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TOWN OF NORTH HEMPSTEAD  
BOARD OF ZONING APPEALS  
PUBLIC HEARINGS

LIVE STREAM  
PUBLIC HEARING  
Wednesday, May 11, 2022  
10:22 a.m.

BOARD MEMBERS PRESENT:

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

ALSO PRESENT:

- DEBORAH ALGIOS, Town Attorney
- VIRGINIA WAGNER, Secretary
- NICOLE L. BASILE, Reporter

## Proceedings

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3 CHAIRMAN MAMMINA: All right. If  
4 everyone would please rise for the Pledge of  
5 Allegiance lead by Mr. Francis.

6  
7 (Pledge of Allegiance was said by all.)  
8

9 CHAIRMAN MAMMINA: Thank you, all. Good  
10 morning. Welcome to the Board of Zoning Appeals,  
11 Town of North Hempstead.

12 Now, I'm going to reverse my speech.  
13 Okay. And I'm gonna ask everybody to take your  
14 phones, hold them up high and your everything, and  
15 put them on silent. This is strictly a joke. I  
16 heard someone's make a whistle. Okay. You know,  
17 before -- the only thing I hate more than the  
18 whistle, okay, is the quack, quack. So, you know,  
19 if we could and I will say from time to time, we've  
20 been guilty of having our phone make that noise  
21 too. If anybody is coming to join you, just ask  
22 them, you know, put it on vibrate or whatever. If  
23 you need to make a phone call or take a phone call,  
24 at any point, you know, we're all ladies and  
25 gentlemen here, just stand up, you can pop outside.  
26 It's all right. It doesn't make any difference.  
27 Okay.

28 So with that part said, good morning  
29 again. And for those of you who have never  
30 appeared before a zoning board before or for those  
31 of you who may have appeared before zoning boards,  
32 but maybe never this one, we may do things a little  
33 bit differently than some of the other towns or  
34 villages so we just like to run quickly through the  
35 way that we conduct business here. So what will  
36 happen is, as Ms. Wagner calls the case, we will  
37 ask for the applicant at that point to stand up and  
38 walk forward to the podium. I will also ask if  
39 anyone has interest in the case. That would mean  
40 in support, in opposition, whatever. I would just  
41 ask for a show of hands so that the Board knows  
42 that someone else wishes to speak. When the  
43 applicant is at the podium, he or she will give  
44 their name and address, as will every person who  
45 comes up to the podium because there is an official  
46 record, you know, being taken for this. This is a  
47 quasi judicial hearing so there is a stenographer  
48 that's off in cyber space someplace and it's

## Proceedings

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3 important that we get names and addresses then onto  
4 the record. And at that point then, the podium  
5 belongs to the applicant and the applicant will put  
6 their case onto the record and the Board will ask  
7 whatever questions it feels that it wishes to  
8 speak. The applicant can then reply to those  
9 answers and at that point, if there is anyone else  
10 who wishes to speak, we'll just ask the applicant  
11 to have a seat, you know, wherever and then those  
12 people may come up at one at a time. If we have,  
13 you know, two people who want to come up  
14 simultaneously because they're here together.  
15 That's fine too. We just ask that each person, you  
16 know, put their name and address onto the, you  
17 know, onto record even if it is the same address  
18 and we just ask that people speak one person at a  
19 time, because it's -- there a stenographer taking a  
20 record of this and if two people are speaking  
21 simultaneously, he or she can't get that record,  
22 you know, put together and even we as Board members  
23 try to be very careful that we don't speak over,  
24 you know, one another so that we don't make them  
25 overly crazy. So each person will have the  
26 opportunity to speak and we have a three minute  
27 limit on, you know, on the time at the podium and  
28 that, our attorney will be timing and after that is  
29 done, the applicant and typically only the  
30 applicant will get a second turn to speak, because  
31 the applicant then has the opportunity to either  
32 support or refute what someone else said, answer  
33 any questions that the Board may now have as a  
34 result of the testimony. And at that point, the  
35 hearing is done. Very seldom, almost never has  
36 anyone ever come back for a second hearing, you  
37 know, it's not the way we do things here and the  
38 Board will do one of four things. We will either  
39 approve the application, we will deny the  
40 application, we will reserve the application or we  
41 will continue the application. And if we reserve  
42 the application, it's because the Board might want  
43 to have a file from the building department, we may  
44 want to go see the sight again, any number of  
45 reasons that would belong to the Board. If we  
46 continue the application, it would be because we  
47 may want to ask the applicant to present some  
48 closing papers from, you know, when a piece of

