: And then we'll call
9 them and get an estimate to move the pool and see
10 what they're going to --

11 VICE CHAIR FRANCIS: Yeah. And
12 whatever you have on the fencing.

13 CHAIR MAMMINA: They're probably not
14 going to give you something in writing. I don't
15 know, maybe they will. They will tell you
16 something on the phone.

17 MR. LATCHANA: I wouldn't even tell
18 them that I'm here today or what I'm doing forward,
19 I'm going to ask as a normal customer what would
20 this cost to do X, Y and can I have a written
21 estimate. I need to borrow money for it. They'll
22 give it.

23 All right. Thank you everybody.

24 CHAIR MAMMINA: Thank you both.

25 Just for benefit of everybody, I think

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2 we're going to do like two more cases and then
3 we're going to take like 15 or 20 minutes just so
4 that we can have a bite to eat.

5 I will say, back in the olden days,
6 I'm here 30 years, I was -- I was only 15 when I
7 came on to the Board, and at the time -- off the
8 record I guess, please.

9 (Whereupon, an off-the-record
10 discussion was held.)

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1 Appeal # 21197

2 MS. WAGNER: Next Appeal #21197
3 Northwell Health (signs); 300 Community Drive
4 Manhasset; Section 3, Block E, Lots 1108-49610, in
5 the Hospital District.

6 Variance from 70-196.D to construct
7 ground signs and wall signs that exceed the
8 permitted number of signs and that are too large.

9 CHAIR MAMMINA: You've heard Appeal
10 #21197. Northwell Health signs. 300 Community
11 Drive Manhasset.

12 MR. SAHN: Good afternoon,
13 Mr. Chairman and Members of the Board.

14 While I begin the presentation, we
15 have a number of representatives from Northwell who
16 are present, and they're going to set up a few of
17 the easels that they brought to show the Board the
18 signs that are proposed this morning. I have two
19 additional -- sorry -- three additional certified
20 mail receipt cards that I would like to present.

21 I don't see the reporter, is the
22 reporter remote?

23 MEMBER GOODSELL: Yes.

24 MR. SAHN: So let me give my --

25 CHAIR MAMMINA: She's actually in your

1 Appeal # 21197

2 office.

3 MR. SAHN: Perhaps so. Michael Sahn.
4 Sahn Ward Braff Koblenz. 333 Earle Ovington
5 Boulevard, Suite 601, Uniondale, New York 11553.

6 As I was saying, I have three
7 additional certified mail returned receipt cards
8 for the mailing of the notices that I'd like to
9 submit. Thank you very much.

10 Also, as the presentation boards are
11 put before you, I will mention that I have received
12 an email from Mr. Howard Herschenhorn, who is
13 president of Fresh Meadow Country Club. I
14 communicated with Mr. Herschenhorn to send him the
15 plans in advance of the hearing in addition to the
16 legal notice. And we have an email chain between
17 us, and the last email that he sent to me states we
18 are a fully supportive of the hospital and have no
19 objection whatsoever to the signs. So I'd like to
20 submit this also for the record.

21 Additionally --

22 MS. WAGNER: This will be Exhibit 1.

23 MR. SAHN: Thank you very much.

24 Additionally, in advance of the hearing, I
25 communicated with Jeffrey Forcelli, who is the

1 Appeal # 21197
2 Petrocelli Pavilion, and some of the signs that are
3 proposed today -- as the Board knows, the building
4 has been designed to accommodate the latest
5 surgical procedures that Northwell offers to
6 patients as well as the most advanced care
7 available as part of the Sandra Atlas Bass Heart
8 Hospital.

9 The signs that are proposed are shown
10 to the Board on these displays. We've also
11 submitted to the Board -- and I hope you have it --
12 a memorandum of facts and law --

13 CHAIR MAMMINA: Yes.

14 MR. SAHN: -- explaining the
15 Application. And we also have a brochure, I think
16 we submitted as well, a handout showing the signs.
17 Likewise, I have additional handouts that I would
18 submit that are ledger-sized to give the Board that
19 much more information about the signs.

20 MS. WAGNER: This will be Exhibit 2.

21 MR. SAHN: Thank you very much. Very
22 briefly, as indicated, we have a notice of
23 disapproval from the Building Department dated
24 December 14th of 2021, and as per the notice of
25 disapproval, we are proposing six institutional

1 Appeal # 21197
2 identification signs and three directional signs
3 where only one would otherwise be permitted, and
4 the signs exceed the 16 square feet allowable size
5 pursuant to the hospital district code.

6 And, of course, over the years, the
7 Board has granted numerous variances to permit the
8 signage that is now at the campus, all of which is
9 in essence beyond what the code would otherwise
10 allow for the North Shore Hospital campus.

11 We have -- let's see. Let me point
12 this out, as I speak, we have a display of the
13 entire building which is under construction from an
14 aerial view, and we have the proposed sign ground
15 signs that are identified in orange on this
16 display. This mimics exactly what the Board has.

17 CHAIR MAMMINA: Just for the record,
18 let the record show that Applicant's counsel,
19 Michael Sahn, along with the representative from
20 Cannon Design, is pointing to the exhibits that
21 illustrate the locations of the signs.

22 MR. SAHN: Would you give your name
23 and address for the record.

24 CHAIR MAMMINA: Hop on over to the
25 microphone.

1 Appeal # 21197

2 MS. KANDIC-CARLOT: Jovana
3 Kandic-Carlot. J-O-V-A-N-A K-A-N-D-I-C, dash,
4 C-A-R-L-O-T.

5 CHAIR MAMMINA: And I knew how to
6 spell that. Address, too, also.

7 MS. KANDIC-CARLOT: Address, 1520 York
8 Avenue; New York, New York 10028.

9 CHAIR MAMMINA: Thank you very much.

10 MR. SAHN: So very briefly, running
11 down, we have the -- would it be better for the
12 reporter if we moved closer to --

13 CHAIR MAMMINA: Michael, if you want
14 to move the easels, if you want to move the easels
15 around in back. That's okay too, we've got
16 those -- we've got those here.

17 Do we have anyone interested from the
18 public who is, you know, who is here? I didn't
19 think so, but...

20 MR. SAHN: So in orange, we have
21 highlighted the proposed ground signs. The first
22 sign is at entrance one, which will be the new
23 entrance sign for the Petrocelli Pavilion. That
24 sign has 86.65 square feet in total area. This is
25 13 feet 4 inches by 6-foot 6 inches. And this will

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2 be an illuminated sign, all the signs. That are
3 proposed for illumination -- thank you -- will be
4 illuminated, generally speaking, between the hours
5 of 5:00 p.m. and 7:00 a.m.

6 CHAIR MAMMINA: Give me one second.
7 There's a young lady there. Is she with you?

8 MR. SAHN: Yes, yes.

9 CHAIR MAMMINA: If not, I wanted to
10 make sure she had one of the packets.

11 MR. SAHN: She is also with Cannon
12 design.

13 CHAIR MAMMINA: Fine, fine, fine.
14 That's all. I'd just like to make sure everyone
15 can see what's being proposed. Okay.

16 MEMBER HERNANDEZ: Are the illuminated
17 signs of the same style that are there now in the
18 rest of the hospital?

19 MR. SAHN: Very similar, very similar.

20 MEMBER HERNANDEZ: So they're
21 following the same pattern.

22 MR. SAHN: And the ground directional
23 signs are similar with the Northwell logo and the
24 Northwell design. So the only sign that we're
25 replacing along Community Drive is at entrance

1 Appeal # 21197
2 number one because we've changed the entrance. The
3 others will remain the same.

4 MEMBER HERNANDEZ: Okay.

5 MR. SAHN: Then we have three
6 directional signs that are located at different
7 points within the campus so that if somebody enters
8 through entrance one of the hospital, they will
9 know where to go for parking and for passenger or
10 patient dropoff. Those signs are 19.5 square feet,
11 6 feet by 3 feet 3 inches. So we have three of
12 those; and, again, they're all depicted on the
13 various diagrams that we've provided to the Board.

14 Then for the Petrocelli Pavilion, we
15 have a first sign, and we'll point to that, which
16 is on the northwest elevation. That sign is
17 99 feet .22 square feet, 99.22 square feet. 3 feet
18 by 33 feet, 4 inches. It's located at 43 feet, 8
19 inches above grade, and it says Petrocelli
20 Pavilion. And we're going to point that out to you
21 on this Board. That's right there (indicating),
22 and individual letters, non-illuminated,
23 non-illuminated individual letters.

24 MEMBER HERNANDEZ: It's the upper left
25 corner, right?

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2 MR. SAHN: That's correct, that's
3 correct. There are no signs facing east. They
4 only phase northwest or somewhat southwest.

5 We also have another sign that is the
6 Petrocelli Pavilion. That's on the west elevation,
7 66.45 square feet. We'll point to that.

8 It will be illuminated and that one is
9 at the 93 feet, 6 inches above grade. That's at --
10 toward the top of the building, which is the
11 recessed part.

12 CHAIR MAMMINA: And that's
13 illuminated?

14 MR. SAHN: That's illuminated. We
15 also have a sign for the Sandra Atlas Bass Heart
16 Hospital. That sign is over the canopy of where
17 the patient or the visitor would drive up to the
18 circular entrance to the hospital. That sign is
19 99.22 square feet, 38 feet 7 inches above the
20 grade. And, actually, above the construction at
21 the prior existing building, there was a very
22 similar sign that was located at this entrance to
23 the hospital number one. So in a sense, this one
24 is a replacement.

25 CHAIR MAMMINA: Mr. Sahn, just for --

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2 location for me is not the word I wanted, but when
3 I enter the hospital now, is this -- is this the
4 same place where that is or...

5 MR. SAHN: This was the same place, if
6 you recall entering an entrance number one before
7 the construction.

8 CHAIR MAMMINA: That's emergency room.

9 MR. SAHN: No. Entrance number two is
10 the ER.

11 CHAIR MAMMINA: So the one I've gone
12 to when my kids were born, is that this one?

13 MR. SAHN: No.

14 CHAIR MAMMINA: Or is that still
15 around --

16 MR. SAHN: I guess it depends on when
17 your kids were born because I had the same great
18 experience at different times.

19 CHAIR MAMMINA: Orientation, I'm just
20 trying to get oriented.

21 MR. SAHN: So this is the most
22 northerly entrance.

23 CHAIR MAMMINA: Okay. Got it.

24 MR. SAHN: So if you are traveling in
25 Northern Boulevard to the LIE, this is the first

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2 entrance you would come to on the left.

3 MS. KANDIC-CARLOT: This is the main
4 entrance to the hospital, and then this one is
5 here.

6 CHAIR MAMMINA: Understood. Okay.
7 Got it.

8 MR. SAHN: The main entry now, which
9 is number 3, which goes to the Monti Pavilion. So
10 this is entrance number one, and just as we had
11 before, there will be a canopy over the entranceway
12 with the Sandra Atlas Bass Heart Hospital.

13 CHAIR MAMMINA: I ask only because
14 there's a portrait of her that's in that other
15 entrance as well.

16 MR. SAHN: Yes.

17 CHAIR MAMMINA: So I'm oriented.

18 MR. SAHN: We also have a sign for
19 North Shore University Hospital on the west side,
20 that's at the higher elevation. It's illuminated.
21 It is a large sign because it's a very large facade
22 and in a large building. It's 645 square feet and
23 at 111 feet above grade. So that's the upper part
24 of the building which is, again, recessed back from
25 the front facade.

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2 CHAIR MAMMINA: That's also very high
3 above the ground.

4 MR. SAHN: Very high. It's similar to
5 the existing sign on the hospital campus on the
6 Monti building, which is at a similar elevation.
7 And I think we can -- we can show you where that
8 one is. But I know the Board is familiar with it.

9 CHAIR MAMMINA: Got it.

10 MR. SAHN: And I think the last sign
11 is again for the Petrocellis to honor that
12 pavilion. It is non-illuminated. This last one is
13 not illuminated. 30 feet -- 38 feet, rather, above
14 grade, 59.57 square feet. And that, again, is on
15 the west facade. And the way the building is
16 situated, it's actually somewhat northwest -- I'm
17 sorry -- southwest. I'm sorry.

18 And those are our signs that we're
19 proposing. Again, we have -- we have the whole
20 architectural team, the facilities team, the
21 executive, some administration present, in case you
22 have any questions.

23 CHAIR MAMMINA: I smile only because I
24 said to Member Donatelli, I would expect no less.

25 MR. SAHN: Thank you. Well, we want

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2 to come --

3 CHAIR MAMMINA: It's important.

4 MR. SAHN: It's very important. And
5 we want to come fully prepared and respect the fact
6 that the Board may have questions and to recognize
7 the fact that it is certainly a very important
8 building.

9 CHAIR MAMMINA: Of course.

10 MEMBER HERNANDEZ: You have,
11 essentially, three types of signs. You have the
12 directional signs in the ground.

13 MR. SAHN: Correct.

14 MEMBER HERNANDEZ: If someone is
15 rushing someone to the hospital, you can get them
16 to where they need to be.

17 MR. SAHN: That's correct.

18 MEMBER HERNANDEZ: You have the signs
19 at the very top of the building where you're
20 approaching from the LIE, which is primarily where
21 you're going to see them.

22 MR. SAHN: That's correct.

23 MEMBER HERNANDEZ: You can see the
24 hospital building up there. There are no homes up
25 there.

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2 MR. SAHN: None at all.

3 MEMBER HERNANDEZ: That's where you're
4 going to be seeing those signs. It's two gold
5 courses and some other office buildings.

6 And you have the middle signs, which
7 are basically above the canopy so that when you're
8 close to the building, you don't have to break your
9 neck to look up so you can find it. So you have
10 the signs that you need to have to identify
11 building that like that and find your way around.

12 MR. SAHN: Yes, that -- precisely,
13 Mr. Hernandez, precisely so.

14 VICE CHAIR FRANCIS: The size of this
15 campus necessitates having this number of signs. I
16 mean, that's really the bottom line. Without the
17 signs, someone comes to the campus, the traffic
18 would be crazy.

19 MR. SAHN: You would not --

20 MEMBER GOODSELL: I've done that.
21 Having driven a family member who refused to allow
22 me to dial 911, and who shall remain nameless, into
23 the emergency room, desperately looking for it. I
24 can tell you that signage is extremely important,
25 particularly for people under stress. And as far

1 Appeal # 21197
2 as I'm concerned, this is a necessary facility for
3 the community and anything that can be done to help
4 the general public locate either the entrance or
5 the building that they're coming in would be --
6 would be agreeable. This is not a tiny, little
7 hospital. This is a huge complex now, so...

8 MR. SAHN: Thank you, yes. And,
9 interestingly, the different signage will be linked
10 to different -- as I understand it, navigation-type
11 protocols. So if you were to need to come and you
12 wanted to put into your phone or whatever,
13 Petrocelli Pavilion or Monti Pavilion, whatever,
14 you would be directed to the exact entrance so
15 there wouldn't be a confusion and you're going to
16 the wrong place, which is part of the reason for
17 this. But, thank you.

18 CHAIR MAMMINA: Anybody else have
19 anything further? Go for it.

20 MEMBER HERNANDEZ: Mr. Chairman, it's
21 a lot of signs, big signs, but it's a large
22 complex, big building. It is also isolated. So as
23 I mentioned before, it's a golf course across the
24 street. It's another golf course south of it, some
25 other office buildings south of it and not much

1 Appeal # 21197

2 MEMBER DONATELLI: Aye.

3 MS. WAGNER: Vice Chairman Francis.

4 VICE CHAIR FRANCIS: Aye.

5 MS. WAGNER: Chairman Mammina.

6 CHAIR MAMMINA: Aye.

7 The Application is granted.

8 MR. SAHN: Thank you very much.

9 MEMBER GOODSELL: Thank you. Very
10 nice diagrams that clearly explain what it is that
11 you're doing.

12 CHAIR MAMMINA: I have a question. If
13 you can't answer, that's okay. I know two major
14 Petrocelli Construction Companies. I was just
15 curious if it's one of those families or whatever.
16 If you're not allowed to say, that's okay. I mean
17 this is a wonderful, wonderful thing that somebody
18 is doing.

19 MR. SAHN: It is that family.

20 CHAIR MAMMINA: Okay.

21 MR. SAHN: Yes.

22 CHAIR MAMMINA: That's good. That's
23 wonderful.

24 MR. SAHN: Thank you.

25 CHAIR MAMMINA: We're very fortunate

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2 to live in a part of world where we have the finest
3 healthcare institutions, both on Long Island, in
4 the city, you know. And this just takes one more
5 and puts it on the map even more so than it is
6 right now.

7 MR. SAHN: Well, believe me, we all
8 share that same thought as do everybody who has
9 worked on this building. And it really is coming
10 out quite magnificent.

11 CHAIR MAMMINA: Yeah, it's beautiful.

12 MR. SAHN: When the finishing comes
13 on, it will -- it will really look beautiful.

14 CHAIR MAMMINA: It's very nice.

15 MR. SAHN: Thank you.

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1 Appeal # 21033

2 MS. WAGNER: Next appeal, Appeal
3 #21033. David Avakian, M.D.; 609 Plandome Road
4 Manhasset; Section 3, Block 28, Lot 298, in the
5 Business-A and Residential-AA Zoning District.

6 Variances from 70-103(B) and 70-103(O)
7 to restripe the existing parking lot and create
8 parking spaces that are too small.

9 CHAIR MAMMINA: You've just heard
10 Appeal #21033 David Avakian, M.D.

11 Is there anyone interested in the
12 Application other than the Applicant?

13 (No response.)

14 CHAIR MAMMINA: Seeing one person, you
15 will have the opportunity to speak, sir, after the
16 presentation.

17 MR. SAHN: Again, for the record,
18 Michael Sahn, Sahn Ward Braff Koblenz, 333 Earle
19 Ovington Boulevard; Uniondale, New York.

20 I'm pleased to present the
21 Application. Today, joining me is Todd O'Connell
22 from the architectural firm of Todd O'Connell
23 Architects. Sean Mulryan, our traffic engineer.
24 And Dr. Avakian is also present in the hearing
25 room.

1 Appeal # 21033

2 If the Board will recall, it was April
3 of last year that we first appeared on this
4 Application, and I don't think Ms. Goodsell was on
5 the Board at the time, but we did appear last April
6 for a very extensive hearing. And, respectfully, I
7 would like to ask that the record from that hearing
8 be incorporated into this afternoon's proceeding.

9 That being said, the issue that came
10 up during the course of that hearing was the
11 configuration of the parking lot.

12 As the Board remembers, there was a
13 prior approval that dated back to 1982 that
14 Mr. Miggetts brought to the Board's attention and
15 mine, frankly, for Dr. Errico, a copy of which
16 should be in the record, and I brought an
17 additional copy to submit to today. Just to be
18 sure we have it.

19 MS. WAGNER: This will be Exhibit 1.

20 MR. SAHN: And the issue that arose
21 was that the proposed parking lot layout that
22 Mr. O'Connell had done for this Application varied
23 from that 1982 approval. And when Mr. O'Connell
24 first presented the plans for the Building
25 Department, the Building Department was not aware

1 Appeal # 21033
2 of the prior approval and looked at the plans for
3 the parking lot and suggested that it be designed
4 to comply to the fullest extent possible with the
5 Town Code in terms of the size of the spots and the
6 configuration of the spots.

7 Likewise, you recall that this parking
8 lot was designated for employees only, and it's so
9 marked and will continue to be so marked if the
10 Board approves the application.

11 Dr. Avakian was submitting his
12 Application at that time, only to make interior
13 alterations to the northernmost part of that
14 building, north of the space that Dr. Errico has
15 for his office and for associated space. The issue
16 was not the number of parking spaces, per se, but
17 rather that the configuration that led
18 Mr. O'Connell and Mr. Mulryan to redesign the
19 parking lot to conform to the greatest extent
20 possible with the 1982 plan.

21 And that what's has been done, and
22 that's why before the Board today, we have a new
23 notice of disapproval that is technically the
24 disapproval of record, and that was issued on
25 January 14 of 2022. And we're asking for a

1 Appeal # 21033
2 variance request of section 70-103(B) with respect
3 to the size of the stalls and the loading zone.
4 And we're also asking for a variance of Section
5 70-103(O). The number of stalls proposed is in
6 compliance with the requirement. We have 23 stalls
7 proposed.

8 I, at this point, very briefly then,
9 since Mr. Mulryan has made further submission with
10 a new traffic report, I would ask him to testify.
11 Mr. Mulryan.

12 MR. MULRYAN: Good afternoon. Sean
13 Mulryan, Mulryan Engineering, 1225 Franklin Avenue
14 in Garden City, New York. I'm going to switch
15 easels here so it will be easier for me.

16 The original Application, as Mr. Sahn
17 mentioned, was for a parking variance for various
18 items, including the fact that we were short on the
19 number of parking spaces required based on this
20 Application. The Application itself has not
21 changed; the configuration of the parking lot has.

22 So what we looked at originally was
23 the municipal parking lots, which are located
24 directly south of the subject site. As Mr. Sahn
25 mentioned, the parking lot is assigned to employees

1 Appeal # 21033

2 only, which goes back to the agreement that was put
3 in place in 1982. So that is subject to employees
4 of these buildings collectively, although not all
5 of the buildings are on the subject site. But they
6 all share common usage of the parking lot in the
7 rear.

8 Add three plans. This is an original
9 layout as it exists today. The parking spaces are
10 not 10 by 20, the aisles' widths are not correct.
11 There are parking spaces that are used via the
12 front entrance. So when the plan was originally
13 prepared, the parking spaces were put in as 10x20.
14 There is modifications made.

15 So this is the configuration that was
16 before the Board in April, and we required a
17 parking variance, only 17 parking spaces are
18 provided on this plan. That is based on the fact
19 that they're 10 by 20, and all of the parking
20 spaces in the driveways were removed. There was a
21 dumpster location which was taken off the plan
22 which the neighbor has asked us to put back in the
23 same location.

24 So those changes are represented in
25 the layout that's before you today, where we were

1 Appeal # 21033

2 able to accomplish 23 parking spaces where 22 are
3 required. We're showing on this site plan,
4 although not including it in the count, an
5 additional space, the handicap space.

6 This is actually a piece of property
7 to our east. So it's a contiguous parking lot, and
8 the driveway is actually located to the property to
9 the east, which is just a sliver of that parking
10 lot. But it also shows the commonality of use of
11 the parking lot. There are two driveways. One
12 essentially acts as entrance; one acts as an exit.

13 The parking spaces were shrunk down to
14 9 by 18, which requires a variance, and we were
15 able to fit more parking spaces in the same space.
16 We provided a fire access aisle, which is required
17 by building code, and that is located near the
18 driveway around the fire apparatus vehicle to get
19 close enough to the building to fight fire from the
20 parking lot. These changes are the sum and
21 substance of what has been changed.

22 Obviously, the variances that were
23 here before the Board today are not for a shortage
24 of parking but basically a configuration. We
25 believe that the configuration that we are

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2 presenting here today is similar in fashion to how
3 the parking lot has been used for numerous years
4 and will not cause any issues internally to the
5 subject site.

6 Again, the previous Application in
7 April looked to comply with the 10 by 20 spacing
8 and other factors that are required by code.
9 However, these parking spaces that are provided are
10 more in keeping with how the parking lot is laid
11 out today, so we believe that has worked for a long
12 period of time and will not cause any issues
13 on-site. And the added benefit is that we get
14 additional parking spaces on the subject site for,
15 once again, the common use of the buildings that
16 are located on the subject site and to the south,
17 which is part of the agreement that was made in
18 1982.

19 If there are any overflow parking,
20 there is two municipal parking lots which were
21 studied as part of our original Application. And
22 so we don't believe that there will be any impact
23 to residential properties that surround the subject
24 site to the west.

25 We are located on a major roadway,

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2 which we are all currently sitting on right now, as
3 the site is right up the block, so I'm sure we're
4 all very familiar with the site.