## Proceedings

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2  
3 property was purchased, an older survey, we might  
4 offer some kind of a compromise. You know, I  
5 sometimes say it's not let's make a deal but  
6 sometimes it is. You know, I mean our goal, you  
7 know, we're not here to say no. We're here to do a  
8 balancing test, you know, and to be completely fair  
9 in that balancing test. We recognize that a  
10 majority of you are most probably are tax payers in  
11 the town. We all are, you know, as well. We have  
12 a very nice mix of expertise, you know, on the  
13 Board. But we are not elected officials. We are  
14 appointed officials and we were appointed for our  
15 various expertise. And I'll just ask everyone to  
16 just kind of wrap your head around that we don't  
17 write the zoning. The town Board through the  
18 planning department establishes the zoning. So we  
19 may disagree with what we think that is a  
20 requirement of the zoning or is not permitted, you  
21 know, by the zoning. But that's not our job. You  
22 know, our job is not to question, you know, the  
23 town Board. It's to understand the zoning and to  
24 do that balancing test, you know, to see how your  
25 application might fit into that. So we grant that  
26 relief and have the power, you know, to grant that  
27 relief.

28           So I think with all of that said, unless  
29 there's anything else I left out, then we will call  
30 the first case. Adjournments? Sorry.

31  
32           SECRETARY WAGNER: We have one  
33 adjournment on our calendar. Let me just read it  
34 into the record.

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## APPEAL #21224

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3 Appeal number 21224, Tony Parmar; 8  
4 Carey Place, Port Washington; Section 4, Block 36,  
5 Lot 175 in the Buisness-A Zoning District.  
6 Conditional use 70-126.D and variances from  
7 70-103.A, 70-103.F, 70-103.M, 70-103.O, 70-125, and  
8 70-134, to construct a new warehouse (not a  
9 permitted use) to store automobiles (a conditional  
10 use) that is too close to the rear property line on  
11 a vacant lot with not enough parking and loading  
12 zones, parking within a front yard and a drive  
13 aisle that is too narrow.

14  
15 CHAIRMAN MAMMINA: Name and address.

16  
17 MR. PARMAR: Tony Parmar, 8 Carey Place,  
18 Port Washington. I believe we're being adjourned  
19 until June 8th.

20  
21 CHAIRMAN MAMMINA: Yes. Until June 8th.

22  
23 SECRETARY WAGNER: So you're making a  
24 request to adjourn.

25  
26 MR. PARMAR: Yes. I was told we had to  
27 submit more paperwork so -- for that.

28  
29 MEMBER GOODSSELL: All right. I make a  
30 motion that we grant the motion request.

31  
32 MEMBER HERNANDEZ: Second.

33  
34 CHAIRMAN MAMMINA: Okay. So we have a  
35 motion by Member Goodsell and a second by Member  
36 Hernandez.

37 Please poll the Board.

38  
39 SECRETARY WAGNER: Member Goodsell.

40  
41 MEMBER GOODSSELL: Aye.

42  
43 SECRETARY WAGNER: Member Donatelli.

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45 MEMBER DONATELLI: Aye.

46  
47 SECRETARY WAGNER: Member Hernandez.

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APPEAL #21224

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Vice Chairman  
Francis.

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: And Chairman Mammina.

CHAIRMAN MAMMINA: Aye. And this  
application is adjourned to June 8th.

MR. PARMAR: All right. Thank you.

MEMBER GOODSELL: See you then.

CHAIRMAN MAMMINA: All right. Ms.  
Wagner, please call the first case.

## 1 APPEAL #21220

2  
3 SECRETARY WAGNER: Appeal number 21220,  
4 Karen Mualem; 27 Devon Road in Great Neck; Section  
5 2, Block 160, Lot 11 in the Residence-A Zoning  
6 District. Variances from 70-29(B), to construct a  
7 second-story addition that would make the house too  
8 big.

9  
10 CHAIRMAN MAMMINA: You heard appeal  
11 number 21220, Karen Mualem. Excuse me if I  
12 pronounce that incorrectly. 27 Devon Road, Great  
13 Neck, New York.

14 Please give your name and address.

15  
16 MS. GUILOR: I am here to represent Mr.  
17 And Mrs. Mualem, Karen Mualem is the owner. Edna  
18 Guilor, G-U-I-L-O-R. Registered architect, Great  
19 Neck, New York.

20  
21 CHAIRMAN MAMMINA: Good morning.