5 And that's just a summary of the
6 report. A revised report was prepared based on the
7 new denial letter and was submitted to the Board.
8 If there's any questions, I would be happy to try
9 to answer them.

10 MEMBER GOODSSELL: So since I was not
11 on the Board during the last hearing -- I am
12 relatively new, I came on in May of last year.

13 Is this still only employee parking,
14 or is this for the general public and visitors to
15 the building?

16 MR. MULRYAN: The employee parking --
17 I'm going to call it a regulation or agreement, was
18 put in place 1982, just as a -- here's some
19 background. At the last hearing, if we look here,
20 the subject site, the building is the northernmost
21 piece.

22 MEMBER GOODSSELL: I saw that.

23 MR. MULRYAN: There are two other
24 buildings that adjoin that piece. At one point in
25 time, they were all one. When they were split into

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2 different uses or different ownership, an agreement
3 was made at that time that this parking lot would
4 be used in common, even though the spaces were
5 separated, and that it would be restricted for
6 employees only.

7 And as I stated, back in April, we
8 testified to the sufficient parking that's provided
9 within the municipal parking lot, which, again, are
10 located just to the south of the subject site. So
11 there's actually walkways that are through here
12 bringing you right to the building itself.

13 CHAIR MAMMINA: So there is no parking
14 variance, per se; it is the size of the spaces --

15 MR. MULRYAN: Correct.

16 CHAIR MAMMINA: -- and access aisles.

17 MR. MULRYAN: Correct. It's a
18 dimensional configuration of the parking lot. And
19 as I stated, the parking lot is in essence
20 improving but in some ways staying very similar to
21 the configuration that's used today. And,
22 obviously, it will be restriped, and new striping
23 usually provides more clarity. There are fire
24 access lanes which will improve the safety of the
25 subject site, and we believe that the Application

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2 is something that will benefit the site ultimately.

3 CHAIR MAMMINA: So I guess just
4 piggybacking on what Member Goodsell had -- had
5 asked, these would be parking spaces that turn over
6 with what kind of frequency?

7 MR. MULRYAN: Rather infrequently
8 because it is employees of the businesses. So we
9 would anticipate that employees would come in the
10 morning, whether they work a full-day or a half-day
11 shift. Essentially, they would be parked on the
12 subject site for the duration of their shift,
13 however long that would be. Obviously, we have our
14 own employees as part of this subject Application,
15 but there are employees of the other businesses
16 that also share usage of this. There are doctors'
17 offices, so you would anticipate they would come
18 in. At some point, there would be a receptionist,
19 that type of thing. But essentially, we would
20 anticipate it would be a very low turnover, so the
21 size of the parking spaces, again, because they're
22 smaller spaces than what's required by code, these
23 individuals are at the same location. And as you
24 may know, from your own offices, people like to
25 park in the same spot every day and they get

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2 upset -- even though their name is not on it -- if
3 you park in the wrong spot. But they get used to
4 the configuration, and they park in a spot that's
5 convenient for them, and the size of the lot and
6 the size of the aisles is something that they've
7 become accustomed to.

8 Obviously, this is a new use within
9 the center. Again, it's the northernmost part, and
10 it's a small medical office building with a handful
11 of the employees, so we don't feel that from
12 traffic congestion standpoint within the lot, that
13 there will be any issues.

14 CHAIR MAMMINA: Okay. Any other
15 questions of Mr. Mulryan?

16 MR. MULRYAN: Thank you very much.

17 CHAIR MAMMINA: Thank you.

18 Mr. Sahn, anything else?

19 MR. SAHN: No, I think that covers our
20 presentation, and I know Mr. Migatz may want to
21 address the Board.

22 CHAIR MAMMINA: Sure. So Mr. Migatz.

23 MR. MIGATZ: Bruce W. Migatz; Albanese
24 and Albanese, 1050 Franklin Avenue, Garden City,
25 New York. Good afternoon.

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2 You haven't pushed that clock ahead
3 yet, though.

4 CHAIR MAMMINA: You owe.

5 MR. MIGATZ: Nobody noticed that yet.

6 MEMBER DONATELLI: We all know that
7 government works slowly.

8 MR. MIGATZ: Right. I'm here
9 representing 585 Plandome Road, LLC. Dr. Michael
10 Errico is the principal of that. At the outset,
11 Dr. Errico consents to this site plan. But there
12 is some housekeeping I think needs to be done.

13 The -- the 19 -- well, the 1982
14 decision that Mr. Sahn handed up was when the A&P
15 was there. The entire center was owned by one
16 individual. Dr. Errico bought the A&P and the
17 other north and south end remained in single
18 ownership. The south end has since been sold off,
19 so now there are three owners. In 1982, there was
20 a parking variance granted. A Richard Serowick was
21 the owner of the property. And that was based on a
22 certain site plan which, evidently, is not in the
23 Zoning Board's file.

24 Have you found that site plan?

25 MS. WAGNER: Not a stamped copy of the

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2 plans submitted with that decision, no.

3 MR. MIGATZ: It's not in the file. Do
4 you have that file, though?

5 MS. WAGNER: I believe we have the
6 file for appeal.

7 MR. MIGATZ: Not the site plan.

8 All right. Well, what you -- what you
9 are doing here is you are amending that prior
10 decision. And Dr. Errico, 585 Plandome Road, LLC,
11 is not a party to this Application, but I spoke
12 with Mr. Sahn previously and I said that Dr. Errico
13 does consent, and you can work out the
14 housekeeping, to approving this site plan as an
15 amendment to the site plan that was approved by the
16 Board in 1982 that is -- that is the approved site
17 plan as of -- as of record, which is being amended
18 and we consent to that.

19 But also, it has to be made clear that
20 that prior site plan was approved in part --
21 largely in part because of the cross easement for
22 parking. And it's referenced in paragraph 12 of
23 that prior decision. And we will -- we want that
24 to be referenced in this decision, that that cross
25 easement, you know, exists and that, you know, in

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2 your -- in your parking calculations you have taken
3 into account that there is this cross easement.

4 So, you know, Dr. Errico's employees
5 can use this parking lot as well, as well as the
6 employees of the southern building. And I don't
7 know who that owner is, but it's -- it's on the
8 radius map.

9 So we are consenting to amending that
10 prior appeal and adopting this site plan, provided
11 that your decision recognizes the cross easement
12 for parking and provided your decision also
13 recognizes that in that prior decision, there was a
14 condition, condition five that said that the
15 parking area behind the subject premises is
16 restricted to employee parking, truck delivery and
17 the dropping off of handicap patients.

18 We want that to continue as well in
19 this decision and that signs be posted as so
20 indicated. There have been signs there all along
21 that indicate employee parking only. So I think
22 some housekeeping needs to be done, but 585
23 Plandome Road, LLC, consents to this site plan.

24 CHAIR MAMMINA: Okay. And what we
25 will do, I think, is we'll have Mr. Sahn come back

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2 up. And I guess in the sense of clarity and
3 fairness and hopefully trying to make this simple,
4 should Mr. Migatz need to come back up one more
5 time, I think that could be something we want to
6 consider and hopefully won't need to.

7 MR. SAHN: Hopefully won't need to.
8 We certainly couldn't want form to weigh over
9 substance. I think Mr. Migatz and I are saying
10 exactly the same thing. As I said in my initial
11 remarks, we understand this is for employee
12 parking.

13 We understand that it is shared
14 parking, and we understand there are prior
15 easements of record that provide for a variety of
16 different obligations among those who share the
17 benefit of those easements, including maintenance
18 of the parking lot, responsibility for its upkeep,
19 et cetera, et cetera.

20 So I appreciate that my friend
21 Mr. Migatz has appeared today. And I personally
22 think that this Zoning Board decision does not need
23 to reference covenants and restrictions since these
24 are private property agreements among different
25 owners. And, typically, that would not be made

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2 part of the approval of the Board.

3 I think a continuation of condition
4 for employee parking is totally appropriate, and
5 I'm sure that Mr. Migatz and I can exchange letters
6 or documents among our clients as to whatever
7 easement rights they have. But, again, we don't
8 want form to weigh over substance.

9 And we appreciate that was brought to
10 our attention. We've come back, we've come up with
11 what we think is a really good plan to continue the
12 property usage by everybody. So, thank you.

13 CHAIR MAMMINA: From my -- from my
14 perspective, you know, as one Board member, both
15 you and Mr. Migatz are two of the attorneys who I
16 have enormous respect for both in zoning and other
17 in other fields as well. And think that between
18 the two of you, you know, yes, I think the word
19 "friends" is also instrumental in there, should be
20 able to work that out.

21 So, I mean, I don't -- as the
22 architect on the Board, I don't have any problem
23 with moving this today, and unless my legal
24 comrades feel that there's --

25 MS. ALGIOS: Well, I would actually

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2 like to hear from Mr. Migatz, his position as to
3 why the Town would put a reference or a prior
4 agreement in his decision?

5 CHAIR MAMMINA: Okay. Thank you,
6 Ms. Algios.

7 MR. MIGATZ: Well, number one, it is
8 in the decision that you are technically amending
9 and it was in this decision and it was the -- I
10 would say the primary consideration for Dr. Errico
11 getting his medical building approved, because his
12 building has no parking. So the primary
13 consideration of this Board granted Dr. Errico his
14 variance was that cross easement, and that's why
15 it's recognized in the decision.

16 As a practical reason, it should be in
17 that decision so this mistake doesn't happen again.
18 So, you know, architects don't check for
19 restrictive covenants normally. They -- no slight
20 intended. Okay. They don't check for that. All
21 right. They -- so, you know, Todd was unaware of --
22 of this restrictive covenant and this
23 cross-easement.

24 So just like this Board, you know,
25 puts a lot of things in their decisions so that

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people who buy the property, got the decision, okay, you're on notice that is a mother/daughter limited to this or whatever. I think this should be in your decision so that when the next owner, the next architect or the attorney who doesn't do zoning work, just gets a C of O search from the title company and -- okay, we got a parking variance and there's no mention we gotta share that parking.

So it, you know, the restrictive covenant -- cross-easement, not restrictive covenant. The cross-easement -- zoning lawyers look that up -- that stuff up.

And, Michael Sahn wasn't in this in the very beginning, or I'm sure he would have picked up on that.

MS. ALGIOS: Mr. Migatz, isn't that normally the case with easements? I mean, normally, you wouldn't know. Any restrictive covenant is not necessarily part of a Town or Board public Board Zoning decision. But it would be -- isn't that burden on a title company and the attorney to find that?

MR. MIGATZ: No, not at all. And, you

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2 know, in subdivision work, most subdivisions are
3 subject to restrictive covenants and the Planning
4 Board decision always references, subject to the
5 restrictive covenants on file, so that someone who
6 leaves that Planning Board decision is on notice as
7 restrictive covenants. They put it on the map.
8 Okay. So if you get the map you use your notations
9 on the maps subject to restrictive covenants on
10 record.

11 So, you know, title companies -- first
12 of all, they have no liability for doing C of O
13 searches, that's a courtesy. You're paying for a
14 title search. As a courtesy, they do C of O
15 search, and with the disclaimer, you know, this is
16 what was sent to us.

17 So, no, you know -- you know, you get
18 real estate brokers that come down here on behalf
19 of clients. I see them -- when you could go down
20 to the Building Department, you see them there all
21 the time, going through files, pulling out C of Os
22 and going back, here's this C of O. They don't --
23 they don't check for easements or covenants.

24 So you know, this Board in '82 felt it
25 was significant to put that in this decision. You

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2 know, that was the basis of the granting of the
3 variance. And you're really amending this
4 decision -- I don't want that coming out of this
5 decision. I want it to still be of record so that
6 buyers are on notice that -- that there's cross
7 easement for parking and we don't have this mistake
8 happening again.

9 MS. ALGIOS: So here's what I'm going
10 to do: I think we'll reserve decision, if it's
11 okay with the Board, on this. And I hate to do
12 that, Mr. Sahn, because I know your Applicant has
13 been waiting a long time on this, but I want to
14 look into this little bit.

15 You know, it's really my understanding
16 that the town would not get involved with a private
17 agreement, which this really is.

18 MR. MIGATZ: You're referencing.
19 You're not getting involved in it; you're making
20 reference to it.

21 MS. ALGIOS: But by referencing it and
22 putting it in the decision, the Town is getting
23 involved with it.

24 MR. MIGATZ: Well, it's in this
25 decision already.

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2 MS. ALGIOS: I understand that.

3 MR. SAHN: Can I offer -- maybe I can
4 offer a practical solution because it has been 11
5 months since we last appeared.

6 My practical solution is that, I am
7 totally fine if the decision in the sense has some
8 rider that indicates it's amending the 1982
9 decision of the Board and attaches that for
10 reference that 1982 decision references the
11 covenant that Mr. Migatz is referring to. I think
12 that would be fine.

13 My only concern with putting that 1982
14 covenant in addition into the decision is that I
15 believe that, subsequently, it may have been
16 modified or amended. I'm just going by memory of
17 the title report. But I think it would be unusual,
18 in any event, to refer to a document recorded at
19 live or such and such page, such and such. If the
20 1982 decision is referenced and made part of the
21 Zoning Board file, I think that ought to solve
22 everything.

23 MR. MIGATZ: The lady protest too
24 much. What's the problem with having it in the
25 decision?

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2 MR. SAHN: I think if you say the 1982
3 covenant, it will -- the 1982 decision and
4 incorporates that covenant, it's fine. And it may
5 be modified from time to time again. So I just
6 think that is a practical matter.

7 MS. ALGIOS: You're saying without
8 specifically referencing the cross-easement, just
9 referencing the '82 decision.

10 MR. SAHN: Sure. It seemed to me to
11 be a practical solution. But let me say this:
12 It's 11 months since Mr. Migatz -- I don't want to
13 belabor and whatever the title is, the title is.

14 So I think what I've suggested is
15 fine, and I leave it to the discretion of the
16 Board.

17 MS. ALGIOS: Thank you.

18 MR. MIGATZ: You are granting a
19 parking variance based upon a site analysis. Those
20 23 required spaces are just what Dr. Avakian is
21 using. All right. And it's ignoring the fact that
22 there are two other buildings owners who also park
23 in there. You know -- this site plan is ignoring
24 that fact. There's no -- there's no calculations
25 for the entire building as it was in '82. So I

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2 think it's got be made clear.

3 And, again, Dr. Errico, doctor to
4 doctor, does not want to interfere with
5 Dr. Avakian's practice. But there's going to come
6 a time, you know, when people start selling
7 buildings, and this has to be made clear.

8 MR. SAHN: I have a clarification.
9 May I?

10 If I could, I appreciate the Board's
11 patience with us. I had a brief sidebar
12 conversation with Mr. Migatz. I have a -- I think,
13 a solution, which would be that if this -- the
14 Board was to favorably consider the Application and
15 in its decision refer to the 1982 decision that
16 predated this and that this Application amends that
17 decision and the plan, since we can't find that
18 plan, and also references the easement referred to
19 in the 1982 decision in words such as that, I think
20 that would be a solution acceptable to both of us.

21 CHAIR MAMMINA: Okay. Mr. Migatz, we
22 could.

23 MR. MIGATZ: Yeah, we had a very brief
24 sidebar conversation.

25 CHAIR MAMMINA: I saw it was very

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2 brief?

3 MR. SAHN: We don't need a long
4 sidebar.

5 CHAIR MAMMINA: And I trust the two of
6 you. I mean that.

7 MR. MIGATZ: We go back a long ways.
8 We're not trying to hurt anybody here.

9 References 1982 decision and the
10 cross-easement for parking in the decision?

11 MR. SAHN: I'm fine with it.

12 CHAIR MAMMINA: Good?

13 What say you, Deborah?

14 (Sidebar conversation.)

15 MEMBER DONATELLI: Mr. Chairman,
16 having heard -- having reviewed the Application,
17 being well familiar with the property, having heard
18 the Applicant's counsel and also having heard
19 Mr. Migatz on behalf of his client, Dr. Errico, I
20 make a motion that we grant the Application, and
21 within the body of the grant of the Application, we
22 refer to the 1982 prior decision of this Board,
23 indicating that we are modifying it. And in
24 addition, that we -- sorry, I'm going to need some
25 help here.

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2 VICE CHAIR FRANCIS: Make reference to
3 the --

4 MEMBER DONATELLI: Thank you. Make
5 reference to the cross-easement that has been
6 discussed --

7 VICE CHAIR FRANCIS: Contained in the
8 1982.

9 MEMBER DONATELLI: Contained in the
10 1982 decision, and that has also been discussed
11 today.

12 CHAIR MAMMINA: Okay. We have a
13 motion.

14 MEMBER HERNANDEZ: Seconded.

15 CHAIR MAMMINA: Seconded by Member
16 Hernandez.

17 And, Ms. Wagner, please poll the
18 Board.

19 MS. WAGNER: Member Goodsell.

20 MEMBER GOODSELL: Aye.

21 MS. WAGNER: Member Hernandez.

22 MEMBER HERNANDEZ: Aye.

23 MS. WAGNER: Member Donatelli.

24 MEMBER DONATELLI: Aye.

25 MS. WAGNER: Vice Chairman Francis.

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2 VICE CHAIR FRANCIS: Aye.

3 MS. WAGNER: Chairman Mammina.

4 CHAIR MAMMINA: Aye.

5 So the Application is granted as
6 noted. So thank you all.

7 Okay. As I said, the Board is going
8 to take a very brief 15, 20 minutes, that's all,
9 just to eat a sandwich. And we'll be right back.

10 MR. MIGATZ: Do we have the time to
11 grab a slice of pizza?

12 CHAIR MAMMINA: You have the time to
13 grab a slice of pizza.

14 (Whereupon, a lunch break was
15 taken.)

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1 Appeal # 21198

2 MS. WAGNER: Next Appeal, #21198.

3 Mitchell Gold & Bob Williams Home Furnishings

4 (sign); 1900 Northern Boulevard, Manhasset; Section

5 3, Block 220, Lot 1; in the Business-A Zoning

6 District.

7 Variances from 70-196.J(1)(a) and

8 70-196.J(1)(f) to install a second wall sign on the

9 same wall as an existing sign and that is too high

10 above the ground.

11 CHAIR MAMMINA: You've heard Appeal

12 #21198, Mitchell Gold & Bob Williams Home

13 Furnishings.

14 Is there anyone interested in the

15 interested Application other than the Applicant?

16 Seeing one hand up and you'll have the

17 opportunity to speak after the presentation.

18 MR. TIRONE: Scott Tirone. 75

19 Albertson Avenue; Albertson, New York 11507.

20 I do have pictures that I want to give

21 to the Board. I have a copy for everyone. The

22 first picture is of the current building, and then

23 the second picture is of the signs in the immediate

24 area that I'll reference.

25 CHAIR MAMMINA: Okay.

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2 MR. TIRONE: I'm here representing
3 Center Manhasset, LLC, who is the owner of 1900
4 Northern Boulevard. The property is Section 23,
5 Block 220, Lot 1, and it's located in the Business
6 A District. And we are requesting variances from
7 70-196J(1)A and 70-196J(1)F of the Town Code.

8 The sign we are proposing is for the
9 existing tenancy of Mitchell Gold & Bob Williams
10 Home Furnishing, who occupy the second floor at
11 1900 Northern Boulevard. Mitchell Gold & Bob
12 William Home Furnishing currently has a sign that's
13 on page 1, you'll see on the existing elevation.
14 But that sign is being removed and relocated.

15 The reason for it being removed is
16 that area of the building we recently subdivided,
17 so there will be a new tenant coming in there, so
18 the sign is above their space. So the new sign
19 we're going to relocate to the right.

20 MEMBER HERNANDEZ: Are they moving the
21 shop to the right?

22 MR. TIRONE: We're removing that sign,
23 and then we're installing a new sign, right above
24 to where the Charles Schwartz sign.

25 MEMBER HERNANDEZ: I see. But is the

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2 store moving to the second floor of the Charles
3 Schwartz?

4 MR. TIRONE: No. It's already in the
5 second floor of that. Yeah, yeah. So on 1900
6 Northern Boulevard, that address encompasses all
7 the way from the Apple store to all the way to
8 Charles Schwab and the home furnishing store, all
9 is the same address for some reason. But, yes,
10 they already occupy the second floor of that.

11 Yeah, one of the variances
12 70-197.J(1)A is for having more than one sign per
13 elevation. But the problem is there's already an
14 existing tenant, Charles Schwab, on the first floor
15 and our tenant is in the building and would like a
16 sign obviously facing Northern Boulevard for
17 visibility.

18 And the other variance we're
19 requesting is 70-196J(1)F, which is the height
20 variance. If you look at the first picture I sent,
21 the way the front elevation of the building is,
22 there's a lot of glass. Charles Schwab already has
23 a sign. There's really not much real estate left
24 to put a sign other than to go above it. But,
25 again, our tenant is on the second floor, so the

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2 sign would be just above their windows.

3 So on the second page of what I just
4 handed is six examples of stores in the adjacent
5 shopping centers, like the Americana Shopping
6 Center, and they all have signs that are, you know,
7 above the 18 foot requirement. And, again, we
8 would comply if we could, but because of the glass
9 and the other existing sign, there's really no
10 other location to put this new sign.

11 The sign is an illuminated sign. I
12 did speak to the landlord, and it will be on the
13 timer and the timer is going to kick on at
14 approximately dusk, and it will be shut off by
15 approximately 10:00 p.m.

16 MEMBER DONATELLI: What about the
17 location right above the entrance to the building?

18 MR. TIRONE: Hold on.

19 VICE CHAIR FRANCIS: On the same level
20 of Charles Schwab.

21 We have what you gave us of the
22 Americana proper, which is the right next there.

23 MR. TIRONE: Yes.

24 MEMBER HERNANDEZ: And you're right,
25 they're all higher, but there are glass walls. The

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2 only place where you can actually affix the sign is
3 at the upper part of the wall. Now you're asking
4 to stack two signs, one on top of another. That's
5 A completely different situation.

6 MR. TIRONE: Yeah, I mean --

7 MEMBER HERNANDEZ: If the Charles
8 Schwab sign was moved to either the left or the
9 right, and there's plenty of room at that level for
10 the other sign to go.

11 MR. TIRONE: They would have to move
12 the sign. That's the only other option. They
13 would have to move Charles Schwab's sign --

14 MEMBER HERNANDEZ: The center of the
15 sign because they were the only tenant at the
16 building. But they are no longer the only tenant
17 in that building --

18 MR. TIRONE: Well, it's always been
19 two tenants; but, yes, the sign was on the left
20 side there, on that other elevation.

21 MEMBER HERNANDEZ: And, quite frankly,
22 I'm even surprised they even had Mitchell Gold --
23 which have beautiful furniture, by the way.

24 MR. TIRONE: Expensive too.

25 MEMBER HERNANDEZ: I'm surprised that

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2 they are even put that sign up where they had
3 original. You couldn't see that sign.

4 MR. TIRONE: It's not visible.

5 MEMBER HERNANDEZ: If you were
6 traveling from the west, you could see it.

7 MR. TIRONE: You can't see it,
8 exactly. That's why the sign, you know, it will
9 give them higher visibility for sure, facing --

10 MEMBER HERNANDEZ: Right, I agree with
11 them. I think it's not conducive to that shopping
12 center to have that sign.

13 And if you look at -- you gave us that
14 one, but if you look at all the others on that --
15 even on that strip, they are nowhere near up there.

16 MR. TIRONE: Yeah, I was just showing
17 that they are towards the top of the building and
18 above the windows.

19 And, again, I mean the -- I guess part
20 of the placement reason is Mitchell Gold does
21 occupy the second floor, and that's one of the
22 reasons why they're choosing the second floor to
23 put the sign. But if the Board wanted them on the
24 first floor, I could speak to the sign company, but
25 then they would then have to file a subsequent

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2 permit to move Charles Schwab and then redesign
3 Mitchell Gold's to fit in that space, because the
4 sign Mitchell Gold is proposing wouldn't fit along
5 the Charles Schwab --

6 MEMBER HERNANDEZ: One big sign.

7 MR. TIRONE: Yeah, the sign -- it is
8 big. But I did look. It does comply with the
9 requirements of -- you know, due to the size of the
10 front elevation of the building that the sign does
11 actually comply size-wise.