22  
23 MS. GUILOR: Good morning. You all  
24 probably reviewed the folder. You know what the  
25 house looks like. I want to give you a little bit  
26 of a background of how we ended up being in front  
27 of you today asking for actually 60 square feet of  
28 a variance and you might say no, it's 241 but I'll  
29 show you it's really 60 square feet that I'm  
30 looking for. Mr. And Mrs. Mualem who are sitting  
31 here, had a fire in their house. Very adorable  
32 lovely house, 27 Devon Road. And one night,  
33 sitting and watching a digital family album, a fire  
34 happened in the attic. The house, at that time,  
35 was a one and a half story house. They live in  
36 that house for 24 years and unbeknownst to them,  
37 the second floor that had two bedrooms and a bath,  
38 was only a paper second floor. When the house was  
39 built 60 years, it was shown and I have the  
40 documents from the building department, that the  
41 second floor had a delineation of dotted lines  
42 proposed second floor. Was never filed.

43  
44 CHAIRMAN MAMMINA: What was the  
45 adjective that you used.

46  
47 MS. GUILOR: Proposed second floor.  
48

1 APPEAL #21220

2  
3 CHAIRMAN MAMMINA: No. I'm saying with  
4 your original -- I heard something, like, pickman.

5  
6 MS. GUILOR: Like what?

7  
8 CHAIRMAN MAMMINA: Pickman?

9  
10 MS. GUILOR: No.

11  
12 CHAIRMAN MAMMINA: Or pictured maybe?  
13 Okay.

14  
15 MS. GUILOR: No. The second floor plan  
16 that was approved by the building department had  
17 the whole interior of two bedrooms and a bath  
18 dotted and it was delineated as proposed. Some of  
19 the houses I guess when they built it opted to pay  
20 another \$1,000 and get the second floor built and  
21 some of them did not. But I think this house they  
22 opted to build it, because it was 100 built and  
23 when the Mualem's bought it 24 years ago, it was  
24 there. It was part of the house. Obviously when  
25 the fire happened, we recognized that the second  
26 floor was not registered so regardless, we had to  
27 re-file. When the fire happened, it destroyed the  
28 roof. The fire department destroyed the rest of  
29 the house. With the water, the house had to be  
30 stripped to bare studs, the sheetrock, the  
31 flooring, the ceiling, the lighting, the kitchen,  
32 the furniture, everything was destroyed from the  
33 water. And one or two days the water stayed there  
34 with the smoke, and you know what that looks like.  
35 I cannot tell you when I met the couple in what  
36 state of mind they were and thank god, you know, we  
37 filed the papers, everything was approved, we  
38 started construction and while we doing all that,  
39 we have the pandemic and everybody knows what  
40 happened to construction with the pandemic. A,  
41 nothing is on-time. Everything is delivered four  
42 to five months later and the prices hit the skies.  
43 Really hit the roof. What we anticipated  
44 originally to be a certain amount of money is  
45 almost 100 percent above it and where originally we  
46 looked at the house since the second floor was  
47 built inside the attic, we decided that the  
48 Mualem's will add a little bit more money to the



APPEAL #21220

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3 insurance money and straighten the second floor and  
4 make it a normal bedroom. Their daughters in their  
5 late teens and 20s all grew up in this house under  
6 a sloped roof in the attic. Now we said it's a  
7 chance to fix it. I don't know, did this go off?  
8 Okay. Good. We decided to straighten the walls  
9 out. Once we decided to straighten the wall out  
10 and did the calculation, we realized that we are 60  
11 square feet above what's permitted and I think we  
12 came up with a very intelligent idea of taking the  
13 garage and cutting from the garage, which was 360  
14 square feet 60 square feet. Once we remove 60  
15 square feet from the garage, which is a nice size  
16 garage, we are okay because 300 square feet of  
17 garage does not count in the floor area  
18 calculations. And we were comfortable with that  
19 until we came to the point a few months ago of why  
20 -- like I said, over the head with budget,  
21 everything very expensive and with something that  
22 was supposed to be, at the time, about \$7,000  
23 became \$15,000 and I sent you an exhibit from the  
24 contractor. He gave us Exhibit Number 1, I believe  
25 I loaded it onto your port. We sat down and  
26 discussed it, and we felt that 60 square feet  
27 between two garages, really when you go to weigh  
28 the balance of how am I affecting my neighborhood,  
29 how am I affecting my environment is really  
30 something that is in the power of this Board to  
31 grant. I send you pictures, Exhibit Number 2 of  
32 looking at the garage from the front, looking at  
33 the garage from the back and looking at the garage  
34 between the two things. The 60 square feet is not  
35 going to be seen by anybody but a blank garage wall  
36 next to our garage that we are proposing not to  
37 remove the wall. I have the pictures here. I  
38 don't know if you want me to hold them or you're  
39 looking at your --

40  
41 CHAIRMAN MAMMINA: If you'd like to make  
42 them part of the record.