12 CHAIR MAMMINA: I know that it -- it
13 technically has nothing to with the Application.
14 But the rest of the signs, you know, are so much
15 more elegant, and you know -- and they have a very
16 nice product, you know. Please --

17 MEMBER HERNANDEZ: (Indecipherable)
18 they have exactly the same problem.

19 CHAIR MAMMINA: And I really don't
20 mean this to sound as harsh as this will sound, you
21 know, but when I first took a look at it, I say
22 it's like a Bob's Discount Furniture sign. It just
23 didn't -- it didn't have, you know, the elegance
24 that all the signs through there have but --

25 MR. TIRONE: Yeah, it's more a

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2 corporate design, yeah.

3 CHAIR MAMMINA: Yeah. We're not here
4 about design.

5 MEMBER GOODSELL: We all know that
6 when you're driving along this stretch that if the
7 sign was only in the back, I don't know -- I don't
8 know that there is an entrance to the -- the
9 Mitchell Gold & Bob Williams from the front. I
10 think it's only from the back.

11 MR. TIRONE: It's only the back.
12 Yeah, and then you have to take the elevator.

13 MEMBER GOODSELL: You're driving along
14 and you're looking for them to have a sign in the
15 back. That's great. But you're not going to see
16 it from Northern Boulevard.

17 MR. TIRONE: No, you only see it from
18 the parking lot.

19 MEMBER GOODSELL: I can understand why
20 you would want something that's visible and
21 something that you can see from the street. So I
22 am sympathetic to that.

23 And I agree, I don't think the sign
24 that they have, which I saw when I drove by. I had
25 never seen that before.

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2 MR. TIRONE: I didn't either.

3 But, yes, it's tucked away in that
4 corner.

5 MEMBER GOODSSELL: Yeah.

6 MR. TIRONE: I mean, but, again --
7 that's -- that now is going to be a new tenant, so
8 they now have to relocate the sign.

9 MEMBER GOODSSELL: Well, other than the
10 style, the -- there's -- you're going for two
11 variances, one for two signs for different
12 businesses on the same facade --

13 MR. TIRONE: Yes.

14 MEMBER GOODSSELL: -- and then the
15 second for the height.

16 MR. TIRONE: Yeah. The code only
17 allows one sign. I guess Charles Schwab came there
18 first, so they're in there first, so they're
19 established. So now, if another tenant goes in the
20 building, which my client is already in the
21 building, so for them to put a second sign up
22 there, they're considered the second sign on that
23 one elevation.

24 MEMBER GOODSSELL: And I can understand
25 why they would want it on the Charles Schwab

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2 building because when you're driving past a mall,
3 and you see on the outside of the mall signs for
4 businesses there, you just assume that the business
5 is on the other side of the sign, even though it's
6 not, it's just advertising where the signs are.

7 MR. TIRONE: Yes.

8 MEMBER GOODSSELL: So I'm -- as one
9 Board member, I'm very sympathetic to this because
10 I don't see how else they have visibility.

11 MEMBER HERNANDEZ: I have no problem,
12 per se, because it is two different businesses
13 having two different signs. I just think it's --
14 the location, it really bothers me, to be honest
15 with you.

16 MEMBER DONATELLI: Well, I -- to take
17 the opposite position, I would hate to have to
18 require the Charles Schwab would have to move its
19 sign as a result of our trying to now accommodate
20 this other sign. I agree that it -- it's a
21 different kind of design sign, it's a different --
22 visually, I think it's not -- it doesn't mesh well
23 with the Charles Schwab sign. But I would hate to
24 see us require the moving of one sign to put in
25 another sign.

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2 MEMBER HERNANDEZ: I hate doing it
3 also, because here's my problem: If we permit it
4 to do that, then it allows the owner of the
5 two-story building to rent one ground floor,
6 although we're not supposed to have two signs, one
7 stacked on top of the other, rent the ground floor
8 and tell the tenant you can have the middle one,
9 put your sign in the middle because the next one
10 we'll put it up on top, and then they're forcing
11 our hand in allowing the one on top.

12 They should be sharing the space, the
13 banner space. When they rent it, they should not
14 allow them to put it in the middle unless they're
15 renting the whole building, in which case you then
16 can claim the whole building for yourself.
17 Otherwise, the next one (indecipherable.)

18 MEMBER DONATELLI: Charles Schwab was
19 renting the entire space?

20 MR. TIRONE: No, that, I don't know.
21 Mitchell Gold, they've been there the whole time.
22 They just had their sign on the side. Due to the
23 two sign regulations, you can't have another front
24 elevation. They had it on the opposite side.

25 Now that that other space has been

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2 subdivided and there's going to be a tenant coming
3 in there, we had no choice but to put in a permit
4 to relocate and put a new sign up for them and
5 that's --

6 VICE CHAIR FRANCIS: (Indecipherable.)

7 MEMBER HERNANDEZ: No, you will have a
8 sign there. That's why they've gotta move theirs,
9 to put their sign here. So they're going to have a
10 sign here, one here and one up here.

11 VICE CHAIR FRANCIS: (Indecipherable.)

12 MEMBER GOODSSELL: Well, I think retail
13 space is going begging right way. You see a lot of
14 empty stores. And the fact that there are two
15 tenants in one building is going to become more and
16 more common, if it isn't already.

17 CHAIR MAMMINA: We did have someone
18 else that had their hand up, and why don't we get
19 their input.

20 MR. TIRONE: I'm going leave their
21 plan up so they can see what it looks like.

22 CHAIR MAMMINA: Thank you.

23 MR. CHANG: Good afternoon.

24 CHAIR MAMMINA: Good afternoon.

25 MR. CHANG: I want to --

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2 CHAIR MAMMINA: Please give your name
3 and address.

4 MR. CHANG: Yes. My name is William
5 Chang. I'm residing at 272 Old Mill Road in
6 Manhasset, and my house is right next to the
7 property. I will just call it the shopping mall
8 property right next to me. Just by way of
9 background, I've lived in the house for over 25
10 years. I raised my family there. And I really
11 enjoy the nature of the community, including the
12 surroundings and so on. And this is my first time
13 appearing at the appeal Board.

14 When I saw the notice to put on the
15 new sign, I am very concerned with the two things:
16 The impact to my property with very intense
17 illumination right now and also the secondly, the
18 character of the community.

19 I have previously submitted some
20 pictures from my house looking up to the property
21 because my house is looked up to the Charles
22 Schwab, and I try to print out black and white
23 pictures that I would like to show the Board. And
24 I have the computer imaging here in case the color
25 pictures is better for you. And my master bedroom

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2 has two windows that are facing up to the Charles
3 Schwab and the parking lot. And every night,
4 there's intense light from both the Charles Schwab
5 building on the left window and the parking lot
6 lights on the right side, right side window that --
7 that just very intrusive to my bedroom.

8 In fact, my -- my bed faces the two
9 outside window and if -- I show you four pictures.
10 The first two is my left side window with the
11 Charles Schwab building there, office lights, are
12 turn on 24/7 and even at 2:00 in the morning, it's
13 intense light coming in.

14 Same thing with the right side --
15 right side window with the parking lot light that
16 are very high, very intense. And I think putting
17 on anymore sign, especially if it is above ground,
18 it's going to make the situation worse.

19 And secondly, as I said, I've been in
20 my house for many, many years and since the
21 existing owner of the property start building the
22 office having tenants come in, knowing that they
23 take off a lot of vegetation. This used to block
24 some of the lights, they took off the vegetation.
25 They didn't replant the vegetation, and then the

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2 lights that they put in, you know, current date,
3 very intense lighting.

4 So I think it's very intrusive and
5 putting anymore additional signage, particularly
6 when they're illuminated, is going to make the
7 problem worse. Not just for my property but for
8 the neighborhood in general.

9 MEMBER GOODSELL: So if I could ask
10 you a question. Okay. The picture that counsel
11 has submitted to us, which you may have seen, I
12 think this is the view from Northern Boulevard.
13 You are on Old Mill Road.

14 Is there -- is there a sign from
15 Charles Schwab on your side of the building that
16 faces your house?

17 MR. CHANG: There's no sign, but as I
18 shown in the first picture, the lights of Charles
19 Schwab, the offices is turn on 24/7. So where's
20 the sign or office lights is just very intrusive
21 and blinding.

22 MEMBER GOODSELL: Okay. Charles
23 Schwab is not in front of us today, and the parking
24 lot is not in front of us today. This is just the
25 furniture company, Mitchell Gold & Bob Williams.

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2 And their sign which they're asking us for would be
3 facing Northern Boulevard, and they haven't asked
4 us for a sign that faces your side of the property.

5 Is this Application for an illuminated
6 sign?

7 CHAIR MAMMINA: Yes, it is
8 illuminated.

9 MEMBER GOODSELL: And doesn't our
10 prior decision restrict the hours that it's
11 illuminated?

12 CHAIR MAMMINA: I don't think that we
13 can do that.

14 MEMBER GOODSELL: I think there's an
15 attachment (technical difficulties.)

16 MEMBER HERNANDEZ: They're asking if
17 they could be facing Northern Boulevard.

18 MEMBER GOODSELL: Correct, correct.

19 MR. TIRONE: The sign is located on
20 Northern Boulevard, and we did the sign addendum
21 page, and my clients agreed that it would be on a
22 timer. It would be shut off on 10. I can't speak
23 to Charles Schwab's tenants leaving lights on,
24 but...

25 MEMBER GOODSELL: It seems to be

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2 common practice with office buildings to leave
3 lights on, I don't know why, for 24 hours.

4 CHAIR MAMMINA: I think the thing to
5 consider is that we are sympathetic, you know, to
6 what you're saying. And but, you know, without
7 repeating, that all said, that -- the side of what
8 is being proposed doesn't face, you know, where --
9 where you are, where your house is.

10 So this sign will have nothing to do
11 to either increase or decrease the amount of light
12 that's coming toward -- that's coming toward your
13 house. And I don't like to speak in -- what is
14 outside of our purview. But I don't think, at this
15 point, that there's -- that there's anything that
16 anybody in the town can even do regarding where
17 they have windows or lights.

18 And, again, I say, that truly, truly
19 being sympathetic to what you're asking for. My
20 house is the -- they illuminated the football field
21 with these gigantic lights. I can read the
22 newspaper at night, you know, in my bedroom because
23 of all these lights that they put on there.

24 MR. CHANG: If I may add, with respect
25 to Mr. Chairman and the Board, I'm a homeowner.

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2 I'm not very knowledgeable in terms of the landlord
3 and the relationship with the Mitch Gold and the
4 sign and so on. But my concern which has improved
5 over the years is my experience and my observation
6 is that where does the landlord for the tenants
7 that are adding more and more illuminated signs
8 is -- I don't think there's any doubt, if you look
9 back the last ten years when they start developing
10 the property, there's been a mission creep, it's
11 like an expansion creep. It's one sign, office,
12 and then there's another sign, another office and
13 the lights where is the parking lot or the -- from
14 the existing building that is in there right now,
15 is just getting worse and worse.

16 So -- so, you know, I -- I understand
17 it may not be Mitch Gold's issue, per se, but I
18 think the Board needs to understand from a
19 community standpoint that there's been expanding of
20 illumination of these -- I would call it a nuisance
21 that really effects the neighborhood.

22 CHAIR MAMMINA: And I think what's
23 important to understand -- and I'll ask Ms. Algios
24 if I'm saying anything beyond what I should be
25 saying -- we're the Zoning Board, and we're not the

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2 Town Board, and also at the same time, I don't even
3 know if this shopping center was built predated
4 site plan approval. I mean, that was someone is
5 going to do anything on a parcel of property of a
6 certain size, they have to go before the Town
7 Board, and the Town Board will look at things like
8 the amount of lighting, and, you know, where is
9 signage and how will cars be circulating, you know,
10 around that.

11 So the only thing that I can offer
12 when I go back to the original site plan that was
13 approved for this shopping center, and if you find
14 that lighting has been changed or whatever, there
15 may be some avenue, you know, through the Building
16 Department, you know, I don't know if they would be
17 the appropriate agency. Certainly, what you're
18 saying is -- can easily happen where, you know,
19 they're having a problem with cars being vandalized
20 and he's making that up, I don't know, and they
21 decide, let's put another light in over here so
22 that we get better lighting in there.

23 But, you know, beyond -- beyond that,
24 I mean, people do approach the landlords, you know,
25 and see if anything can be done with that sort of

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2 thing. But I think beyond that, I really can't
3 offer anything, people with their own private
4 property, who are creating a problem based on where
5 your house is.

6 MR. CHANG: Okay.

7 MS. ALGIOS: I'll just -- just to
8 follow up on what the Chairman said. This Board's
9 role basically is to deal with the variance that
10 has been presented, the request for variance
11 presented to it at this meeting and to do weight --
12 to do a balancing test.

13 So the Board has to balance the --
14 any -- any -- the benefit to the Applicant in
15 getting that variance granted versus any potential
16 detriment to the community. So that's their --
17 their duty, and that's what they'll be looking at
18 with respect to this variance. So they'll be
19 taking into account your comments as well as the
20 Applicant's.

21 MR. CHANG: I understand. And, again,
22 thank you for the opportunity to share my
23 observation and my experience and thank you.

24 CHAIR MAMMINA: You're very articulate
25 and certainly a gentleman, that's for sure.

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2 MR. CHANG: Thank you.

3 MEMBER GOODSELL: Thank you for your
4 remarks.

5 CHAIR MAMMINA: We appreciate it.

6 MR. TIRONE: I would like to add that
7 the sign will not be facing their property. Yes,
8 it's an illuminated sign. It will be on a timer.
9 It will shut off at 10.

10 As far as parking lot site lighting, I
11 mean, that's not something before us, but I can
12 speak to the landlord. The landlord actually is
13 very attentive to that shopping center. So I'll
14 speak to him and see if there's something they can
15 look into. But as far as this variance, we are
16 here for a sign on Northern Boulevard that will be
17 on a timer and will not be on beyond 10:00.

18 CHAIR MAMMINA: We recognize that.
19 And I think that we're going to reserve this so
20 that we can take a little closer look at this
21 standing right there, at the --

22 MR. TIRONE: Absolutely. All right.

23 MEMBER HERNANDEZ: The rear of the
24 parking lot has both signs at the same level, side
25 by side.

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2 MR. TIRONE: The rear -- I didn't look
3 at the rear, but all right.

4 MEMBER HERNANDEZ: It has Charles
5 Schwab on the right and Gold and Williams on the
6 left.

7 CHAIR MAMMINA: All right. Thank you,
8 Mr. Tirone.

9 MR. TIRONE: Thank you.

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1 Appeal # 21199-13

2 MS. WAGNER: The next Appeal is Appeal
3 #21199-13. Avenue A, LLC; 13 Avenue A., Port
4 Washington, Section 4, Block 35, Lot 6; in the
5 Business-A Zoning District.

6 Appeal for determination that the
7 building department erred in denying an application
8 for a certificate of existing use for a four-family
9 dwelling.

10 CHAIR MAMMINA: You've heard Appeal
11 #21199-13 Avenue A LLC, 13 Avenue A Port
12 Washington.

13 Is there anyone in the room interested
14 in the Application other than the Applicant?

15 (No response.)

16 CHAIR MAMMINA: Seeing no one, please
17 give your name and address.

18 MR. MIGATZ: Bruce W. Migatz with the
19 firm Albanese & Albanese, 1050 Franklin Avenue in
20 Garden City, New York. Good afternoon.

21 At the outset, I would like to hand in
22 some additional return receipt cards. And I have
23 ten exhibits that I have put into a binder, and I
24 have one copy for the record and one copy for each
25 Board Member.

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2 MR. PERROTTA: This is Applicant
3 Exhibit 1.

4 MR. MIGATZ: It's actually 1 through
5 10. 1 through 10.

6 Now, as a -- as a warning, this is
7 going to be a tedious presentation.

8 MEMBER GOODSELL: Thank you for that,
9 Mr. Migatz.

10 CHAIR MAMMINA: We would expect
11 nothing else.

12 MEMBER DONATELLI: I'm good. We ate
13 lunch.

14 MR. MIGATZ: With me this afternoon is
15 Lisa Cirigliano, who is the managing member of 13
16 Avenue A, LLC, and also Donald Alberto, who has
17 been working on this project for quite some time.

18 If you look at Exhibit 1 in the -- in
19 the hand-up, the property is on the northwest of
20 corner of Avenue A and Orchard Street, Section 4,
21 Block 35, Lots 6 and 7, Zone Business A.

22 Exhibit 1 is a photograph taken at the
23 corner of Avenue A and Orchard Street.

24 And Exhibit 2 is the rear of the
25 building, and the one-story structure is the part

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2 Lisa's father. And he purchased the property in
3 1975.

4 If I may turn your attention to
5 Exhibit 3, you'll see a letter from Reser and Napi,
6 a prominent law firm in Port Washington:

7 "Would you kindly advise us of the
8 status of the above-captioned property. Our client
9 is in the process of purchasing the same, and he
10 has been told it is a legal four-family dwelling."

11 The second page of Exhibit 3 is the
12 letter back to Reser and Napi; July 3rd, 975:

13 "Dear Mr. Napi, in reply to your
14 recent inquiry, please be advised that the subject
15 property that is the subject premises was
16 registered as a legal four-family house, pursuant
17 to the requirement of the Multiple Residence Law of
18 the State of New York. Very truly yours, John F.
19 McDonald."

20 John F. McDonald was the Building
21 Department Commissioner at the time, and then they
22 called him the Building Manager. But that was
23 from -- from the -- what we will now call the
24 commissioner.

25 Now, this letter is what old timers

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2 like me call a "letter in lieu." And back in the
3 '70s and the '80s, attorneys, like myself included,
4 represented buyers and sellers. We would have no
5 problem -- got a letter in lieu, it's good. Banks
6 gave loans, mortgages. We have a letter in lieu,
7 no problem, no questions asked. That's what
8 Mr. Napi did in 1975. No questions asked. I got a
9 letter in lieu, so Mr. Zoli bought the house.

10 Now, the Building Department is not
11 honoring this letter in lieu, and since they say,
12 well, they're no building permits on file that
13 supports the conversion of the -- what was a
14 recreation room into a fourth apartment. So since
15 we can't find the building permit for that
16 conversion, we're not going to recognize the letter
17 in lieu.

18 Now, the Applicant submits that the
19 letter in lieu should not be questioned 47 years
20 later. And if you are going to question it, there
21 is sufficient evidence that there were building
22 permits issued but are no longer in the file.

23 Now, a little more background facts
24 because we have the omission letter which is
25 serving as the -- as the basis for appealing to

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2 wasn't questioned 47 years ago. I don't know if
3 that would be questioned today by a bank. If you
4 give them a letter in lieu, I don't think they
5 would question it. But our Building Department
6 questions everything.

7 Now, I'm going to refer to two
8 exhibits simultaneously here. We're going to have
9 to go back and forth. I said it was going to be
10 tedious.

11 Exhibit 5 is an email from Scott Cola
12 to me in response to my email, to the planning
13 examiner, why you are you not honoring the letter
14 from John F. McDonald, and this is his explanation.

15 And Exhibit 6, which is referenced in
16 his explanation is the 1938 Department -- Nassau
17 County Department of Assessment record card.

18 Let me direct your attention to
19 Exhibit 6, the assessment record card, and what
20 I -- what I have highlighted. The very top is four
21 added, one bathroom, one kitchen, one sink, and I'm
22 not sure what the other word is, 1965. Below that
23 in yellow, there's something crossed out, and then
24 there's four APTs.

25 I think Mr. Cola and I both agree that

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2 that four was once a three and they crossed over
3 that and made it into a four.

4 Page 2 again references 1965; add one
5 bathroom, one kitchen, one fire escape. And then
6 to page 3, highlighted in yellow, you see one
7 bedroom on the first floor was changed to -- I'm
8 sorry -- one apartment on the first floor is
9 changed to two apartments on the first floor;
10 second floor, one apartment; third floor, one
11 apartment. Now, Mr. Cola and I agree that in 1965,
12 an entry was made on the assessment card that said
13 there are now four apartments.

14 Now, going back to Mr. Cola's email,
15 Exhibit 5. Highlighted in yellow, he says: "The
16 property card indicates that the 1938 assessment
17 was for three families and a store, and in 1965,
18 this was changed to four families, no store.

19 Apparently, Mr. Cola is interpreting
20 that word crossed out on the upper left-hand corner
21 of the assessment card to be the word "store." Now,
22 that's -- that's in error also.

23 If you look at Exhibit 7, first of
24 all, if you look at the -- what I read into the
25 record in Exhibit 3, the omission letter in 2012

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2 talks about converting a former recreation room
3 into an apartment, not converting a store into the
4 apartment. So his own planning examiner in 2012
5 recognizes this was a recreation room, not a store.
6 So he is misinterpreting the '38 assessment card.

7 And to further back that up, on
8 Exhibit 7 -- they're marked in the upper right-hand
9 corner, I hope you're following along -- is a
10 building permit and plans attached to it. This was
11 a permit in 1937. To add three bathrooms to the
12 building, there is a bump-out on the -- on the west
13 side of the building, and those are three bathrooms
14 that were added in 1937. That's what that building
15 permit was for.

16 And on the second page of that
17 building permit, highlighted in yellow, in '37,
18 occupancy, three families, any stores or other
19 business purposes, answer's no.

20 Then the last page of that exhibit is
21 a copy of the plan filed without permit
22 Application. And you can see at the top of that
23 building, it's labeled "recreation," not "store".
24 So it was in 1938, it was a recreation room.

25 So the question remains, when was

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2 it -- when was the recreation room converted to the
3 fourth apartment? That's the question we have to
4 answer. Why is it relevant?

5 Well, if it was done before 1950, the
6 code did not require a minimum floor area for a
7 multiple dwelling. In 1950, the code was changed
8 in the zoning code and a dwelling unit in the
9 multiple dwelling, according to the town zoning
10 code from 1950 on, requires 600 square feet, and
11 this fourth apartment has just a little short of
12 400 square feet. So that's why this is relevant.

13 Now, Mr. Cola says -- if we can go
14 back to his email, Exhibit 5. After the first
15 sentence that I highlighted, he says, what -- so
16 that the property card indicates that the '38
17 assessment was for three families and a store, we
18 know it was a recreation room.

19 In 1965, this store -- this was
20 changed to four families, no store. Well, four
21 families, no recreation room.

22 Then he goes on, so sometime between
23 1938 and 1965, the Town Code would have required a
24 permit for the conversion, a permit to legalize the
25 conversion is now required. So he disagreed with

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2 my position that the mere fact that the entry was
3 made in 1965 on the county assessment card does not
4 necessarily mean that is when the conversion was
5 done. That is just when it was brought to the
6 attention of the County Assessor, by whatever means
7 it came to his attention, and now he changed that
8 card.

9 So Mr. Cola says sometime between '38
10 and '65. And he states it would have required a
11 permit. He's assuming no permit was issued. And
12 then he goes on to say, in 1965, a variance would
13 have been required, not for the use -- multifamily
14 residence was permitted in Business A until 1968 --
15 but for the size of the apartment being too small.
16 It is this conversion, at a time when the
17 conversion would have needed a permit, that
18 requires a legalization and under this code in
19 effect in 1965, that a variance would be required.

20 So, first, he says, sometime between
21 '38 and '65, the fourth apartment was added. Then,
22 without any basis in fact, he just makes a
23 conclusion it was done in '65.

24 Did you follow that?

25 CHAIR MAMMINA: Mm-hmm.

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2 MR. MIGATZ: Okay. Now, why should a
3 Building Department honor the letter from John F.
4 McDonald? Well, one, that was the custom and
5 practice of the Building Department, as far as I
6 know, in 1975. The current code that has a
7 provision for an Application for a certificate of
8 existing use was first put in in 1986.

9 So if you go back to what was the
10 custom and usage of the Building Department in '75,
11 that should not be questioned because you do things
12 differently today, whether the code says it's
13 different or you say it's different. Now, a
14 countless number of times, the Building Department
15 implies, well, this is how we interpret things
16 today. They never give credence to, well, maybe we
17 had a different interpretation in '75 than we do
18 today.

19 Now, why -- other than custom and
20 usage, why should we honor that letter? Well, New
21 York State Court of Appeals has held that the
22 general presumption in law is that a public
23 official does no act contrary to his official duty
24 or omits no act which his official duty requires.

25 I'll give Counsel two citations; 225

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2 New York 1, 1918, the latest case 301 New York 143
3 1950.

4 VICE CHAIR FRANCIS: What was the last
5 one you said?

6 MR. MIGATZ: 301 New York 143 1950.

7 So there's a presumption in law that
8 that -- that Mr. McDonald did what had to be done
9 to make sure that this building was a legal
10 four-family dwelling. The fact that the building
11 permit is not in the file today does not mean it
12 was not issued in that file at one time. Building
13 records are sometimes misplaced, sometimes lost.

14 In reviewing Building Department
15 files, I can tell you that on numerous occasions, I
16 have come across permits, C of Os, in the wrong
17 file. I take them out, I bring them to the
18 attention of staff. It's in the wrong file; put it
19 in the right file. How many other people do that?
20 You think real estate brokers do that when they're
21 going through files? I don't know. You think
22 title companies do that when they're going through
23 files? I don't know. You think non-land use
24 lawyers do that when they're going through files?
25 I don't know. But I can assure that not everybody

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2 does that. And it's not just once I found that;
3 it's numerous times.

4 The Building Department records today
5 are computerized, for the most part. They weren't
6 in 1975.

7 Now, unlike today where you have to go
8 through checkpoint Charlie to go and look at a
9 Building Department file, you know, these files
10 were open to everybody: title companies, real
11 estate brokers. Anybody could walk in, let me see
12 that file, they hand you the file, they turn away,
13 they don't watch you go through the file. Things
14 get lost, things get lost.

15 In the '70s, I was in the Town
16 Attorney's office. The building Department used to
17 bring over files; we had a district court case, we
18 had a zoning case, they bring over the file, they
19 hand us the file, they didn't have these cards and
20 computer entries, gave the file to Mr. Migatz.
21 They would hand me the file, bring it back when
22 you're done. That was the practice.

23 And since the statute of limitations
24 has expired, I'm sure, I must have forgotten to
25 return some files along the way. Like other

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2 attorneys have forgotten to return files. It
3 happens, it happens.

4 So the mere fact that today you can't
5 find a building permit and you have a letter from
6 the building commissioner, the building head that
7 says it's a legal four-family, it's a legal
8 presumption he would not issue that letter if it
9 wasn't correct, it should be honored. It should be
10 honored.

11 You know, clients should not have to
12 hire lawyers to do forensic science here to try to
13 track -- okay, we better prove that 47 years ago
14 there was a permit in this file for this -- for
15 this certificate. It's contrary to law, and it's
16 just not fair.

17 MS. ALGIOS: Bruce, can I just ask you
18 to give me those two citations again?

19 MR. MIGATZ: Yeah. The first was
20 Henry, W-H-I-T-M-A-N, 225 New York 1 1918.

21 Second one was Magnota, M-A-G-N-O-T-A,
22 versus Gerlach, G-E-R-L-A-C-H, 301 New York 143.
23 1950.

24 Now, today you heard a case of
25 Dr. Avakian. Where is the 1982 approved site plan?

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2 Where is it?

3 Ms. Wagner, where is that approved
4 site plan?

5 MS. WAGNER: Maybe in your old office.

6 MR. MIGATZ: It's not in your file,
7 it's not in your file. Things get lost.

8 I heard a case that you heard here. I
9 listened to it on Zoom, Appeal #2110. It was heard
10 on January 19th, 2022; Anday P-I-N-E-D-A. The
11 Building Department -- the whole file was lost in
12 that Application. And Ms. Goodsell was amazed that
13 I can't believe they lost the entire file on you.
14 It happens, it happens.

15 So what do you do if someone rely --
16 you know, if a C of O was -- if I have a C of O in
17 my hand, the Building Department goes to say I'm
18 not going to honor that because I can't find the
19 permit for that C of O, they -- I hope they
20 wouldn't. I don't think they would. They
21 shouldn't. But, well, this letter in lieu is what
22 we relied upon back in the '70s.

23 Now, there's documentation in the file
24 that bolsters this presumption that there were
25 permits issued for this conversion.

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2 Let me refer you to Exhibit 8. This
3 is this statement of registry. Okay? This was
4 mailed to the then-owner in 1964. Now, this was
5 '64. Okay. We have a letter in '75 from McDonald;
6 but in the file, the Building Department knew this
7 was in there, we gave it to them. Okay. It's the
8 then-owner in '64, registers it as a four-family
9 dwelling. Now, that predates the 1965 entry on the
10 county assessment record. And then page 2 is the
11 survey card.

12 The Building Department went out and
13 made an inspection when they submitted the registry
14 for a four-family. They made an inspection,
15 that's. What it's supposed to do; they did. So
16 page 3, it lists partner one, two, three, four, and
17 there's a notation that an -- an aluminum ladder is
18 being used as a fire escape. This has been --
19 well, this has been directed to be replaced with an
20 approved metal fire escape with balconies and
21 stairs. No mention of no permit for the bathroom
22 for that fourth department, for the conversion.

23 No mention -- they go out, they make
24 an inspection, they know all four apartments, they
25 note there's no fire escape. What they don't note

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2 is significant. They don't note that there's no
3 permit for that fourth apartment.

4 Now exhibit -- and that -- that
5 inspection report, you go to the first page of it,
6 the date of inspection was July of '64. Again,
7 prior to the entry on the county assessment card in
8 '65. And there's another date, 8/2/65. 8/2/65 was
9 the final inspection. How do I know that?

10 Well, you turn to the next exhibit,
11 10, which is the Application for the fire escape.
12 And on the second page of that permit, you can see
13 final inspection August 8th, 1965. So that's why
14 that date is on the -- on the survey card. And, of
15 course, they described four apartments. And,
16 again, no deficiencies on the file inspection, no
17 deficiencies noted. Makes no reference to you
18 converted a -- made a recreational room into an
19 apartment. Not noted.

20 The burden of proof -- well, actually,
21 I don't think the Application has to get a CEU. I
22 think this Board should tell the Building
23 Department, you have to recognize that letter in
24 lieu, there are thousands of them out there,
25 thousands of them out there. You can't now say,

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2 well, we do things differently now and we're not
3 going to recognize it, and there's things missing
4 in the file and we don't see it in the file. There
5 has to be a point in time where the Building
6 Department has to say we have to recognize what was
7 done in the past. We can't apply today's code,
8 today's standards, today's custom and usage,
9 today's practice, what was done in '75.

10 Somebody relies on a certificate
11 issued in '75, which was customary at the time. It
12 has to be recognized. And this Building Department
13 has to be told it has to be recognized or else
14 you'll -- we'll be back again with other cases.
15 Assuming we need a CEU, today's code says, the
16 burden on the Applicant is a preponderance of the
17 evidence, preponderance of the evidence. Not
18 beyond a reasonable doubt.

19 There's sufficient documentation here
20 that will lead a conclusion, a reasonable man
21 conclusion that there must have been permits at one
22 time and it's legal. This is not the situation
23 where the Building Department says, we're not
24 honoring the C of O because we looked at the plans
25 and they forgot to note a side yard setback

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2 variance was required. You get those cases all the
3 time. All right. They said the C of O is issued
4 in error. They didn't pick up on the plan, that
5 FAR was wrong, the setback was wrong, we're not
6 honoring the C of O. That -- I'm not saying that's
7 right or wrong. Okay? But that's not this case.

8 The Building Department is not saying
9 something was done in error, and we can't bless
10 this error, or this case law says they can. But
11 that's not what -- that's not what this is. This
12 is about them saying, yeah, I see the letter from
13 the then-manager of the Building Department that
14 it's legal; and, yeah, your attorney relied on
15 that, but we don't see a permit in the file. Not
16 that it was issued in error. I said we can't find
17 the permit.

18 I told you it would be tedious. So --

19 CHAIR MAMMINA: Interesting, so far.

20 MEMBER GOODSELL: We've been
21 listening.

22 MR. MIGATZ: So I'm concluding. So
23 the conclusion is that the '75 letter in lieu
24 should be recognized without question. You can't
25 go back and reinvent the wheel. Now, as you start

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2 revoking that, you're going to start putting
3 people's mortgages in default, and that's not
4 situation here, I don't think. I never asked that
5 question. But, you know, you're going to put
6 people's mortgages in default. A lot of mortgages
7 are given on letters in lieu.

8 And, you know, it's a common practice
9 today, a lot of villages, they don't do CEUs, they
10 still give you letters in lieu. So the Building
11 Department has to be told to recognize that.

12 Alternatively, they should be told to
13 grant the CEU because there's sufficient evidence,
14 a preponderance of evidence that there was, at one
15 time, a proper conversion of this apartment;
16 although, you can't find it now.

17 MEMBER GOODSSELL: I have a question
18 for Mr. Migatz, and I think it's about a piece of
19 evidence that I think might be interesting to us
20 that doesn't appear to be part of the record.

21 Would you agree that the tax, the
22 general tax imposed on a four-family house would be
23 greater than the general tax imposed on a
24 three-family house? What does the tax bill say
25 this property has been taxed as?

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2 MR. MIGATZ: Well, I don't have a tax
3 -- first of all, I would not necessarily agree with
4 you on that because --

5 MEMBER GOODSSELL: It's a piece of
6 evidence, as you say.

7 MR. MIGATZ: Because -- well, so why
8 was it taxed at before 1965?

9 MEMBER GOODSSELL: Today.

10 MR. MIGATZ: Well, today -- today.

11 MEMBER GOODSSELL: Is it taxed as a
12 four-family today? Is it taxed as a three-family
13 with a recreation room? It is taxed as something
14 else? That would be interesting to me.

15 MR. MIGATZ: I think the question is
16 what does the assessment card list it as, and it's
17 listed -- to me, today's assessment card, it's
18 listed as, I believe, multiple dwelling. But I can
19 get that for you. Okay.

20 But, again, you know, to take your
21 argument to a logical conclusion, I can come before
22 you and say this -- this is taxed as a four-family,
23 but it's really only a legal two-family. How many
24 people come before you and say it's a legal
25 two-family, it's taxed as a two-family? You say

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2 no, no, no, it's just because it's taxed as a
3 two-family doesn't mean it's a legal two-family.
4 The reverse is true. Just because it may be taxed
5 as a two-family doesn't mean it wasn't a legal
6 four-family. But I'll get that for you.

7 MEMBER GOODSELL: I would think that a
8 homeowner would be very upset being taxed for
9 something that's not there. And if, in fact, this
10 is a four-family, it might be reflected on the tax
11 bill. And, at some point, it might have been
12 changed from a three-family to a four-family.
13 That's one issue I have with you.

14 The other issue that I want to bring
15 up with you, your 1975 letter that you have
16 presented. Yes, I agree with you; I'm a real
17 estate attorney as well. Letters in lieu were
18 common practice.

19 You indicated that there is a
20 presumption, a presumption that these are all
21 valid. And I agree with you; it is a presumption.
22 But I think you might agree that every single one
23 of the thousands of letters in lieu that were
24 issued, there might be one or two that are not
25 genuine, and that is why we have the right to

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2 question it.

3 MR. MIGATZ: It's a rebuttable
4 presumption.

5 MEMBER GOODSSELL: It is a rebuttable
6 presumption.

7 MR. MIGATZ: But I submit to you, you
8 can't rebut it by just saying we don't find a
9 permit in the file, when we know that files get
10 lost in this place.

11 Right, Ms. Wagner?

12 MEMBER GOODSSELL: We don't know if
13 this file was lost or replaced. We just know it is
14 not part of this file.

15 MR. MIGATZ: Right. These documents
16 come out of files. I told you, I find documents
17 misfiled all the time.

18 MEMBER GOODSSELL: And I have too.

19 MR. MIGATZ: So I'm submitting to you
20 that you can't rebut the presumption by merely
21 saying we don't see a permit in the file when you
22 have inspections in the file that says going back
23 to '64, it's a four-family.

24 MEMBER GOODSSELL: I agree with you.
25 That we cannot just dismiss it. But I disagree

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2 with you that it is conclusive, that you have
3 indicated several times we feel we should give
4 great, great weight to this letter from 1975.

5 MR. MIGATZ: Unless you can rebut that
6 presumption, absolutely. But I did take that a
7 step further. You can't go back in history, you
8 know.

9 I don't want to get too political.
10 We're going back in history now all the time,
11 taking down statues, you know, oh, my God, he
12 signed the Declaration of Independence, but we
13 gotta take down his statue because that's not what
14 we do today. You can't rewrite history.

15 All right. You have to -- there comes
16 a point in time when you say it's 47 years ago.
17 You have to -- you just -- it's gotta be -- you
18 know, there's a statute of limitations. Lawyers
19 have three years statute of limitations
20 malpractice; architecture, I think it's ten years
21 statute imposed, ten years. They're trying to
22 change that, but it's ten years. There's a
23 statute -- there's a time when you have to say, let
24 it be. Let it be.

25 MEMBER GOODSELL: And I'm sure you've

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2 also heard the expression that we get all the time,
3 but it's been there forever. If it wasn't legal
4 when it went in, then age does not make it legal
5 today.

6 MR. MIGATZ: But you're all -- you're
7 mixing apples and oranges. Someone comes before
8 you looking for a variance, and you say it's been
9 there forever. That doesn't mean you're entitled
10 to the variance.

11 MEMBER GOODSELL: Agreed.

12 MR. MIGATZ: That's not that case.
13 This case is there's a certificate on file since
14 1947. That's a totally different story. Age --
15 age does matter there, I submit to you. It does
16 matter.

17 MEMBER GOODSELL: I think we're going
18 to do -- we're going to -- do people have questions
19 beside --

20 VICE CHAIR FRANCIS: I just have a
21 really more elemental question, and I have no idea
22 how the Building Department operated in 1975, and
23 you probably shed light on it. I'm confused as to
24 why a Building official would write a letter and
25 the letter was not on letterhead, number one. It's

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2 not on Town of North Hempstead letterhead. It's a
3 blank piece of paper, and it's not signed.

4 MR. MIGATZ: It's -- it's a photocopy.
5 Okay. I don't -- it's a photocopy of the letter
6 that was sent. So, you know, it came -- it came
7 from Reser and Napi's files. All right. And I
8 don't know they still -- they still have the
9 original, you know, I didn't make inquiry to that,
10 but if you notice --

11 VICE CHAIR FRANCIS: I can see there's
12 something cut off at the top where it's blackened.

13 MR. PERROTTA: It's probably stapled
14 and --

15 MEMBER GOODSELL: So is this letter
16 from the Town of North Hempstead's building file,
17 or is this from Reser and Napi's building file?

18 MR. MIGATZ: It's, well -- it's -- it
19 is in the Building Department file. Okay. I don't
20 know how it got there, but if you notice, I -- I
21 don't know, I don't know how it got there. Don't
22 know if it was --

23 MEMBER GOODSELL: But it is -- you're
24 representing to us this is in Building Department's
25 file?

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2 MR. MIGATZ: It's in the file.

3 MEMBER GOODSSELL: It's in the file
4 now.

5 MR. MIGATZ: I know -- I know that it
6 was given to the Building Department as part of our
7 submission through CEU. And I think I saw it in
8 there on its own. I think.

9 (CROSSTALK)

10 MR. MIGATZ: That's right, carbon.

11 VICE CHAIR FRANCIS: That's what
12 Mr. Donatelli said.

13 MR. PERROTTA: We don't recognize
14 that.

15 MEMBER DONATELLI: Too late. You said
16 you knew it since then. Interesting.

17 MR. MIGATZ: Lisa just informed me
18 that when she just started, when she worked on it,
19 she went to the town, and that's where she got this
20 from. It was in the Building Department record,
21 that's where she got it from. And then when they
22 made the CEU application, they made reference to
23 that.

24 CHAIRMAN MAMMINA: Mr. Migatz, for the
25 record, identify who Lisa is.

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2 MR. MIGATZ: Lisa Cirigliano. The
3 member of the LLC.

4 MEMBER DONATELLI: Were there any
5 other members from the public that wanted to speak?

6 MR. MIGATZ: I'm amazed that Mr --

7 CHAIRMAN MAMMINA: That's correct. Is
8 there no one that wishes to speak?

9 MR. MIGATZ: I'm amazed Mr. Norgen is
10 not here. Silence speaks volumes.

11 VICE CHAIR FRANCIS: Mr. Migatz, just
12 one -- I mean, the Building Department didn't
13 even -- I mean, did they address this letter at all
14 and said that letter is no good?

15 MR. MIGATZ: Well, the planning
16 examiner didn't, but that's why I asked -- that's
17 why I sent up -- that's Exhibit 5. That's why I
18 sent -- I sent an email to the planning examiner.
19 You know, Mike, I'm mailing the application to the
20 BZA, please advise me of your reason for not
21 accepting the July 3, 1975, letter. And Scott Cola
22 responded and that was his answer.

23 And the last -- the last sentence of
24 his email, you know, that is no permit for the
25 conversion of the store to the fourth family

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2 apartment is on file with the Building Department.

3 Well, it wasn't a store, he's wrong there, but he's

4 relying on the fact --

5 VICE CHAIR FRANCIS: There's no
6 permit.

7 MR. MIGATZ: -- that there's no
8 permit. That's his reason.

9 MEMBER GOODSELL: So I think the
10 Applicant, then, is properly before us. Even
11 though a certificate of existing use is not
12 required, this would resolve the issue once and for
13 all.

14 MR. MIGATZ: No. Well, it would
15 resolve it all once and for all, and it also
16 resolves it once and for all if you recognize
17 the -- the letter in lieu. That resolves it once
18 and for all.

19 MEMBER GOODSELL: So even though
20 you're saying you don't necessarily need a variance
21 to do this, I think it's properly in front of us,
22 and I think it's something for us to consider.

23 MR. MIGATZ: Well, a variance is not
24 at issue. There's no variance application here.
25 This is not a variance application. Okay. This is

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2 a determination that the CEU should have been
3 issued because there's a letter in lieu. I'm happy
4 with the letter of in lieu that this Board says
5 that the Building Department recognizes a letter in
6 lieu.

7 The determination is if you don't
8 believe -- if you don't want to give credence to a
9 letter in lieu, then you should direct the Building
10 Department to issue the CEU because you can't just
11 say there's no permit when we know permits are lost
12 and we have inspections and they raise a fire
13 escape but they don't raise anything else about
14 what's wrong with it. That's what I'm saying.
15 It's not a variance.

16 MEMBER DONATELLI: So, Mr. Chairman, I
17 listened to Mr. Migatz's presentation. I think it
18 was very thoughtful and intelligent and not at all
19 tedious, very interesting presentation. I think
20 he's raised some very interesting questions.

21 I personally would like to reserve
22 decision on this. I'd like time to really review
23 the documents once again, review the application,
24 give it a little bit more thought. So that would
25 be by my request.

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2 CHAIRMAN MAMMINA: I'm certainly in
3 agreement with that.

4 MEMBER GOODSELL: I would be
5 interested if you are able to submit it in the tax
6 records. Because I think that it is a piece of
7 evidence which might weigh in your favor, if, in
8 fact, this property has been taxed as a
9 four-family.

10 MR. MIGATZ: But it would not have
11 been taxed as a four-family to at least 1965
12 because that's when the assessment department first
13 noted on their card that it's a four-family. So
14 that's -- that's not relevant.

15 We know -- we know that the assessment
16 card up to '65 had it as a three-family. We're
17 saying, well, that's -- that's maybe what you said
18 because your inspector, your assessor wasn't out
19 there in a long time but in fact it was a
20 four-family. The suggestion they should go back
21 and collect extra taxes for that four-family.

22 MEMBER GOODSELL: I don't think we're
23 ever going to get any records back from 1965.

24 MR. MIGATZ: We're not. But that
25 doesn't matter. If the assessment card up to '65

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2 says three-family, it would not have been taxed as
3 a four-family.

4 MEMBER GOODSSELL: Correct.

5 MR. MIGATZ: So how is that relevant?

6 MEMBER GOODSSELL: Relevant to me
7 today.

8 MR. MIGATZ: How?

9 MEMBER GOODSSELL: If you feel it's not
10 a piece of evidence, I'm not going to make your
11 case for you. If it's a piece of evidence you
12 don't think should be considered by the Board,
13 that's fine. That's what you're telling me.

14 MR. MIGATZ: Well, I'm telling you
15 that the assessment records were only recognized as
16 a four-family and only taxed as a four-family since
17 '65. But I don't know if three or four makes a
18 difference. But their assessment card only
19 recognizes it as a four-family in '65.

20 You know, a lot of people have illegal
21 two-families and are taxed as a -- we never used --
22 in zoning code -- in zoning law, we never used
23 taxes as evidence of anything because there's no
24 reasonable relationship between what property is
25 taxed at and what its legal use is. There's no

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2 relationship.

3 MEMBER GOODSELL: I do agree with you
4 that it is only taxed today as a three-family, that
5 no one is going to say anything because everyone
6 would prefer, perhaps the owners would prefer to
7 pay lower taxes on the lesser number of units than
8 a higher tax. I consider it one piece of evidence.

9 MR. MIGATZ: What are you asking me to
10 get?

11 MEMBER GOODSELL: If, in fact, there
12 is a tax classification on the general tax bill
13 which I believe is 210-1, 210-2, 210-3, 210-4, that
14 appears on the general tax bill to indicate the
15 number of families that the tax is being imposed on
16 today.

17 MR. MIGATZ: Today?

18 MEMBER GOODSELL: Mm-hmm.

19 MR. MIGATZ: I'll get that for you.

20 VICE CHAIR FRANCIS: Okay. One more
21 question before you go, Mr. Migatz. Many, many,
22 many of these older multiple-dwelling apartment
23 buildings did not contain bathrooms within the
24 department -- the apartment. They were in the
25 hallway.

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2 Is this one of those type?

3 MR. MIGATZ: I don't know. They also
4 had outhouses back in those days too.

5 VICE CHAIR FRANCIS: Yes. Absolutely.

6 MR. MIGATZ: So -- those three
7 bathrooms that go up on the outside of the
8 building, they were added in '37. What they had
9 before that, I don't know.

10 VICE CHAIR FRANCIS: Okay. Fair
11 enough.

12 CHAIRMAN MAMMINA: Okay. So then I
13 think we'll continue for that single piece of --

14 MR. MIGATZ: -- evidence.

15 CHAIRMAN MAMMINA: If you came across
16 something else along the way, throw it in if you
17 choose to. I think that's okay.

18 MR. MIGATZ: Okay. Thank you.

19 MS. ALGIOS: Just for clarification,
20 so she's saying you're asking for the CEU. But
21 what you're saying is you don't even need the CEU,
22 right? Isn't your position, that the letter in
23 lieu is evidence that the permit has been issued;
24 and, therefore, you don't need the CEU?

25 MR. MIGATZ: And, yes, and

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2 alternatively --

3 MS. ALGIOS: Alternatively.

4 MR. MIGATZ: If you don't recognize
5 the letter in lieu, alternatively, there's a
6 preponderance of the evidence to issue the CEU.
7 Ms. Wagner looks confused. Nope?

8 MS. WAGNER: No. I was just saying
9 that the letter in lieu, if it's not recognized by
10 the Town as documentation, would mean the residence
11 is legal -- so this board's determination is that
12 the letter in lieu is going to document that --
13 that in lieu of a CEU?

14 MS. ALGIOS: Yes.

15 MS. WAGNER: The letter in lieu, in
16 lieu of a CEU. If that's what the Board's decision
17 is.

18 MR. MIGATZ: If they don't want to
19 accept the letter in lieu, alternatively, there's
20 sufficient evidence that we presented, including
21 the letter in lieu as a piece of evidence, that it
22 was a legal four-family, and, at one time, there
23 were permits in the file. Okay. Thank you very
24 much.

25 CHAIRMAN MAMMINA: Thank you very

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2 much.

3 And we will continue this looking for
4 a submission of an additional document from
5 Mr. Migatz.

6 (Sidebar conversation.)

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1 Appeal # 21092

2 CHAIR MAMMINA: Yes, please. I'm
3 sorry. Please call the next case.

4 MS. WAGNER: Appeal #21092. 679 Port
5 Washington Boulevard LLC (Alma Bank); 679 Port
6 Washington Boulevard, Port Washington; Section 6,
7 Block 2, Lots 115 and 277; in the Business-A and
8 Residence-C Zoning Districts.

9 Appeal for Determination that a use be
10 permitted per 70-225.E or a variance in the
11 alternative from 70-44, and Variances under
12 70-103(B), 70-103(F), 70-103(O), 70-203(T)(2)(j) to
13 construct a new bank and drive-through with the
14 drive-through lane located within a residence
15 district (not a permitted use).

16 Parking spaces that are too small, a
17 loading zone that is too small, a drive aisle that
18 is too small, and a drive-through bypass lane that
19 interferes with the internal circulation of the
20 site.

21 CHAIRMAN MAMMINA: You've heard Appeal
22 #21092, 679 Port Washington Boulevard, LLC. Alma
23 Bank, A-L-M-A.

24 MEMBER DONATELLI: Mr. Chairman,
25 before we begin I will recuse myself from this

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2 matter.

3 CHAIRMAN MAMMINA: Okay. Let the
4 record note the Mr. Donatelli is recusing himself.

5 Did I ask if there's anyone?

6 MR. SAHN: No, you didn't yet.

7 CHAIRMAN MAMMINA: Okay. Is there
8 anyone interested in the case, other than the
9 Applicant?

10 Okay. Seeing several hands in the
11 back, and you have waited patiently. So we're
12 going to adjourn the hearing right now.

13 MR. SAHN: There we go.

14 CHAIRMAN MAMMINA: A joke, of course.

15 MR. SAHN: Good afternoon,
16 Mr. Chairman, Members of the Board. Michael Sahn;
17 Sahn Ward Braff and Koblenz. 333 Earle Ovington
18 Boulevard, Suite 601, Uniondale, New York.

19 Pleased to present this application on
20 behalf of Alma Bank, and I have one additional
21 certified mail return receipt card I'd like to
22 submit.

23 Let me indicate that present with me
24 in the hearing room this afternoon includes Michael
25 Psyllos, who is the president of Alma Bank and a

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2 Manhasset resident for approximately 24, 25 years,
3 I think, and also a member of various institutions
4 in the community.

5 I should also indicate that this would
6 be the first Alma Bank if we're successful in
7 persuading the Board of the merits of our case.
8 First Alma Bank on Long Island, their branches now
9 exist in New Jersey and other parts of New York,
10 but this would be the first on Long Island.

11 Also joining me is Amelio Soussa, the
12 project architect; Danielle Pontieri, of the
13 engineering firm of J. Pontieri Consulting
14 Engineers; and Sean Mulryan, our traffic expert who
15 has provided a report to the Board. The hour's
16 running a little bit late, so I'll be as succinct
17 as I can by way of introduction.

18 As indicated in the legal notice, this
19 application concerns the premises at the corner of
20 Port Washington Boulevard and Park Avenue. It is
21 known as 679 Port Washington Boulevard. Also
22 Section 6, Block 2, Lots 277 and 115 on the Nassau
23 County land and tax map.

24 The property predominately is in the
25 Business A Zoning District. There is a very small,

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2 narrow sliver at the very rear of the property
3 which is lot 115 that is in the Residential C area.
4 So the zoning line bisects the property toward the
5 rear or the east, and it's not exactly
6 perpendicular to or parallel to Port Washington
7 Boulevard, slightly askew. But, in any event, a
8 very small portion is in the Residence C district.

9 The property has a frontage of
10 100 feet on Port Washington Boulevard, frontage of
11 100 feet on Park and a northerly sideline of a
12 110 feet. So it's slightly irregular in shape,
13 having a total lot area of 10,823 square feet.

14 I believe we have a site plan that's
15 mounted that we can bring up and place it on the
16 easel. Thank you. Thank you. The easel shows a
17 copy of the site plan, which, of course, the Board
18 has in your package of materials.

19 The existing use of the property is as
20 an automotive repair shop. That building was first
21 constructed in 1933, almost 90 years ago, and I
22 have copies of the property card from the
23 assessor's office that I'd like to submit,
24 indicating the date of the building. Let me
25 just -- bear with me one moment.

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2 If I can submit these copies as
3 Exhibit 1, I believe, and refer your attention to
4 the second page of the property card where, at the
5 very top, I highlighted the date 1933, showing when
6 it was first constructed.

7 From your own observations of the
8 property, you'll undoubtedly have noted that it is
9 an older building. It was first built as shown on
10 the property card as a gasoline station, and now it
11 is an automobile repair shop.

12 I'd like to submit a booklet of
13 photograph exhibits, a copy of which I believe was
14 emailed to the Board. But I have copies that I'd
15 like to submit for the record today.

16 MS. WAGNER: This will be Exhibit 2.

17 MR. SAHN: And if I could, once
18 distributed, you may have one more than you need,
19 and I'm glad to share with anybody who is
20 interested.

21 CHAIRMAN MAMMINA: Generally, we like
22 to do that and we appreciate that.

23 MS. WAGNER: If anyone wants to come
24 up and take a look at the plans as well.

25 CHAIRMAN MAMMINA: Yeah, please.

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2 MR. SAHN: I believe most -- most of
3 the residents from the -- from the emails and
4 correspondence have seen the plans, but I'm glad to
5 share it.

6 CHAIRMAN MAMMINA: Okay. Good.

7 MR. SAHN: Just briefly referring to
8 this booklets of exhibits. Exhibit 1 is an aerial
9 photograph locating the property. There are two
10 aerials. One is far out; one is close in. And I
11 know the Board is familiar with the site very well.

12 And then there's an additional map
13 from the Google Earth website, locating this in
14 conjunction with the surrounding properties and
15 uses.

16 Exhibit 2 is a series of photographs,
17 each of which has a legend on it, starting with the
18 first that is a view of the front of the building,
19 and you'll see there's a sign indicating the name
20 of the businesses: Nut N-U-T, Just Lube. And
21 you'll see that it's configured, of course, as an
22 automobile service center.

23 Then we have a photograph of the south
24 side of the building with a sign indicating
25 Pennzoil.

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2 And an additional photograph of the
3 south side of the building, showing the curb cut
4 near Port Washington Boulevard.

5 And then another of the same side,
6 showing the rear of the property which is presently
7 undeveloped, has been undeveloped but most of which
8 is in the business zone and the curb cut at the
9 rear that now exists.

10 Then I have another photograph in this
11 booklet showing a view of the rear of the property
12 as it now sits. You'll see that the existing use
13 has a fence that's in need of a repair and some of
14 the equipment that is stored for the automotive
15 use.

16 Next, we have --

17 MEMBER HERNANDEZ: Mr. Sahn, before
18 you move off this photograph, does the property end
19 at the fence or the property continues past the
20 fence?

21 MR. SAHN: No, the property continues
22 past the fence.

23 MEMBER HERNANDEZ: How far past the
24 fence does it continue?

25 MR. SAHN: The property -- the

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2 property.

3 CHAIRMAN MAMMINA: You stole my

4 question.

5 MR. SAHN: We have a depth of 100 feet

6 on Park.

7 MEMBER HERNANDEZ: That's from Port

8 Washington?

9 MR. SAHN: From Port Washington

10 Boulevard.

11 MEMBER HERNANDEZ: The existing fence,

12 what distance does it sit?

13 MR. SAHN: The existing fence --

14 MEMBER HERNANDEZ: I couldn't find the

15 survey. That's the problem.

16 CHAIRMAN MAMMINA: Yeah, if there's an

17 original survey would be --

18 MR. SAHN: We have the survey in the

19 file.

20 Danielle, if you can give your name

21 and address.

22 MS. WAGNER: If you could use the mic.

23 We have a remote court reporter.

24 MS. PONTIERI: No worries. Danielle

25 Pontieri, P-O-N-T-I-E-R-I. And the address is 16

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2 Commercial Boulevard, Suite 1A, in Medford, 11763.

3 It's not on the survey. It's not on
4 the survey.

5 CHAIRMAN MAMMINA: Mr. Sahn, is that
6 the survey of the existing condition?

7 MR. SAHN: That's correct.

8 CHAIRMAN MAMMINA: Because I can take
9 a look at that and --

10 MR. SAHN: We have that -- that
11 survey -- I believe, if you have that.

12 CHAIRMAN MAMMINA: That's the original
13 right there.

14 MR. SAHN: My apologies. I have it.

15 CHAIRMAN MAMMINA: Yeah, can you just
16 hand that up, Steve?

17 MEMBER HERNANDEZ: It's not in the
18 file. I looked.

19 CHAIRMAN MAMMINA: Yeah, I looked
20 also.

21 MEMBER HERNANDEZ: It's right past the
22 curb cut, if you look with the curb cut.

23 MR. SAHN: Now, we have a survey that
24 we've submitted to the -- yeah, I have a copy here,
25 and that survey is dated August 28th, 2009. It

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2 does not actually show a distance to the fence.

3 The fence is shown -- I'm going to
4 submit -- I'm going to hand this in. But the fence
5 is shown towards the rear.

6 You have a scale, Amelio? Can you
7 scale this? That's what I have --

8 (CROSSTALK)

9 MR. SAHN: Well, my apologies. It
10 looks like you have the survey. That is it in the
11 file.

12 MEMBER HERNANDEZ: That's the one we
13 want.

14 MR. SAHN: Okay. I don't have a copy
15 of it.

16 CHAIRMAN MAMMINA: You can have it
17 back. We just wanted to see it, that's all. This
18 shows the existing condition.

19 MR. SOUSSA: Can I show something?

20 MS. ALGIOS: Just put your name on the
21 record.

22 MR. SOUSSA: Amelio Soussa. 23 Brussel
23 Drive, New Hyde Park, New York 11040.

24 When the owner first got the survey
25 done, the surveyor missed the other lot that's part

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2 of the overall property. That's the incorrect
3 survey that you have in your hands. The one that I
4 handed up to you before is the correct one.

5 MS. WAGNER: Would you like to submit
6 this for the record?

7 MR. SAHN: Yes, let me do that and
8 identify it today. Topographic survey prepared by
9 Precision Survey of Section 6, Block 2, Lots 277
10 and 115, dated July 17th, 2020.

11 CHAIRMAN MAMMINA: Now, do --
12 Mr. Soussa, do we know how far back the business
13 district goes as in the -- in relationship to that
14 entire piece of property?

15 MR. SOUSSA: So if you look on the
16 Town of North Hempstead zoning map, it gives a
17 marker of 100 feet back from Port Washington
18 Boulevard.

19 CHAIRMAN MAMMINA: It's typical.

20 MR. SOUSSA: Typical. However, we
21 were alerted to the fact that Port Washington
22 Boulevard was widened. So we had found out through
23 going through the planning review process with the
24 Building Department that it's actually less than
25 100 feet back from our property line, which leaves,

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2 approximately, there's about a 5- or 6-foot sliver
3 of residential in our back portion or eastern
4 portion of the property.

5 CHAIRMAN MAMMINA: How big is that
6 overall piece? I couldn't quite pick it up off of
7 that --

8 MR. SAHN: The overall parcel?

9 CHAIRMAN MAMMINA: Yeah, what's it's
10 depth and it's width?

11 MR. SAHN: It's 10,823 square feet.

12 CHAIRMAN MAMMINA: Big dimensions. So
13 it's about 100x100.

14 MR. SAHN: It's a 100x100.

15 CHAIRMAN MAMMINA: Sir, please.

16 MR. SAHN: But it's 110 on the
17 northerly side.

18 CHAIRMAN MAMMINA: Okay.

19 FEMALE SPEAKER: (Indecipherable.)

20 VICE CHAIR FRANCIS: Ma'am, you can't
21 speak from your --

22 CHAIRMAN MAMMINA: Everyone will have
23 the opportunity to speak.

24 MR. SOUSSA: The north side is 110.
25 The south side is what we're looking at.

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2 MR. SAHN: Yeah. And that
3 incorporates both tax lots.

4 CHAIRMAN MAMMINA: Gotcha.

5 MR. SAHN: But it's a single parcel.

6 CHAIRMAN MAMMINA: Okay.

7 MR. SAHN: Okay. So as I was
8 indicating with respect to the photographs, we are
9 showing you a photograph in the booklet of the rear
10 of the property as it now is and showing the
11 building and the partial fence that's now existing.

12 And then after that photograph, we
13 have several off the west side of Port Washington
14 Boulevard where the businesses are located on the
15 west side, across from the site.

16 And also as part of Exhibit 2 in this
17 booklet, we have a photograph taken from the view
18 of the abutting use to the north, which is a
19 convenience store looking at the property behind,
20 which is the subject, but the convenience store is
21 in the front.

22 And the last photograph is -- or the
23 last exhibit in that booklet is a small version of
24 the rendering of the Alma Bank, how it would look
25 from the rear. And I also have some additional

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2 larger copies that I'd like to submit to show the
3 Board how the Alma Bank would appear from the rear
4 of the property. If I could, I would submit those.
5 We want to show the rear in particular because
6 that's where the parking would be located in the
7 rear entrance into the bank.

8 So as indicated, and Mr. Mulrayn will
9 describe the surrounding uses and the development
10 of the site plan in greater detail, but I think
11 those photographs give the Board a sense of what's
12 there now, and now we can talk about what's
13 proposed.

14 So as indicated on the plans that
15 Mr. Soussa has filed, the proposal is for a
16 one-story Alma Bank with approximately 1,588 square
17 feet, and there will be a parking area at the rear
18 of the bank accessed from Park Avenue. There will
19 be as proposed a drive-thru facility on the north
20 side of the building, including a bypass lane.
21 Traffic would exit out onto Port Washington
22 Boulevard with a restricted turning movement by
23 signage that would allow turns out only in the
24 northerly direction, not southerly.

25 Also, in the plans that the Board has,

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2 there is a proposal for a 15-foot buffer zone, a
3 full 15-foot buffer zone with a fence, of course,
4 dividing in the property at the rear line between
5 this property and the adjacent residence.

6 That buffer zone would be fully
7 planted and irrigated. The plans can include a
8 two- or three-row landscape plan of arborvitae or
9 other type of plants that are agreeable so as to
10 fully shield the bank from the adjoining
11 properties.

12 The plans show five parking spaces and
13 one loading zone where only two spaces are required
14 by code. So the property would be accommodating
15 more spaces than the code requires, as well as a
16 loading zone.

17 As indicated, there would be the curb
18 cut on Park Avenue at the rear to access the site.
19 Currently, there are two curb cuts on Park. One is
20 active; the other is not active. But there would
21 only be one curb cut in this proposal and one curb
22 cut on Port Washington Boulevard. Mr. Mulryan will
23 describe the curb cuts in greater detail.

24 But the one on Port Washington
25 Boulevard has been reviewed preliminarily with the

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2 New York State Department of Transportation.

3 I learned something very interesting
4 as I was preparing Application from Mr. Psyllos and
5 the Alma Bank team that 95 percent of all bank
6 transactions now happen -- and correct me if I'm
7 wrong -- now happen away from the facility itself,
8 away from the banking institution. They are
9 online-type transactions.

10 So, the model of a very large bank
11 with lots of space inside is now a thing of the
12 past. Alma Bank is more of a specialized
13 boutique-type bank; and, hence, a smaller building
14 of 1,500-some-odd square feet is more than adequate
15 for their needs.

16 Likewise, they only require the one
17 bypass lane and the one drive-thru lane, which, of
18 course, the Board knows is subject to a separate
19 special permit by the Town Board.

20 The hours of operation of the bank
21 would be 9:00 a.m. to 5:00 p.m. Monday through
22 Friday, 10:00 a.m. to 10:00 p.m. on Saturdays.
23 There will be an ATM machine that operates 24/7.
24 Am I correct --

25 MALE SPEAKER: 10:00 a.m. to 10:00

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2 p.m. on Saturdays.

3 MR. SAHN: 10:00 a.m. to 2:00 p.m.

4 MALE SPEAKER: 2:00 p.m.

5 MR. SAHN: I apologize, so 10:00 a.m.
6 to 2:00 p.m.

7 And, again, online transactions take
8 up 95 percent of the transactions. And they would
9 be approximately three employees at the bank at
10 peak times of operation. We have a notice of
11 disapproval that lists various relief required,
12 including the Town Board special permits.
13 Originally, we presented a plan to the Building
14 Department. And if you recall, we were going to
15 have a public hearing on the Application based on a
16 different plan. And in that different plan, the
17 first version of the plan, we were not proposing a
18 15-foot buffer zone. There was a 10-foot buffer
19 zone.

20 We looked at that plan again, had
21 further consultations with BZA staff, counsel, the
22 Building Department, and modified the plan to show
23 the parking and as it now is configured, revised
24 bypass lane and a 15-foot buffer zone. We also
25 made some modifications to the exit driveway

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2 through the curb cut on Port Washington Boulevard,
3 and Mr. Mulryan will talk about those changes to
4 the Board.

5 I will comment that among the
6 different items of relief we are requesting from
7 the Zoning Board is a determination under the Town
8 Code that this Application would be entitled to a
9 special permit under Section 70-225(E) of the code.

10 That section of the code is uniquely
11 appropriate for this Application. The language of
12 the section reads that the Board is authorized to
13 permit a house authorized on a portion of a lot in
14 a lower restricted district, business district, for
15 instance, to extend to the entire lot not but more
16 than 50 feet beyond the boundary line of the higher
17 restricted district in the case where a use
18 district boundary line divides in a single
19 ownership at the effective date of this chapter.

20 So in this instance, we have a 1933
21 property, we have a small portion of the property
22 at the rear that is zoned residential and part of
23 the request before the Board is to allow the small
24 part of that residentially-zoned area to be used as
25 the buffer zone for this use.

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2 CHAIR MAMMINA: I'm not familiar with
3 that section. How much -- I think you were going
4 to ask the same question.

5 MEMBER HERNANDEZ: We were.

6 CHAIR MAMMINA: How much of beyond the
7 business district is it to the -- to the first
8 residence, does that make sense?

9 MEMBER HERNANDEZ: How much of the
10 property is residential?

11 CHAIR MAMMINA: Thanks.

12 MEMBER HERNANDEZ: You keep saying a
13 small portion, but what number is that?

14 CHAIR MAMMINA: That portion -- you
15 want to?

16 FEMALE SPEAKER: Here's the zoning
17 line, that giant line. That's business side;
18 that's the residence side. It's mostly the buffer,
19 this small part right here.

20 MR. SAHN: So it's approximately 15
21 feet, it's approximately -- Mr. Mulryan will give
22 you the --

23 CHAIR MAMMINA: Okay. All right.

24 MR. MULRYAN: Good morning. Sean
25 Mulryan. Mulryan Engineering, 1225 Franklin

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2 Avenue, Garden City, New York.

3 As one of the variances that we're
4 here before the Board to present, it's one of the
5 things that I looked into in terms of the site in
6 anticipating some of these questions. The
7 northerly property line of this subject site is
8 110 feet in length; the southerly property line is
9 106. It's approximately 90 feet to the
10 residential -- residentially zoned portion of the
11 property from the front property line.

12 So what happens in the back of the
13 property is on the north side, the residentially
14 zoned property is approximately 20 feet wide, and
15 on the southerly portion, it's 17 feet wide. What
16 we're proposing is a 15-foot buffer to comply with
17 the Zoning requirements. So there is a 2-foot
18 space outstanding on the south side and a 5-foot
19 space outstanding on the north side, 6 inches of
20 that which is -- it is what is, would be curb.

21 So, essentially, what's happening is
22 the rear portion of the subject site, which is a
23 drive-thru lane, a small portion of that drive-thru
24 lanes sits within what is zoned residential on that
25 parcel. The parcel in that width could not be used

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2 what you're looking to -- so it's roughly a foot to
3 two on the Park Avenue side that you're going to
4 encroach.

5 MR. MULRYAN: And roughly five.

6 MEMBER HERNANDEZ: And roughly 5 feet
7 on the northern side that you're going to --

8 MR. MULRYAN: Correct.

9 CHAIR MAMMINA: And, Mr. Sahn, in
10 clarifying the denial, so that I'm certain that I
11 understand it, the use variance that's pointed to
12 in the denial is based on that sliver that's in
13 there. Or in the alternative, you're asking for
14 the Board to consider the special permit to move
15 that line back -- the special permit under the --
16 under the Town's --

17 MR. SAHN: Right.

18 And in respect to the notice of
19 disapproval where they indicate 70-44 as one of the
20 sections; clearly, given the size of that sliver,
21 it could not be developed for any residential
22 purposes. It's undevelopable in that fashion.
23 Doubtless the zoning line is now eschewed because
24 of widenings of Port Washington Boulevard that took
25 place overtime. But that's the circumstance that

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2 confronts not just this parcel, but others along
3 Port Washington Boulevard.

4 CHAIR MAMMINA: And the existing
5 portion now that's beyond where that fence is at
6 the back, would that -- that would be a business
7 zone so you can't put a house under it anyway.

8 MR. SAHN: No. It would be business
9 zone and -- and in this proposal, most of that will
10 be paving, no improvements other than the grade
11 level driveway and then the buffer zone.

12 CHAIR MAMMINA: But you couldn't build
13 a house --

14 MR. SAHN: No.

15 CHAIR MAMMINA: -- in there without a
16 change.

17 MR. SAHN: Without a change of zone.

18 CHAIR MAMMINA: Or a funny job --

19 MR. SAHN: Correct.

20 CHAIR MAMMINA: -- in the zoning,
21 which would not happen.

22 MR. SAHN: Correct.

23 MEMBER HERNANDEZ: If they propose to
24 put a building up, you can put the building going
25 back to the -- to the residential zone.

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2 MR. SAHN: The building could be
3 further to the back, but then it would require the
4 parking to be in the front.

5 MEMBER HERNANDEZ: Correct.

6 MR. SAHN: And then the building would
7 doubtless encroach on to the area that's now a
8 buffer zone, and you would need relief on that end.

9 MEMBER HERNANDEZ: You can move the
10 building back, but then you would out to the buffer
11 and you would have all the parking in the front and
12 you would be closer to the neighbors.

13 MR. SAHN: Correct.

14 MEMBER HERNANDEZ: That's what we
15 decided already.

16 MR. SAHN: So that's -- those are the
17 driving factors on this revised plan.

18 With that background, I think I'd like
19 to ask Mr. Mulryan, then, to give his full report.
20 And we have Mr. Soussa present to talk about the
21 architecture; although, I think really the main
22 issues relate to the parking and the curb cut
23 situation and the traffic that would be generated.

24 CHAIR MAMMINA: Come, pull up a chair.
25 Sit on the end.

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2 MALE SPEAKER: I've been sitting all
3 day.

4 MEMBER GOODSSELL: So have we, so have
5 we.

6 MR. MULRYAN: Good afternoon, again.
7 My name is already in the record, and I'm going to
8 walk backwards a little bit in the application.

9 Mr. Sahn mentioned that we had an
10 application or a hearing date that was before the
11 Board, and that hearing was adjourned. Since that
12 time, several changes have been made to the plans.
13 Some of those changes were based on the information
14 we received from the Town. We also received email
15 correspondence from residents, concerns that they
16 had where we updated certain pieces of the site
17 plan to address -- to try to address those issues.
18 We also updated our report to reflect number one,
19 the revised site plan but also to try to address
20 some of the concerns that were mentioned in those
21 correspondence.

22 So as Mr. Sahn mentioned, the buffer
23 area that was originally presented, which is not
24 before the Board today, has a 10-foot width. We're
25 proposing a 15-foot width that complies with the

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2 Zoning Code.

3 The drive aisle, we had changed that
4 because as the area in the back the buffer zone
5 becomes greater. Certain concessions needed to be
6 made within the subject site. We had vehicle
7 storage position that was facing out on to the
8 sidewalk which was not being credited to the site,
9 so we moved things backwards at that location so
10 that all the stored vehicles storage spaces that
11 are required are provided on the subject site. And
12 we reworked the dedicated bypass lane, which still
13 requires a variance; however, it was in a different
14 configuration previously.

15 As part of our work with the New York
16 State Department of Transportation, the driveway on
17 to Port Washington Boulevard is restricted to right
18 turns out only, and there is some alignment changes
19 to improve circulation, which was driven by
20 conversations with the Building Department.

21 One of the things that is important to
22 note is this is a corner parcel on a state roadway.
23 Any driveway, any sidewalk, any utility connection,
24 anything that you do within the state of right way
25 requires a highway work permit in the state DOT.

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2 substance of the variances that are before the
3 Board, there are several variances. They all, in
4 my opinion, coincide with each other. So there are
5 parking stall sizes similar to the previous
6 application that we discussed earlier today. We
7 are going with a parking space that is 18 feet in
8 length where 20 feet is required, they maintain the
9 10-foot width.

10 These parking spaces are actually
11 wider than many of the parking spaces that are a
12 used in other municipalities which generally ask
13 for 9 by 18. We don't feel that there's an issue
14 with the site circulation. Again, this site,
15 because of small size of the buildings, only
16 requires two parking spaces where we provide five;
17 so we're actually over-parked. But the size of the
18 parking spaces is one of the variances that's
19 before the Board.

20 The aisle width is another factor
21 that's before the Board, and that's the drive aisle
22 behind the parking spaces. So you can see here
23 that there's a two-driveway aisle behind the
24 parking spaces that's 22 feet in width. And,
25 again, we have found that that is ample room for

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2 cars to maneuver and will not interfere with
3 on-site circulation.

4 One of the other issues that is before
5 the Board is the loading zone, which is required to
6 be 25 feet in length and 10 feet in width. The
7 loading zone that's provided here is 10 feet in
8 width and 23 feet in length. So, again, you can
9 see that the 2 feet is an accommodation to increase
10 the buffer in the back. So we're adding to one
11 space and taking from others.

12 This is a bank, a small building.
13 You've -- I've seen many deliveries to banks.
14 There are armored cars, essentially. Cleaning is
15 usually done at night when the bank is closed. We
16 don't feel that there's any issue with the size of
17 the loading zone. It's located in between the
18 parking and the drive-thru, so it won't interfere
19 with site circulation. Many of the trucks that
20 I've seen will either use the loading zone or just
21 park in a regular spot because they're not all that
22 large, it's single-unit vehicles.

23 You don't get too many deliveries to
24 banks throughout the day. Usually, you will have
25 maybe one or two deliveries by -- or pickups from

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2 the armored cars, and they happen sporadically
3 throughout the day, but that should not be an
4 issue, in our opinion.

5 The bypass lane is one of the bigger
6 issues that is before the Board. And the way the
7 bypass lane is configured, it runs along the entire
8 northerly portion of the site. It does not
9 continue to the easterly area which abuts the
10 residential. So again, the buffer zone is proposed
11 at 15. If you brought a 10-foot bypass lane around
12 the backside, we could comply with that portion but
13 would need a variance for the buffer zone.

14 What we did is we looked at other
15 banks in the area and studied the number of cars in
16 their drive-thrus. So we looked at Bethpage,
17 Federal Credit Savings, and up the road from this
18 site, we looked at the Valley National Bank, which
19 is a small local bank. It's more akin to this type
20 of use. Again, this is the first Alma Bank on Long
21 Island, so we didn't have the opportunity to look
22 at an Alma Bank that's here.

23 But, again, those other banks had very
24 low trip generation in their drive-thrus, so we
25 don't feel that there's any issue with having a

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2 bypass lane that's only on the northerly side of
3 the property.

4 The vehicles storing positions one,
5 two and three are located within the northerly side
6 of the property. They all have direct access to
7 the bypass lane. The fourth vehicle storage
8 position is the first car on the westerly --
9 easterly side of the property, which also has
10 access to that bypass lane. So vehicle storage
11 positions five and six, which are required by
12 code -- not that we feel that they're necessarily
13 needed for this application -- are the only ones
14 that do not have direct access to that bypass lane.

15 The idea behind the bypass lane is if
16 a car gets broken down, if I decide I have to go
17 somewhere else, I can use the bypass lane and not
18 take care of my transaction. That's the intent we
19 believe that based on the size of the building, the
20 number of cars that we expect to be generated here,
21 that the usage along the northerly side is more
22 than adequate for the subject site. And we believe
23 that it would be adverse to the application to have
24 it run along the entire property along the backside
25 where the other vehicles would be able to have

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2 access to it, but it would degrade the size of the
3 buffer, which, again, would be this variance versus
4 that variance. We believe that the size of the
5 buffer is more beneficial and is not needed for us
6 in terms of our application.

7 CHAIR MAMMINA: It's also more
8 beneficial to the neighbors.

9 MR. MULRYAN: Correct, correct. And
10 that's some of the issues that were changed.
11 Again, that bypass -- that buffer was 10 feet. We
12 increased it to 15. So the variances that we're
13 requesting changed.

14 So we had 10 by 20 parking spaces; now
15 we have a 10 by 18. So we're looking to change
16 application, increase the size of the buffer, take
17 away things that we didn't feel were necessary for
18 us. It changed the variances that we're asking for
19 and we believed, beneficially, for everyone
20 involved. We don't feel that the variances that
21 we're asking for adversely affect the site, and we
22 believe that they increase the buffer zone between
23 the commercial property and the residential
24 properties to the east.

25 Once again, we were asked to take a

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2 look -- or weren't asked, but we heard and saw
3 comments from the residents that the original
4 report that was submitted to the Board only had
5 information concerning Port Washington Boulevard,
6 that information was 24-hour traffic counters
7 collected by the New York State Department of
8 Transportation, discussing the volume of traffic on
9 that roadway. And, again, I'm sure the Board
10 members are fully aware that is a very busy
11 roadway.

12 But what we did do in February between
13 the date of the last hearing and this hearing is we
14 went out and did turning movement counts at the
15 intersection. We included the trip generation of
16 the subject site based on ITE. And, basically,
17 what the ITE says is that approximately 15 vehicles
18 would be generated by the subject site, which is
19 one every four minutes. That would be a car
20 entering the site to take care of transaction and
21 that car would then exit, so then you have
22 approximately one car coming in or out of the site
23 approximately every two minutes. That's a very low
24 volume of traffic in terms of the flow of traffic
25 on Port Washington Boulevard. And we believe that

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2 would be able to accommodate by the roadways.

3 We did take a look at certain factors
4 along Port Washington Boulevard. There is a
5 traffic signal just to the south of the site on
6 Willowdale Avenue which crosses over the railroad
7 tracks which are to the west. So that gets a heavy
8 volume of traffic. There's a northbound left turn
9 arrow that comes up. Southbound traffic needs to
10 wait for not only the side street, but also that
11 northbound left turn arrow to clear before the
12 southbound traffic gets a green signal.

13 So that does create some delay.
14 Again, based on the size of the building there,
15 1,588 square feet, it's a very small building.
16 It's a small local bank, so it's not a larger, more
17 well-known bank. Again, this is the first branch
18 on Long Island.

19 We believe that the traffic volume has
20 indicated approximately 15 vehicles based on ITE.
21 ITE data takes into account all types of branches,
22 more well-known branches and some smaller branches
23 but more mainstream banks. So we believe that --
24 based on our observations, that Valley National,
25 which we believe is more akin to this subject site,

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2 that there will be a very low trip generation. The
3 subject site meets the number of parking spaces.
4 There are some issues with the size, which we don't
5 believe should be an issue. And we did look to
6 address the comments that we saw from the residents
7 to the best of our ability and accommodate the
8 subject site.

9 If there's any other questions, I'd be
10 happy to try to answer them. And I know that the
11 Board has a copy of my study.

12 CHAIR MAMMINA: Yes, we do.

13 Thank you, Mr. Mulryan.

14 MR. MULRYAN: Thank you.

15 CHAIR MAMMINA: Mr. Sahn, I have a
16 question based on Mr. Mulryan's presentation, which
17 really directly doesn't have to do with traffic,
18 per se, but it has to do with automobile activity
19 on the site and at what different times of the day.

20 And I think you said that the
21 transactional windows would be open until 2:00 in
22 the afternoon?

23 MR. SAHN: On Saturday.

24 CHAIR MAMMINA: On Saturday.

25 MR. SAHN: Yes.

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2 CHAIR MAMMINA: And what time during
3 the week?

4 MR. SAHN: 9 to 5.

5 CHAIR MAMMINA: 9 to 5.

6 Now, what about -- what about the cash
7 machines that --

8 MR. SAHN: The ATM is a 24/7 --

9 CHAIR MAMMINA: Okay.

10 MR. SAHN: -- access.

11 CHAIR MAMMINA: So but then they would
12 be away from --

13 MR. SAHN: That's on the side of the
14 building toward the front, yes.

15 CHAIR MAMMINA: Okay.

16 MR. SAHN: And I think we also
17 indicated that it's basically Monday through --
18 again, Monday through Friday; not Sunday; Saturday,
19 limited hours of operation.

20 So by comparison to other types of
21 commercial uses, we respectfully think it's a very
22 low volume type of use for a Port Washington
23 Boulevard use.

24 CHAIR MAMMINA: May I ask --

25 MR. SAHN: Please.

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2 CHAIR MAMMINA: -- a question, just
3 regarding the architecture itself.

4 That raised portion of the roof that
5 looks like it's glass. The Alma Bank comes
6 horizontally, and then, I guess, it's to the south
7 it pops up in there. Is that a -- what we call a
8 spandrel glass that doesn't light up, or is there
9 lighting behind that?

10 MR. SOUSSA: Which part in particular?
11 I'm sorry.

12 CHAIR MAMMINA: I'm going to hold this
13 up. For the record, I have the rear area,
14 Mr. Soussa. I'm talking about this portion in
15 here.

16 MR. SOUSSA: Spandrel glass.

17 CHAIR MAMMINA: So that's spandrel
18 glass. So no light would come through there toward
19 the neighbor houses?

20 MR. SOUSSA: No, no.

21 I'm thinking that maybe the signage
22 itself would have some illumination but not the
23 glass itself.

24 CHAIR MAMMINA: Yeah, well, the
25 signage hasn't come in yet. And, you know, our

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2 signage -- our signage is very restrictive and
3 generally we find that signs nowadays are backlit
4 from an interior channel letter. So all you get is
5 a glow --

6 MR. SOUSSA: You get a glow.

7 CHAIR MAMMINA: You don't get light
8 that's projected.

9 MR. SOUSSA: Architecturally, that
10 would be our intent to just backlight that --

11 CHAIR MAMMINA: Yeah. And, normally,
12 those would -- certainly, I think it's in the
13 ordinance that anything facing the parking lot is
14 limited in the time that that's permitted to be --

15 MR. SOUSSA: Sure.

16 CHAIR MAMMINA: -- to be lighted.

17 MR. SAHN: So limited illumination
18 under the code.

19 CHAIR MAMMINA: Right. Okay. Just
20 wanted to make sure there was no light --

21 MR. SOUSSA: Yes, that's correct.

22 CHAIR MAMMINA: -- that would
23 potentially come out of that.

24 Good. That was the only question I
25 had. There's actually very little glass that's

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2 facing, you know, in that direction.

3 MR. SAHN: Just a few more comments to
4 expand on what Mr. Mulryan indicated with respect
5 to the design of the building, taking into account
6 some of the comments we were fortunate, because
7 when the case was first adjourned, there had been
8 comments submitted by neighbors -- some of them are
9 here today -- and we took those into account.

10 Mostly, and I can run down each
11 individual. I don't think I need to, but they
12 dealt with the size of the buffer zone, the
13 substantiality of the landscaping. There was a
14 question whether we needed a change of zone, which
15 we do not need a change of zone; we need a special
16 permit or in the alternative, the use variance.
17 But, again, we feel we want the special permit the
18 way the code is written.

19 We also had a number of comments
20 asking why Alma could not take over. Apparently,
21 there's one or two other banking facilities on Port
22 Washington that are now not operating. And there
23 are two answers to that that I can give you:

24 One is Alma does not need a banking
25 facility of that size. As you can see, it's a

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2 smaller-type bank.

3 And beyond that, there was inquiry
4 made as Mr. Psyllos can tell you later on, but
5 neither of those institutions wanted to sell to
6 another bank. Just the way of the market so to
7 speak.

8 We did look also at the question, and
9 I think Mr. Mulryan addressed it partly in his
10 narrative in the report and partly in his testimony
11 of the adjoining property. The gas station
12 property, which is immediately to the south of
13 this, there's a gas station. That gas station has
14 curb cuts on Park Avenue, and those were examined
15 in the narrative that is addressed by Mr. Mulryan,
16 and he can address it more.

17 We had the opportunity while the case
18 was waiting to be called to speak to one of our
19 neighbors, Mr. Mark Gamell, who is has corresponded
20 with the Board.

21 And, Mark, if you don't mind, can I
22 mention --

23 MALE SPEAKER: Of course.

24 MR. SAHN: I'd like to mention our
25 conversations. Good fortune is Mr. Gamell and I

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2 know each other for many years, both as practicing
3 lawyers where we've had cases together and through
4 Mr. Gamell's family, which has resided in Sands
5 Point.

6 Mr. Gamell made a very valid point to
7 us out in the lobby, which is that on the -- in
8 front of the gas station on Park Avenue on the gas
9 station side, there is a sign that permits
10 commercial parking. And frequently, he noticed,
11 and myself also, that there are vehicles that park
12 on that side of Park Avenue across from this
13 property. And the suggestion was made that perhaps
14 that's -- that parking could be prohibited,
15 commercial parking could be prohibited. There's no
16 need for it for the bank if the bank is established
17 there. We have our own parking. The gas station
18 certainly should not have parking of cars on the
19 street. So we fully endorse that.

20 And we said to Mr. Gamell to that
21 we're fortunate also that we have to appear before
22 the Town Board. And we would ask the Town Board to
23 eliminate that parking on the south side of Park
24 Avenue. If the Town Board would see it in their
25 discretion to do so, whether or not it's

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2 eliminated, this site would still work on its own
3 accord because that parking is already there, that
4 use is already there. We're not changing that.

5 We would eliminate any ancillary
6 parking that may occur because we have a small --
7 smaller site now, and perhaps the automotive use is
8 put in cars there. We don't know for sure. But
9 that would be a good suggestion. And if the Board
10 would endorse it in approving the Application, I
11 think we'd all be fortunate for that.

12 In any event, other than that, I think
13 we've provided all the information we have.

14 CHAIR MAMMINA: Two more questions.

15 MR. SAHN: Yes.

16 CHAIR MAMMINA: I'll ask yours first,
17 Mr. Sahn, and then Mr. Mulryan's.

18 For the people that are here and maybe
19 for some of the Board members that may not have
20 been on the board as long as I've been on the
21 Board, if you can explain the way -- what that
22 special permit is in terms of extending that zoning
23 line back, and, you know, what the -- you know
24 what -- what that -- what that actually means in
25 terms of, you know, of this site, and then maybe

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2 I'll mix in Mr. Mulryan's question at the same
3 time.

4 It appears to me, from when you went
5 to the site, that the gas station across the street
6 lines up -- the back of that along Park lines up
7 with the back of the property that we're talking
8 about also today for the, you know, for the bank.
9 So it would appear to me that that property line
10 or -- excuse me, that the zoning line in there
11 would also have been extended, you know, back into
12 that residential.

13 So I guess that's my quick question.
14 What does that mean, you know, to the people that
15 are -- that are here, because, technically, I'm not
16 supposed to be explaining, you know, those -- you
17 know, those -- those things.

18 MR. SAHN: Sure. So if I can try to
19 explain that in simple language, it gives -- that
20 section of the code gives the Board the authority
21 and the discretion to extend a business type use in
22 a lower district, a lower district, meaning a
23 commercial district compared to a residential
24 district. In zoning parlance, a residential
25 district is considered a higher district compared

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2 to a business, commercial or industrial district.

3 And so the Board has the discretion to
4 extend the use in the lower, in this case, business
5 district, partly into the residential area. In
6 order to achieve a result that is in the best
7 interest, so to speak, of the community that would
8 have the least impact and it's a modest intrusion
9 into that residential area. It does not involve a
10 change of zone the underlying zoning remains in
11 place. The property will continue to be split
12 zone.

13 But the result in here would be to
14 achieve a 15-foot buffer zone. And given that the
15 extension is far less than the 50-foot authorized
16 by the code, we're talking about a much smaller
17 area, 5 feet at the maximum. This section would
18 appear to be right on point for the Board to
19 consider. So I hope that's helpful to the Board.
20 We don't want to change the zone, but any -- any
21 user of property would be confronted. Any user on
22 this parcel would be confronted with this same
23 situation.

24 Also, Mr. Mammina, you are correct
25 that many of these properties, including the gas

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2 station, go back a similar distance from Port
3 Boulevard. A number of years ago, I represented
4 the owner of the parcel where the TD Bank is
5 located. And that parcel was developed with the
6 bank in conjunction with that small strip shopping
7 center where there's a bagel store and some other
8 retail stores. And, again, we confronted the same
9 situation. There were homes built immediately to
10 the east of the TD Bank.

11 I also represented back -- and, again,
12 sometimes you look back on these properties and you
13 realize that you represented people in similar
14 circumstances. Back in 2010, I represented
15 Dr. Baroia. Dr. Baroia has his property at 639
16 Port Washington Boulevard at the corner of Port
17 Washington Boulevard and Highland. And in that
18 case, we had an approval to make renovations to
19 Dr. Baroia's office, which is residential-looking
20 in nature, with insufficient parking, insufficient
21 loading zone and insufficient aisle size,
22 insufficient landscape buffer.

23 All of the same things that are
24 included in this Application. I think that's
25 common for all the properties on Port Washington

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2 Boulevard. I have a copy of the decision that I
3 can submit on that, but this property, I believe,
4 stands on its own merits without reference to any
5 others.

6 CHAIR MAMMINA: Okay.

7 MR. SAHN: And we welcome the
8 opportunity to respond to comments from the some of
9 the residents.

10 CHAIR MAMMINA: Certainly.

11 MR. SAHN: Thank you.

12 CHAIR MAMMINA: So if we could, we're
13 extremely interested in the neighbors' comments.

14 What we would ask, if you come up one
15 at a time, that's fine. And don't worry, you can
16 all come on up but speak one at a time or, you
17 know, same thing, give your name and address, and,
18 you know, just tell us -- tell us what you think.

19 MR. CATRONE: Good evening.

20 CHAIR MAMMINA: Typical day.

21 MR. CATRONE: My name is Steven
22 Catrone, C-A-T-R-O-N-E. Steven with a V. I live
23 at 46 Fairview Avenue. That's in the park section.
24 I'm the president of the park section civic
25 association, which is where the bank would be

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2 built.

3 We're opposed to the project, and I
4 think you really gotta live there and see the
5 traffic. You know, I'm in and out every day. I
6 come from the train. I gotta make the left. I
7 gotta make the right. It's a very, very bad -- I
8 don't want to call it "intersection," corner. It's
9 very dangerous. It's a very dangerous situation.
10 It's white knuckles, because you got double-turning
11 lanes. I'm sure Mark will point it out a little
12 better. And the traffic is coming at you straight
13 on. And, like, you know, people don't pay
14 attention these days. They're, like, spaced out.
15 They're, like, going over the lane. You're, like,
16 praying they don't hit you.

17 If it wasn't a drive-thru, I mean,
18 aesthetically, please get past that. You know,
19 obviously a bank would look better than Moe's
20 Place, but it's dangerous. And I want to be really
21 careful with the decision because, not to be overly
22 dramatic, I'm not a lawyer or government. I don't
23 really talk all the mumbo jumbo, but I'm telling
24 you, it could cost a life if it's not done
25 properly. You know, I want that on the record

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2 because I really feel strongly about this. You
3 know, the traffic is horrendous in this town. And
4 to build a drive-thru on that corner is really not
5 the best idea.

6 That being said, we have a lot of
7 neighbors here. I want to turn over to Mark. Hey,
8 Dave or Mark? Mark, come on up. Thank you so
9 much.

10 CHAIR MAMMINA: And thank you so much.
11 You gotta be careful because you're the president
12 of the civic association. That's how I got here 30
13 years ago, so...

14 MR. GAMELL: Thank you. Mark Gamell,
15 G-A-M-E-L-L. I reside at 91 Park Avenue, Port
16 Washington. As Michael Sahn was kind enough to
17 reveal to you, I'm also an attorney, but I do not
18 practice in this field, as he also knows. But for
19 full disclosure, my firm is Torre, Lentz, Gamell
20 Gary & Rittmaster, located in Jericho.

21 To let you know how important I feel
22 this is, not to get any sympathy, my father passed
23 on Sunday, and I'm trying to put together funeral
24 arrangements. And, yet, I've been here all day to
25 make sure I get a chance to tell you what it is I'm

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2 concerned about.

3 The Park District, as it has been
4 named by the real estate industry, is 600 homes
5 squeezed between about five streets, four blocks in
6 depth. I think the member who lives in our area
7 recused himself, so I'm trying to fill in some
8 context for you. It's purely residential, and I'm
9 gratified to know that, even though I don't do land
10 use and zoning. I have actually pulled from a lot
11 of the same resources Michael Sahn pulled from,
12 Google Maps and Google Earth, it's amazing we
13 stumbled upon the same resources.

14 MEMBER GOODSELL: Recognized legal
15 resources.

16 MR. GAMELL: I also have some
17 photographs that I took myself yesterday afternoon.
18 My reading of Mr. Mulryan's revised report.

19 And, again, I don't do this. He notes
20 that the bank is seeking variances for the
21 convenience of its customers. And what I'm
22 concerned about is the convenience and safety of
23 the neighborhood. I live on Park Avenue, but four
24 blocks up, nowhere near where this bank is going to
25 go. And my concern is how are we going to get in

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2 and out of our streets because we can't do it now.
3 It does not have to do with there being a bank in
4 that location or anything new in that location.

5 It has to do with there being a
6 drive-thru business which you must enter the bottom
7 of Park Avenue to get into. Because the only
8 access to this business as currently designed is to
9 turn on to Park Avenue and then make a left into
10 the access lane. That space is already utterly
11 impossible. And I'm going to show you, really, why
12 most of it has to do with the existing Exxon
13 station across the street from this bank.

14 So if I can take the liberty of
15 showing you a few things I've brought. Michael, I
16 have one --

17 CHAIR MAMMINA: Please.

18 MR. GAMELL: One, two, three, four.
19 This worked out perfectly.

20 MS. WAGNER: This will be Opposition
21 Exhibit 1.

22 MR. GAMELL: That's fine.

23 Okay. This is a slightly blown-up
24 printout from Google Maps that I made myself this
25 morning and on which I have circled some things.

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2 And I -- again, I apologize for the crayon-like
3 inartful manner of my presentation.

4 CHAIR MAMMINA: Quite all right. I've
5 seen some done by professionals that are not done
6 as well as this.

7 MR. GAMELL: Thank you.

8 But if you look at it with me, you'll
9 see that there's a pink X that I made. And that
10 pink X is the intersection we are concerned with.
11 The orange spaces are the places in Port Washington
12 town that generate enormous traffic. There's the
13 train station and the train yard, which I've drawn
14 a circle around. And, of course, there's an
15 enormous amount of in-and-out at the train station.

16 What I want you to know is the only
17 way to get over the train tracks to the other side
18 of the town is to either go down Main Street to the
19 east and get on to Port Boulevard or to come all
20 way down to Willowdale Avenue. And you'll see that
21 I drew two parallel lines in orange. That's the
22 Willowdale Avenue bridge that goes over the train
23 tracks. Willowdale Avenue, as you see, enters into
24 Port Boulevard just south of the intersection,
25 we're talking about, and there's a traffic light

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2 there.

3 The traffic pours out of Willowdale on
4 to Port Washington at that spot all hours of the
5 day and night, especially when it's drop-off and
6 pickup time at the train station. And I'm
7 remembering flick and flak, pick up and drop off,
8 if you remember that.

9 Or school time picking up and dropping
10 off from school. The school complex, around which
11 I drew a big box, that is grades 6 through 12 of
12 the entire Port Washington school district. The
13 lower avenue Bogart is right up against the junior
14 high school, and it is constantly clogged with
15 parents picking up children and dropping off
16 children all the way up.

17 You'll see campus drive is a little
18 further up, and that is a tremendously congested
19 area as well. And it's not just during school
20 hours. Because when extracurricular activities end
21 at 3, 4, 5, even 6 this is booked solid with
22 parents picking up. And I haven't even talked
23 about school bus traffic.

24 Okay. So it's in this milieu that
25 we're looking at what happens at that little pink

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2 B. And this is aside from just the general amount
3 of traffic on Port Boulevard okay.

4 Now, if I can zoom in just a little
5 bit more on this particular intersection. These
6 are from Google Earth that I printed out this
7 morning.

8 MS. WAGNER: This is Opposition
9 Exhibit 2.

10 MR. GAMELL: Great, thank you.

11 And I ask you to orient this so that
12 the printing makes sense to you left to right so
13 landscape -- portrait rather than landscape mode.

14 On the right-hand side, the photograph
15 leading into Port Washington Boulevard is the
16 bottom of Park Avenue. Above that is the Nut Just
17 Lube property where the proposed bank would be, the
18 improvement. And just below that, you'll see a
19 bunch of white awnings on which I have written in
20 blue myself the word "Exxon."

21 That is, the Exxon station is directly
22 across Park Avenue from the proposed drive-in bank.
23 And what I want to point about the Exxon is that
24 right up against Port Boulevard, you'll see the
25 white weather canopy that is above the four gas

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2 pumps.

3 And please note how close to Port
4 Washington that is. Those gas pumps are right up
5 against Port Boulevard. Thank you. And because of
6 that, the cars entering and exiting that gas
7 station use the lower curb cut at the bottom of
8 Park Avenue closest to Port Boulevard. Cars come
9 into Park Avenue to pull in and wait for a space
10 there, and cars exit on to Park Avenue and try to
11 make a left or a right to get on to Port -- Port
12 Boulevard.

13 And what I want to tell you I've
14 experienced since I've lived here since 1986, is
15 that, most often, those entering the gas station
16 get halfway in and leave the back end of their car
17 hanging out in the road until they can get a place
18 at those pumps and most often. Those trying to
19 exit on Park Avenue cannot get all the way down to
20 the intersection because you see how close to Port
21 Boulevard that exit is from those pumps. So people
22 pull out, they go to the left a little bit and
23 there they sit because it's very hard to get onto
24 Port Boulevard, it's a very busy place.

25 So the in and out of the Exxon, which

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2 this and give that to us so that we can see it with
3 you.

4 MR. GAMELL: You need another one?

5 CHAIR MAMMINA: No, no. He has to
6 mark it first.

7 MR. GAMELL: Okay. I'm sorry.

8 Okay. So the photograph I just showed
9 you I took at about quarter to 5 yesterday
10 afternoon, standing with my back to the Nut Just
11 Lube shop where the bank will be. This is looking
12 right across Park Avenue there you see a truck and
13 a car parked on the street next to the Exxon, just
14 east, just above the curb cut which you see to the
15 right where cars exit the Exxon onto Park Avenue.

16 I show this to you because these cars
17 are legally parked here. That's signage that's up,
18 and it all constricts the bottom of the
19 intersection. So the bottom of this intersection
20 already has this constriction. There is always
21 something parked here. I never see this empty.
22 Any time of day or night, coming home from the
23 opera, there they are, doesn't matter.

24 So the bottom of Park Avenue is
25 constricted already by the signage that's up,

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2 allowing commercial parking at that spot. So we're
3 already congested by the parking, and we have
4 people coming out of the Exxon and filling the
5 bottom of the intersection. And this is directly
6 across the street from where the access curb cuts
7 to the new bank are proposed to be.

8 Bear with me one moment, please. So
9 another Google Maps with some more kindergarten
10 crayoning from me.

11 MR. PERROTTA: Opposition Exhibit 4.

12 MS. ALGIOS: Mr. Gamell, normally, we
13 impose a three-minute time limit, which I haven't
14 enforced for this meeting. I'm only going to ask
15 respectfully if you can kind of wrap it up soon
16 because you've gone longer than that.

17 MR. GAMELL: I certainly will, I
18 certainly will. I appreciate it.

19 MS. ALGIOS: Thank you.

20 MR. GAMELL: Okay. This is a Google
21 Maps blowup of the intersection area that I printed
22 from the computer this morning. And you'll see
23 there are three little colored items I added there
24 with my marker. One shows where it is in orange,
25 where it is that the cars exit the Exxon and make

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2 their left and sit in the bottom of the
3 intersection. The two pink Xs show you where these
4 commercial parking spaces are. And in blue I've
5 done my best to show you where the proposed
6 entrance to the drive-in is to be.

7 And I think it's obvious to you that
8 in order to get to the entrance of the new proposed
9 drive-thru bank, a car has to somehow either make a
10 left into Park Avenue from Port Boulevard or a
11 right into Park Avenue from Port Boulevard and into
12 this already congested intersection now.

13 CHAIR MAMMINA: That's -- that
14 location is not accurate. That location is where
15 the current curb cut that goes into Nut Just Lube
16 is. That curb cut would move further to the east.

17 MR. GAMELL: Even if you move -- I
18 accept that. Because you're an architect and an
19 expert, and I'm not. If you move it further to the
20 east, it doesn't change my point, is that somehow
21 to get into this bank, you must enter Park Avenue,
22 which is already strangled at that intersection.

23 The other thing I want to point out to
24 you is that Park Avenue is one of the few streets
25 that you can legally make a left into, to get into

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2 the Park District. You can make a left onto
3 Bogart, but it's constantly clogged, filled with
4 people picking up their kids. You cannot make a
5 left on Bar Beach. You can make a left on Park
6 Avenue, but you can't make a left on Highland, and
7 you have to then go down to Fairview where the
8 traffic light is.

9 (CROSSTALK.)

10 MR. GAMELL: You can't make a left
11 on -- Fairview is out only, that's right. So you
12 can make a left into the Park District at Park
13 Avenue, out at Bogart, Park is already congested,
14 Bogart is already congested. And to put yet
15 another in-out business down towards the bottom of
16 this street, I think would be very, very
17 inconvenient, if not dangerous for the residents of
18 the Park District, 600 homes, people trying to get
19 in and out and get home.

20 I understand Madam's request that I
21 wrap things up.

22 I want to make a few quick comments on
23 Mr. Mulryan's report. I read the report as on
24 saying page 7 of 9 the estimate of trips is 30
25 trips per hour. I heard in his testimony that what

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2 he really means is 15 ins and 15 outs per hour.

3 Maybe I misunderstand the whole thing.
4 I'm not a traffic engineer. But I think adding 15
5 ins per hour may not sound like much generally, but
6 now that I've explained to you what happens at this
7 intersection, that plus what's happening at Exxon,
8 just people trying to get in and out, I think that
9 is a very dangerous situation.

10 And as I read Mr. Mulryan's reports,
11 his measurement of turning times, et cetera, did
12 not take into account the people exiting from the
13 Exxon who are just sitting there and how long they
14 sit here and how long that blocks the intersections
15 and how difficult it is to then maneuver cars in
16 and out of that area.

17 I note that some of the trafficking at
18 the supposedly representative other banks seems to
19 be measured on Friday June 18th and Saturday
20 June 19th of last year. I note that that was the
21 first federal holiday of Juneteenth. I don't know
22 if those banks were open that day. I will tell you
23 I did check and found out that Port Washington
24 schools were open. But I know from personal
25 experience that a lot of businesses in Manhattan

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2 closed for Friday, June 18th, and a lot of
3 commuters weren't bothering to go to work that day.

4 So is that a true measurement of the
5 up and down, in and out? I don't know, but I find
6 it very questionable.

7 So my concern is for the convenience
8 of our area where we live and safety. I will also
9 tell you that a street school kids across on their
10 way home from school and the intersection is
11 already perilous, they run for their lives across
12 there. Why did they cross that street, because if
13 they walk another half a block up, you'll find one
14 of the few crosswalks across the Port Washington
15 Boulevard. There's one way up at the Citibank, and
16 the next one is all the way down to go over the
17 Willowdale Bridge if you walk home to that side of
18 town. So when school is out, that bottom of that
19 intersection is also filled with kids walking
20 across the street.

21 So my concern is for traffic
22 congestion. I have no objection to the bank. I
23 have no objection to Alma Bank. I just met its
24 president, and I'm gratified that he's here in
25 person because it means that he cares enough to

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2 listen to us. It is the drive-thru aspect and
3 where the access has been placed. And unless
4 something more creative can be done in terms of how
5 you get access to this new bank, I am, at the
6 moment, firmly opposed to it. I think the removal
7 of the two commercial parking spots would certainly
8 help.

9 But what I would like to see is
10 Mr. Mulryan or someone of his equivalent talents do
11 an actual study of what is going on at the bottom
12 of our street because it is really as I've
13 represented it to you. Okay. I thank you all.

14 CHAIR MAMMINA: Thank you. Very, very
15 comprehensive. And we do appreciate that certain
16 will.

17 MR. GAMELL: Thank you for your time.
18 I'm sorry I went over time.

19 MR. MCCULLOH: Good afternoon.

20 CHAIR MAMMINA: Good afternoon.

21 MR. MCCULLOH: My name is David
22 McCulloh, that's D-A-V-I-D M-C-C-U-L-L-O-H. I
23 reside at 7 Park Avenue, three houses up from the
24 proposed site in Port Washington, and the ZIP code
25 is 11050.

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2 I'm here today because I'm opposed to
3 the bank's presence, not because the bank. I think
4 the bank would be a great addition to our area.
5 But I'm dissatisfied with the idea that we're going
6 to convert a lovely green space into a parking lot.
7 First of all, I want to say I was -- I was really
8 upset by the fact that the original studies of
9 traffic were done on Port Boulevard and did not do
10 anything to look at the traffic on Park Avenue,
11 where I live. Mr. Gamell went into that very well.

12 Another of my concerns is the
13 permanence of a change of use, whatever it is that
14 Mr. Sahn is asking for, which, in essence, means
15 that we're making a permanent change to the use of
16 this space. Right now, on mynassauproperty.com,
17 lot 115 is indicated as -- let me see if I can get
18 this right -- it's listed as a class 1 property.
19 That's the same class as my residential property.
20 It's been clarified, I guess, today that only a
21 portion of it is really residential. I don't know
22 whether to believe that or not. My information
23 says that 40 feet of the frontage on Port -- on
24 Park Avenue is residential use.

25 I guess you had to figure out whether

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2 I'm right or whether Mr. Sahn is right. I'm not
3 inclined to believe that he's lying, but I was
4 certainly misled if mynassauproperty.com says it's
5 all class one.

6 So my concern comes from the fact that
7 once we make a change, it's permanent. Within
8 three/tenths of a mile of that spot there have been
9 five banks on Port Boulevard. Two of them,
10 40 percent have closed their doors in the last two
11 years. So I question the viability of a bank at
12 this site. And I'm not worried about Alma Bank
13 surviving. I'm worried about what will be
14 replacing Alma Bank when it doesn't make it.

15 We make changes that will allow
16 business use of the space, and we'll end up with a
17 bunch of old heap cars piled up there as a business
18 use. I don't want that happening. I think we have
19 the foresight to realize that this change, once
20 done -- of course, there's some legal way we can
21 undo it, I'm sure, but it's a lot harder than
22 getting things to go through in the first place.
23 So I think we have to consider that.

24 There are -- those 40 percent of the
25 banks that are shut, Capital One Bank at the corner

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2 of Port Washington Boulevard and Main Street is
3 presently vacant, looking for a tenant. It has
4 drive-thru already. There wouldn't be any
5 excessions necessary to use that space. The Chase
6 Bank at Bogart and Port Boulevard is probably sold.

7 And you mentioned that somebody -- you
8 actually tried to get them to sell to you?

9 CHAIR MAMMINA: Sir, can you keep the
10 testimony this way.

11 MR. MCCULLOH: I'm sorry.

12 CHAIR MAMMINA: Mr. Psyllos will have
13 the opportunity to respond.

14 MR. MCCULLOH: It is, in fact, vacant
15 at this time. So why do we need to create a new
16 business space when we already have business space?

17 Now, I sent an email earlier this
18 morning with pictures taken this morning of spaces,
19 and I think you have all received them. They were
20 forwarded to you earlier. But they will show you
21 on the -- if you have those emails, don't know if
22 you do. The two vacant banks, very attractive
23 structures, they look lovely. Actually, I would
24 say perhaps even more lovely than the proposed
25 structure that we have for the site. It shows

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2 pictures of all the three other banks all within
3 1,200 feet of this bank.

4 And, finally, in the first two blocks
5 of Main Street, just around the corner from Capital
6 One Bank, I've shown pictures of five -- I'm sorry,
7 there are actually six storefronts that are vacant
8 right now. There's no posity of commercial space
9 in Port Washington. Why do we have to convert
10 residential space to another use when there's
11 plenty of commercial space available?

12 And just one other comment: We heard
13 earlier that two facts, that there are five parking
14 spaces proposed for the new site, and on top of
15 that, they plan to have three employees. Where
16 will the employees park? They're taking up
17 60 percent of their sparking spaces. Or also going
18 to have them park on Park Avenue which we were told
19 there wasn't going to be anything happening to
20 parking on -- on Park Avenue from the bank.

21 So that is something that I think
22 needs to be answered. And, basically, that
23 concludes what I have to say. I'm vehemently
24 opposed to the bank making the changes to the
25 property. Thank you very much.

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2 CHAIR MAMMINA: Thank you.

3 MR. MCCULLOH: Good evening, which I
4 believe it is now evening.

5 CHAIR MAMMINA: Yes.

6 MS. MCGLADE-MCCULLOH: My name is
7 Ellen McGlade-McCulloh. That's M-C-G-L-A-D-E,
8 hyphen, M-C-C-U-L-L-O-H. And, yes, my husband just
9 spoke. I also live at 7 Park Avenue.

10 I would like to point out a couple of
11 things. I really was dismayed at the lot being
12 referred to as a sliver. My understanding is that
13 Lot 117 partially residential is a mixed use and
14 then the -- then the sliver, that is residential.
15 I don't know why we would take a mixed use and then
16 allow it to be used and turned into commercial.
17 But I would like to draw attention to the exhibits
18 that were given. And if we look at the picture
19 that shows Port Boulevard with the Nut Just Lube
20 and the Exxon gas station, the first picture here
21 and the beautiful grass lot.

22 One thing I'd like to point out when
23 they mentioned that there are two curb and that the
24 curb cut is up there. First of all, the fence line
25 comes at the 15 foot from the current resident

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2 fence line if you actually stand across the street,
3 which I've done many times. And this curb cut is
4 never used. If you'll notice in this picture, the
5 trees is blocking it. But in the picture that Mr.
6 Gamell showed, there's always cars parked there.
7 The gas station does not want that to be used as an
8 entrance or an exit; and, therefore, they always
9 block the area right here next to their building.
10 Okay.

11 Also, that building is much larger and
12 goes into that area, whereas their proposed
13 building, they're taking a grass area and making it
14 a parking lot. And as Joni Mitchell says, not only
15 is it a shame, but we're having flooding issues
16 down Park Avenue more recently, and we're now going
17 to take an area that can water in and turn it into
18 a parking lot that floods even more water.

19 And I live there, if there's a slight
20 dip coming off of Park Avenue to Port Boulevard,
21 it's always flooded when it rains. And now you're
22 going to make that situation even worse and, in the
23 winter, extremely dangerous because it turns to
24 ice. I rarely, when it has rained and there is
25 then freezing temperatures, go out of Park Avenue.

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2 I go up and around to Fairview to use the light
3 because of the danger of the ice at that
4 intersection.

5 CHAIR MAMMINA: Very, very fine tiny
6 point -- very tiny point.

7 MS. MCGLADE-MCCULLOH: Yes.

8 CHAIR MAMMINA: They will have to have
9 drainage if this should go ahead. They will have
10 to have on-site drainage, and that will collect all
11 of their rainwater. And, if anything, it would
12 help to mitigate whatever --

13 MS. MCGLADE-MCCULLOH: I understand
14 that. I work for a school district. They have put
15 that in and it never works. So I hear you. But as
16 a scientist and one who keeps an eye to
17 environmental, those do not always work as well as
18 supposed.

19 In addition, you're now just making it
20 a parking lot. I understand you were looking at
21 the lighting at the building. My concern is the
22 truck coming at night for a delivery with the bank.
23 What kind of parking lights are being there?

24 If you notice in the picture, this is
25 my home with my upper bedroom windows that look

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2 back directly onto that property. So if now you're
3 going to then have lights there, that is going to
4 be very disruptive to my home and the neighbors.

5 In addition, before I leave this
6 picture, this home right here behind it, his entire
7 backyard is here. And in the picture that is
8 little bit later that they pointed out that they
9 were taking from the side of the convenience store
10 looking to it. And they're saying that you look
11 there and you see the fence down. They took it
12 from this -- I'm sorry, this one isn't the one I
13 want; that's another issue. The one that comes
14 from the convenience store and you look down here.

15 Where is the -- that fence just
16 recently fell down, by the way. It was a total
17 fence; you didn't see the storage. They took a
18 picture that was angled from here to show you from
19 the side of the convenience store. But the
20 convenience store property ends right along --
21 right along the mixed-use line, the convenience
22 store property ends and then this property is
23 residential on Bar Beach.

24 Also, the one other point that I want
25 to bring up, which I am also extremely worried

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2 about, what will happen to this property if this
3 variance were allowed, Alma Bank bought the
4 property that was the formal dairy barn, knocked it
5 down and that property remains vacate and not used?
6 So they moved from that property to this property,
7 and now they're asking for all kinds of variances
8 to be able to put in a larger than this property
9 should have.

10 The things that were brought up
11 further up, the thing that people have been saying
12 but on Port Boulevard, it goes back. Well, it
13 doesn't go back the one block down. And the
14 doctor's office that looks like a residential home
15 used to be a residential home and was converted.

16 So what happens further down on Port
17 Boulevard where you have the high school field
18 behind it is very different than what happens in
19 our section of Port Boulevard.

20 Okay. And the other statement was
21 that's been there since 30 -- 1930 that building, I
22 mean a bank would be fine there but stay within
23 that property. Do not ask for variances to be able
24 to build a bigger and more involved piece there
25 than has been there. I have been in Port

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2 Washington for 30 years, I have been on Park Avenue
3 for 28, and I really don't want to see an increased
4 footprint come back in towards our neighborhood or
5 a drive-thru with even more traffic, the gas
6 station has been there forever. We deal with one
7 gas station. We don't need two things coming in to
8 the lower part.

9 Also, the second cut that comes in, is
10 that an in-and-out, because it's changed, and I'm
11 sorry that I haven't been able to keep up. But the
12 cut that goes further up Port Boulevard, is that
13 only an entrance?

14 CHAIR MAMMINA: I'm going to have Mr.
15 Mulryan answer that, or I'm going ask him to, but
16 my understanding is, no, that is only out --

17 MS. MCGLADE-MCCULLOH: So the only --
18 you only enter on Park Avenue, and you exit on Port
19 Boulevard; you never exit on to Park Avenue?

20 CHAIR MAMMINA: No, not as I read the
21 plan.

22 MS. MCGLADE-MCCULLOH: Right.

23 CHAIR MAMMINA: But, again, I'll leave
24 that to Mr. Mulryan.

25 MS. MCGLADE-MCCULLOH: But the

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2 entrance itself has issues. And if you're bringing
3 a curb cut closer into the neighborhood, that
4 brings traffic in. Not only do we have the middle
5 school children walking by that intersection both
6 down Park Avenue and along Port Boulevard because
7 the number of them like to use the convenience
8 store on their way home. So there's a lot of
9 children's traffic walking in and out.

10 So now you're bringing another curb
11 cut that didn't use to be there and we do not have
12 as a crossing guard or a crosswalk there, so they
13 will be coming down Park Avenue. That's both --
14 that's sixth graders, that's 13-year-olds who have
15 to deal with that kind of traffic. And I agree
16 with Mr. Gamell, it is very dangerous. Thank you.

17 CHAIR MAMMINA: Thank you so much.

18 Did we get everyone? I just want to
19 make sure.

20 Mr. Sahn?

21 MR. SAHN: Hour's late and I think
22 I'll ask Mr. Mulryan to address the comments which
23 are predominately related to traffic.

24 CHAIR MAMMINA: Sure. We still have
25 one more case.

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2 MR. MULRYAN: Okay. Just to talk
3 about the driveways for a second. As we mentioned
4 (indecipherable) the driveway on Port Washington
5 Boulevard is exit only, right turn only. There is
6 a two-way driveway on Park Avenue, which, again,
7 the state requires essentially that you put the
8 access on a lower volume roadway.

9 And we understand that there has been
10 some concern or issue or understanding that the
11 existing lot to the east is residential and we
12 submit that it is not again --

13 CHAIR MAMMINA: So that answers the
14 young lady's question of Park Avenue, if it's in
15 and out and so it is in and out.

16 MR. MULRYAN: Correct, correct.

17 And the gas station was involved in
18 the turning counts that we looked at because any of
19 the vehicles exiting onto Park will be part of the
20 counts that we collected.

21 So we believe, again, that, based on
22 the -- based on the volume of traffic generated by
23 this subject site, the bank is 1,588 square feet,
24 so it's a very small building. We do not believe
25 that will overburden the intersection.

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2 We also want to submit to the Board
3 and just testify to the fact that banking industry
4 has changed dramatically, not only over the last
5 ten years but over the last two years with the
6 pandemic and other issues more towards an online
7 mobile basis where the need to go to a bank, need
8 to go to a drive-thru has diminished.

9 Alma Bank is looking to create a
10 presence on Long Island. They have a presence
11 elsewhere. Doing a presence mobilely is very
12 difficult to do. They're looking to establish a
13 branch on Long Island, open their presence here,
14 and they believe this is a good location.

15 And if there's any other questions, I
16 would be happy to try to answer them.

17 CHAIR MAMMINA: I guess from your
18 IT -- or your ITE or your experience, how many --
19 how many cars do you think would be using that
20 drive-thru, you know, as opposed to how many cars
21 you think would be coming in to the bank, parking,
22 and, you know, and then turning out on -- on to
23 park.

24 MR. SAHN: I would say, based on my
25 experience and in conversations with Alma Bank,

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2 their transactional data says that it's upwards of
3 50 percent, if not more, using the drive-thru when
4 they visit the site. So it's more of an enter from
5 Park and then exit onto Port Washington Boulevard.
6 And, again, even if you came into the branch, you
7 would also be able to exit onto Part Washington
8 Boulevard, if you so chose.

9 The counts that we took at the
10 intersection and the morning and the evening show a
11 heavy percentage of vehicles exiting Park, which
12 are currently not from the bank because the bank is
13 not there, make right turn instead of a left turn.
14 It is easier to merge on to the northbound traffic
15 rather than cross across the entire roadway to go
16 south.

17 CHAIR MAMMINA: I see that, I see that
18 now on the drawing. And I may have just -- I don't
19 know that it will satisfy what your concern is, but
20 if you did come into the bank and park and then go
21 into the bank, make your transaction, come out, you
22 don't have to go out Park, you can also go out onto
23 Port Boulevard.

24 MS. MCGLADE-MCULLOH: Is that
25 addressed to me?

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2 CHAIR MAMMINA: Yeah, I'm just saying
3 the problem.

4 MS. MCGLADE-MCULLOH: Well, here's the
5 problem --

6 MS. ALGIOS: Ma'am, you have to --

7 MS. WAGNER: She has to
8 (indecipherable.)

9 MS. MCGLADE-MCULLOH: Here's the
10 problem with that, even going --

11 MS. WAGNER: Just restate your name.

12 MS. MCGLADE-MCULLOH: My name is Ellen
13 McGlade-McCulloh.

14 MS. ALGIOS: I'm also going to direct
15 you to your comments at this point very brief.

16 MS. MCGLADE-MCULLOH: Yes.

17 MS. ALGIOS: Ordinarily, we don't
18 allow people to come back up.

19 MS. MCGLADE-MCULLOH: You're now
20 saying it is both ways. So now you're putting a
21 lot more traffic coming up my street, which doesn't
22 usually happen. Nobody comes into that
23 neighborhood unless they live there because we are
24 four blocks at the dead end, and we are all
25 residential. So you don't come into the Park

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2 Section area unless you live there or you're
3 picking your child up from school.

4 CHAIR MAMMINA: That's not the point
5 that I was making. You had asked earlier if there
6 are cars permitted in and out.

7 MS. MCGLADE-MCULLOH: Yes, but now you
8 said --

9 CHAIR MAMMINA: Please, please.

10 MS. MCGLADE-MCULLOH: Sorry.

11 CHAIR MAMMINA: They are permitted in
12 and out onto Park, but they don't have to go out
13 onto Park.

14 MS. MCGLADE-MCULLOH: I understand.
15 But now that you're saying that they can turn right
16 on Port, since that is the busier street, what
17 people will do is come up Park Avenue and then go
18 to the traffic light, which means you are
19 increasing the amount of traffic on that first
20 block of Port Avenue, my block, tremendously. We
21 do not have anywhere near fifteen cars on our -- on
22 that street past the gas station.

23 MS. WAGNER: Thank you for your
24 comments.

25 MR. SAHN: I hadn't finished

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2 responding, but let me also talk to that issue.
3 First of all, as Mr. Mulryan has indicated, we have
4 a use that, according to all the ITE data and all
5 the studies, will operate safely and efficiently at
6 this site. It's designed for that purpose. The
7 curb cut, the parking area is all in business zone.

8 So while I understand the fact that it
9 looks like it's residential now and it's taking
10 green space and converting it, in fact, if -- even
11 if this wasn't Alma Bank, another commercial use
12 which would replace the repair shop would doubtless
13 use the entirety of the site and certainly use the
14 entire business zone and could position a business
15 building further back to the east and not as close
16 to Port Boulevard as the bank.

17 So we're not changing the zone. We're
18 not changing the character of the area. We are
19 proposing a use that is much less intense from
20 every aspect of impact by having a bank that
21 operates at minimal hours during the weekdays, no
22 Sundays, which is typical for other commercial
23 uses, and very limited hours on a Saturday. So
24 compared to a -- the continuation of this
25 automotive use, which the pictures clearly depict

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2 is not a favorable use or the gas station use or
3 some other similar type of convenience store, there
4 is a convenience store immediately to the north.
5 There could be no other use that's less intense in
6 a business zone than a banking use and especially a
7 small, very limited type of transactional at the
8 site use. This is a limited transaction industry
9 now at the site where it's located.

10 In that regard, I would like to ask
11 the bank's president, Mr. Psyllos, who has been in
12 attendance this afternoon, to say a few remarks to
13 the Board.

14 MR. PSYLLOS: Good evening. Michael
15 Psyllos of Alma Bank. Our office is at 3110 37th
16 Avenue, Long Island City, New York.

17 First, let me start by saying it takes
18 a lot of courage, and I appreciate all the comments
19 from the community, we are community bank.

20 The last time I was at the podium was
21 the president of Archangel Michael, a church in
22 Port Washington and 600 -- actually 1,500
23 parishioners, so I'm very concerned about the
24 community also. This is my back yard. Right? And
25 I've heard a lot of grave concerns today and more

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2 Is that it, Mr. Sahn?

3 MR. SAHN: That's it. Unless there
4 are other questions from the Board, and we
5 appreciate your patience.

6 CHAIR MAMMINA: I think it's
7 important.

8 MR. SAHN: These are important issues.
9 Redevelopment of a site. But, again, we feel we
10 have great merit to this Application and thank you
11 so much.

12 CHAIR MAMMINA: Okay. We'll reserve
13 decision on this Application. So there will be no
14 decision made today, potentially at our next
15 meeting or the meeting after that. But we'll move
16 it along.

17 But thank you all for coming and
18 spending the day with us. I hope at least you
19 found it interesting what we do here. You know,
20 and we're all glad to be here, trying to do a good
21 community service as well. Thank you. Thank you.

22 MS. WAGNER: Let the record show that
23 Mr. Hernandez has had to leave.

24 CHAIR MAMMINA: Yes, he had to leave.

25

1 Appeal # 21200.

2 MS. WAGNER: Next Appeal, Appeal
3 #21200; Mandel-Wilentz Dermatology, PLLC; 45-47
4 Northern Boulevard, Greenvale; Section 20, Block
5 29, Lots 67 and 68; in the Business-B Zoning
6 District.

7 Variances from 70-103.A, 70-103.B and
8 70-103.F to construct interior alterations for the
9 conversion of retail space to a medical dermatology
10 office with no loading zone. Not enough parking on
11 site, and parking stall spaces that are too small.

12 CHAIR MAMMINA: You've heard Appeal
13 #21200, Mandel-Wilentz dermatology, PLLC.

14 Is there anyone in the room interested
15 in the Application other than the Applicants?

16 (No response.)

17 CHAIR MAMMINA: Seeing no one, please
18 give your name and address.

19 MR. EDWARDS: I would say good
20 afternoon, but now I'm going to say good evening.

21 Mr. Chairman and Members of the Board,
22 for the record, my name is Wayne Edwards of Sahn
23 Ward Braff Koblenz, 333 Earle Ovington Boulevard,
24 Uniondale, New York. I'm the attorney for the
25 Applicant.

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2 They are going to be tenants of the
3 premises known as 445 Northern Boulevard in
4 Greenvale. The Application also includes the
5 adjoining property of 47 Northern Boulevard.

6 As you all note, the parking area of
7 both properties are utilized, and they're owned by
8 related companies 45MB, LLC, and 47MB, LLC, who
9 have same principals.

10 The properties whose addresses I gave
11 you are also known as Section 20, Block 29, Lot 67
12 and 68 on the land, and tax map of Nassau County is
13 the zoned business on the official zoning map of
14 the Town of North Hempstead.

15 I've submitted a packet of materials
16 which I think we should just admit as Exhibit 1,
17 there are five exhibits -- six exhibits within the
18 packet. I'll be referring to them as A through F.

19 The properties, as you probably are
20 aware, are located on the north side of Northern
21 Boulevard starting at the northwest corner of the
22 intersection of Walnut Street and Northern
23 Boulevard with a frontage on Northern Boulevard of
24 106 feet with a depth on the east side of the wall
25 and the street of 83 feet and the depth on the west

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2 side of around 85 feet.

3 45 Northern Boulevard is improved with
4 a one-story building and 47 Northern Boulevard is
5 improved with a one- and two-story building.

6 Right now, the tenant is Sundown Ski &
7 Patio and Romano -- Romano Tailoring. The building
8 we're interested in, and there's a picture in
9 Exhibit A of Google of where it's located. And
10 it's also -- some lousy pictures that I took of the
11 front of the building, which was formally the GNC
12 vitamin shop. They went out of business a few
13 years ago, and the building has been vacated.

14 The properties have no -- the property
15 behind it, the street behind is Chestnut Street.
16 Along Chestnut Street, there are several residences
17 on the -- on the other side of Chestnut Street on
18 the corner of Walnut is the BOCES High School,
19 which has a large parking lot. And there is
20 parking along Walnut.

21 To the -- along Northern Boulevard to
22 the -- to the east is PC Richard. I spoke to
23 general counsel for PC Richard. He has no
24 opposition to the application. To the west is 41
25 Northern Boulevard. That is a liquor store that

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2 has closed. And just west of that is the post
3 office for Greenvale, and beyond that is other
4 commercial buildings.

5 There is no access to Chestnut Street
6 from the property, it's all fenced in. The
7 property is 41, 45 and 47 Northern Boulevard are
8 all fenced in and you cannot access the residential
9 area unless you walk around to Walnut and come back
10 around Chestnut.

11 It's the Applicant's desire to convert
12 the existing vacant GNC to a dermatological medical
13 office. And because of the difference between
14 retail parking of 1 to 300 and medical office for
15 one to 50, we have to seek a variance.

16 In addition, there is a variance for a
17 no loading zone as well as using parking spaces
18 that are smaller than required by the Town Code,
19 we're looking for 9 by 18.

20 The Town of North Hempstead did an
21 analysis, which is contained in the notice of
22 disapproval, dated December 12th, 2021, and
23 analyzed the various uses on the property, the
24 medical office space of 22 -- 116 square feet
25 requires 8.1 spaces, Roman's Tailoring 372 spaces

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2 required 2.45 spaces. And the Sundown medical and
3 patio shop required 3,525 square feet required
4 11.7. As per the calculation 22.2 spaces are
5 required, we provide 14 spaces.

6 Regarding 45 Northern Boulevard, we're
7 not -- we're not providing a loading zone in as
8 much as all deliveries to this location would be by
9 Federal Express, UPS and small panel trucks for
10 uniforms and things like that. No tractor trailers
11 are coming to it.

12 These properties have been before the
13 Board on many occasions before, five occasions that
14 I found directly. I attached decisions of those --
15 the decisions. They've already received variances
16 for smaller than size parking spaces than required
17 for the -- for the loading zone 47 received a
18 variance.

19 And I would just like to go through
20 them because there are some pertinent ones. The
21 first one was actually for the liquor store, it was
22 an intrusion into the business -- into the
23 residential property, because you'll note on the
24 Google photograph that their parking lot goes deep
25 into almost onto Chestnut Street, though there is a

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2 fence there. So they received a variance for that,
3 I attached a copy of that decision as Exhibit B.

4 The next application, I think the most
5 pertinent Application was number 14688. The Board
6 granted an addition to the nonconforming building
7 for lot 67 and 68 that would be for 45 and 47, the
8 installation of a loading zone which interferes
9 with ingress and egress of Walnut Street entrance.
10 And this involved, as I said, 45 and 47, and that
11 loading zone basically is on the left side on the
12 side of the building where Sundown Patio is, the
13 trucks back in from there, but they probably
14 overhang Walnut a little -- a few feet and that's
15 why the Board granted a variance.

16 As part of that Application, they were
17 required to file for all three properties; 41, 45
18 and 47. This is why I think is most important, an
19 easement which basically legalized a curb cut on --
20 only one curb cut on Northern Boulevard of 25 feet
21 and the curb cut on Walnut with the use of all
22 three properties. So I attached that as Exhibit D.
23 In fact, Michael Sahn did that Application.

24 And then after that, we have the next
25 decision, which is Exhibit D that granted variances

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2 for the expansion of the nonconforming building at
3 47 which allows the ski and patio shop and the
4 Romano's -- the Romano's tailoring.

5 And in 1995, and the Board allowed the
6 Applicant to convert seller under both 45 and 47 to
7 retail space and granted parking variance with
8 insufficient stall size. So I think we've
9 established the loading zone, and we've established
10 the insufficient stall size, even though we're
11 asking for it again.

12 So you have the background of the
13 property as today there's three buildings. My
14 client, basically 45 and 47, hopefully, he'll buy
15 41, which I've been asking him to do.

16 We're trying to fill the vacancy with
17 the Mandel Dermatology Group. This is a
18 long-standing practice, and it basically goes --
19 was started by Dr. Mandel, the grandfather, and now
20 is operated by Dr. Mandel, the father. It's based
21 out of Jericho, but they have offices in Long
22 Island -- I mean in -- excuse me -- in New York
23 City, and this will be the Jericho, the -- excuse
24 me, I'm just very tired today. It's later in the
25 day. But this will give them the Greenvale

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2 location, and the reason is the service to the
3 clients, a satellite office, just the way the one
4 in New York City is.

5 They take care of generations of
6 families: grandparents, parents, children and
7 grandchildren. It's basically a medical
8 dermatological group. So that includes basically
9 psoriasis, acne, warts various skin conditions.
10 They screen for cancers, do full screening, and
11 they treat skin cancer with excisions and things
12 like that as well as treatments. They do some
13 cosmetic dermatological injections, Botox and the
14 various other fillers that people use.

15 The hours of operation are Monday
16 through Friday, they are closed Saturday and Sunday
17 and Monday 10:00 a.m. to 6:00 p.m.; Tuesday,
18 7:00 a.m. to 5:00 p.m.; and Wednesday, 7:00 a.m. to
19 2:00 p.m.; Thursday, 1:20 a.m. to 6:00 p.m. and
20 Friday 7, 00 a.m. to 11:00 a.m. and those are the
21 hours. They are closed, as I said, Saturday and
22 Sunday. Appointments are by the hour and by
23 appointment only. You can't just walk in. The
24 premises will be typically staffed with a single
25 doctor, with anywhere from three to five staff.

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2 Although, on Monday and Tuesday, the staffing will
3 be less. Those are hours that they just only need
4 two and three on the staff.

5 We submitted a floor plan which will
6 be on A3 on the plans that were submitted and
7 prepared by Dr -- by Jared Mandel. There's no
8 relation; it's just -- it's a coincidence.

9 As you enter the door on the west side
10 of the building, there's a proposed waiting area
11 with approximately five to six chairs, a little
12 refreshment stand. As you work your way through
13 the building from north to south, there are two
14 light box rooms that's for treatment of psoriasis,
15 you give light treatment to that. There are four
16 exam -- five exam rooms. There's two laser rooms,
17 and then there are various storage rooms and
18 offices.

19 So it's a very small facility and,
20 again, it's going to, basically, be a satellite
21 office. No plastic surgery is done there. Just I
22 want to -- this is all dermatological. They are
23 not utilizing the basement. There's a small
24 basement under the building; it won't be used.

25 We have submitted a traffic report

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2 prepared by Josh Herman, a traffic consultant. I'd
3 like for Josh to submit his resume. And if you
4 have any questions regarding his qualifications, he
5 hasn't testified before this Board at all. I will
6 be glad to qualify him; so at this time, I would
7 like to call Mr. Herman.

8 MR. HERMAN: Good evening, everyone.
9 Attached right here, I have my resume, and I'm
10 going to submit that.

11 MS. WAGNER: This will be Exhibit 1 --
12 I'm sorry, Exhibit 2.

13 CHAIR MAMMINA: Okay. The board will
14 recognize Mr. Herman as a traffic engineer and
15 consultant. Thank you.

16 MR. HERMAN: For the record, my name
17 is Josh O. Herman, spelled H-E-R-M-A-N. I work for
18 Stonefield Engineering and Design located at 584
19 Broadway, Suite 310, New York, New York 10012.

20 In the interest of time, I will keep
21 my testimony brief, and will try and not reiterate
22 points that's Mr. Edwards made. But the existing
23 site has a ski and patio shop that's operational, a
24 tailor shop that's operational, and a GNC vitamin
25 shop that has been vacant for several years now.

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2 As Mr. Edwards stated, there is the
3 parking requirement on the site per the Town Code.
4 The site is required to provide 22 parking spaces,
5 and the proposed site plan has 14 striped parking
6 spaces.

7 Now, I should also note that on the
8 eastern side of 47 Northern Boulevard, on the
9 eastern side of the site, there are four unstriped
10 spaces as well, used by employees to park there.
11 But they're not striped, so they wouldn't generally
12 be used by the public, they would be used by the
13 employees on the site.

14 My company and I have conducted a
15 parking study, a parking study of the existing
16 uses, and we have a projected future demand from
17 the medical office. So based on our study, we
18 observed ten, a maximum of ten parking spaces
19 utilized on the site. And that's later in the day,
20 approximately 4:50 or 5:00 p.m. on a weekday.

21 Based on ITE parking generation
22 manual, which is a national standard's, industry
23 standard parking manual, there will be seven
24 required parking spaces, a demand of seven spaces
25 for this medical office. So inclusive of the

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2 existing demand and the proposed future, there
3 would be 17 spaces. And as stated before, there
4 would be 14 parking -- striped parking spaces, plus
5 four additional on the eastern side.

6 So based on the existing use and the
7 proposed future uses, we anticipate that the
8 parking demand would be met by available parking
9 on-site in the future. And as part of the
10 application in terms of the dimensions of the
11 proposed parking spaces, 12 of the 14 striped
12 parking spaces would meet the town requirement of
13 10 feet by 20 feet. 10 feet wide by 20 feet wide,
14 20 feet long and 2 of the 14 spaces would be 9 feet
15 wide instead of 10 feet wide. So that's the
16 dimension, the variants for parking space
17 dimensions.

18 I should also mention that 9 feet wide
19 is in accordance with typical industry standards
20 for a parking space. So wouldn't be difficult for
21 a vehicle to utilize that space.

22 So in conclusion, we would -- we do
23 anticipate the parking demand to be met by
24 available parking on-site and just -- we would, you
25 know, the proposed use would provide an amenity to

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2 the community and a new medical facility that would
3 provide medical care for the community, and it
4 would fill a vacant space that's been vacant for
5 several years now.

6 If you have any questions, I'm happy
7 to answer them.

8 MEMBER GOODSELL: I have one. I'm
9 looking at the area, the proposed area. Are there
10 any dedicated handicapped parking spaces?

11 MR. HERMAN: Yes. There's one ADA
12 parking space, located at along the southern --
13 southwest side of the -- of the site. Yes, so just
14 adjacent to the curb cut along Northern Boulevard.

15 MEMBER GOODSELL: Well, it would
16 certainly make things easier if the store -- either
17 of the stores remain vacant because the office
18 would have the use of all of those parking space,
19 but I'm sure that's not what the owners would like.

20 So in this particular type of
21 practice, I heard Mr. Edwards say it's by
22 appointment only. Since there's an easement area,
23 is there any plan to designate visitor parking as
24 opposed to anywhere employee parking on any of
25 these spaces, or are they just opened for parking?

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2 MR. HERMAN: They're opened for
3 parking for the entire sight.

4 CHAIR MAMMINA: I do think so, too,
5 that in a scenario like this -- and we did have it
6 in a few spots of the town, you know, and I hate
7 when it's the reason that I can look positively at
8 something -- is that, essentially, it's
9 self-limiting. I mean, if you can't find a parking
10 space, you're not going to go there.

11 MEMBER GOODSELL: Your doctors are not
12 going to have as many patients.

13 CHAIR MAMMINA: That's right. There's
14 no place else to go.

15 I mean, I can point to example after
16 example, but over by Roosevelt Field, one of the
17 shopping centers where that Italian restaurant,
18 Bacione is, and it was like something electronics,
19 whatever, they knocked that building down, they
20 bought a piece from the state in back of them and
21 they spun it all around.

22 And I mean, they probably spent \$20
23 million because they knew otherwise they just
24 weren't holding tenants, you know, in the building.

25 MEMBER GOODSELL: The doctors must

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2 feel they will have enough business to justify this
3 location, which I'm sure is going to be somewhat
4 pricey.

5 But Mr. Mamma is right, if they
6 can't park, then they won't come.

7 MR. HERMAN: Right. And so if, you
8 know, like Mr. Edwards stated before, the -- this
9 is a family-oriented practice that really wants
10 to -- that's committed to their patients. So they
11 don't want to provide a -- you know, a -- an
12 experience that's less than optimal.

13 MEMBER DONATELLI: Do we know how many
14 doctors are anticipated to work on the site?

15 MR. EDWARDS: Just the one doctor on
16 the site.

17 MEMBER DONATELLI: Just the one
18 doctor. Because I see the, I think --

19 MR. EDWARDS: I'm sorry, there will be
20 one doctor on the site.

21 MEMBER DONATELLI: Because I do see
22 six examination rooms. But it's one doctor.

23 MR. EDWARDS: One doctor. And you
24 know, we've all been to, unfortunately, doctors
25 lately, and you tend to get put into a room and you

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2 wait and then the doctor -- the charts on the wall.
3 If you ever go to an orthopedist, that's what
4 they'll do. They'll have three or four people;
5 this will be a little less. But, again, some of
6 the procedures can be done by staff on a
7 dermatological practice.

8 MEMBER GOODSSELL: Mr. Edwards, you're
9 aware that we got an objection letter from --

10 MR. EDWARDS: I am --

11 MEMBER GOODSSELL: -- another doctor's
12 office.

13 MR. EDWARDS: I am. And it was down
14 the block. And, actually, I wish Mr. Sahn was
15 here. We both worked on a case when we were very
16 young involving cash wars on Northern Boulevard
17 when we were going to put another carwash in an
18 existing carwash and it actually made law. Is that
19 a basically competitive --

20 MEMBER GOODSSELL: That doesn't happen
21 in this case. Let's not necessarily --

22 MR. EDWARDS: I know, but a competitor
23 doesn't really have standing before the board.

24 MEMBER GOODSSELL: Everybody has the
25 right to comment --

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2 MR. EDWARDS: I know.

3 MEMBER GOODSSELL: -- just wondering if
4 you --

5 MR. EDWARDS: One of the few times
6 I've made law.

7 (CROSSTALK)

8 MEMBER DONATELLI: So Mr. Chairman, I
9 make the motion that we grant the Application.

10 CHAIR MAMMINA: We have a motion from
11 Mr. Donatelli to grant the application.

12 Do we have a second?

13 MEMBER GOODSSELL: I will second.

14 CHAIR MAMMINA: And we'll give it to
15 Mrs. Goodsell.

16 So please poll the board, Ms. Wagner.

17 MS. WAGNER: Member Goodsell.

18 MEMBER GOODSSELL: Aye.

19 MS. WAGNER: Member Donatelli.

20 MEMBER DONATELLI: Aye.

21 MS. WAGNER: Vice Chairman Francis.

22 VICE CHAIR FRANCIS: Aye.

23 MS. WAGNER: Chairman Mammina.

24 CHAIR MAMMINA: Aye.

25 The application is granted.

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2 MR. EDWARDS: Thank you very much.

3 MEMBER GOODSELL: Thank you for
4 waiting.

5 CHAIR MAMMINA: I always like to go
6 last.

7 MR. EDWARDS: Mike told me he would
8 let me go before him.

9 MEMBER DONATELLI: So, Mr. Herman.
10 Off the record.

11 (Whereupon, an off-the-record
12 discussion was held.)

13 MEMBER DONATELLI: Thank you for your
14 patience.

15 CHAIR MAMMINA: Thank you all.
16 Nassau County Planning Commission.

17 MS. WAGNER: So you can adopt SEQRA,
18 and then we can let the court reporter go and then
19 (indecipherable.)

20 So does anyone want to move to adopt
21 SEQRA?

22 MEMBER DONATELLI: I'll move it.

23 MS. WAGNER: Second for SEQRA?

24 VICE CHAIR FRANCIS: Second.

25 CHAIR MAMMINA: There we have it.

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2 MS. WAGNER: And all in favor?

3 (A chorus of "ayes".)

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C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF RICHMOND)

I, MADELINE TAVANI, a Notary Public for
and within the State of New York, do hereby
certify:

That the above is a correct
transcription of my stenographic notes.

I further certify that I am not related
to any of the parties to this action by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 20th day of April, 2022.



MADELINE TAVANI