43  
44 MS. GUILOR: When you are looking at  
45 what's happening at the 60 square feet that I want  
46 to remove, it's really affecting the next car --  
47 the garage which is a wall with nothing. And if  
48 the Board would like, I can mitigate that influence

## APPEAL #21220

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3 of that affect that that 60 square feet has on the  
4 next garage and put plants in there and remove that  
5 concrete area that you see on this pictures. And I  
6 really don't -- don't come often to this Board and  
7 I don't take your decision frivolously and I feel  
8 that this is so minimums, di minimus and so small  
9 and the change is really not going to change the  
10 neighborhood. It's not going to cause any  
11 problems, definitely was not caused by the -- my  
12 client. My client did not invite this fire to come  
13 and visit them and all, you know, this difficulty  
14 was not self created. It was really imposed on  
15 them and 60 square feet which is one percent of the  
16 lot where I'm allowed 36 percent, it's really one  
17 percent that I'm asking you to allow us I think is  
18 very small and actually it's 100 percent. Six out  
19 of 630. Yeah. So I wonder if you would like the  
20 owner to express their pain and tell you anything  
21 about it, if that's anything that the Board would  
22 be -- they're here and --

23  
24 CHAIRMAN MAMMINA: I mean, they're  
25 certainly welcome to speak. I never prevent anyone  
26 from speaking, but I guess as I look at this, I  
27 mean it certainly sounds like more than 60 percent  
28 of the house was -- was damaged/destroyed in one  
29 way or another by the fire and/or the fire  
30 department.

31  
32 MS. GUILOR: The whole interior. I  
33 don't know if you weight what's the worth of the  
34 house versus how much --

35  
36 CHAIRMAN MAMMINA: It's strictly the  
37 house. It's not the property.

38  
39 MS. GUILOR: Right.

40  
41 CHAIRMAN MAMMINA: Because the law  
42 unfortunately says that if the house is more than  
43 50 percent destroyed, it needs to be rebuilt, any  
44 existing noncompliances going away and that's the  
45 law.

46  
47 MS. GUILOR: Yeah.

48

1 APPEAL #21220

2  
3 CHAIRMAN MAMMINA: So --

4  
5 MS. GUILOR: There was no prior  
6 nonexisting compliance.

7  
8 CHAIRMAN MAMMINA: No. No. Well right  
9 now it is not.

10  
11 MS. GUILOR: Yeah. That's why I'm here.  
12 Yeah. Yeah.

13  
14 CHAIRMAN MAMMINA: Right now, I mean the  
15 law changed. That's why I always tell clients and  
16 you probably tell them as well, when a client says,  
17 well, I don't want to file for this. So if you  
18 don't want to file for this, I don't want to take  
19 the job.

20  
21 MS. GUILOR: Exactly.

22  
23 CHAIRMAN MAMMINA: But at the same time,  
24 understand that if the zoning changes and if  
25 something happens, you know, you loose that or when  
26 you go to sell the house, then you situation. When  
27 people go to sell the house and things were not  
28 filed for, you know, and we've had people chop  
29 three feet off of a deck or things that become more  
30 drastic than that. But only when it's -- again,  
31 our balancing, our viewing that that is -- that  
32 that is what should be done. You know, in this  
33 case the law is very specific, you know, and it's  
34 in the building code as well as the zoning code  
35 with the intent being you know so your client  
36 understands the intent of zoning is that things  
37 should comply and, you know, if there -- if there  
38 were there an active god and the house was struck  
39 by lightening then, you know, you loose what you  
40 had.

41  
42 MS. GUILOR: Right.

43  
44 CHAIRMAN MAMMINA: Hurricane Sandy, you  
45 know, for many people, I mean that became a  
46 problem. Some municipalities were compassionate to  
47 that. I was shock New York City was compassionate  
48 to that and set up a set of rules, you know, as to

1 APPEAL #21220

2  
3 how much more you were allowed to put back based on  
4 the (inaudible) and blah, blah, blah, et cetera,  
5 you know, what I mean. Have you done any kind of  
6 analysis that would show how much of the house was  
7 -- was destroyed based on the basis of the fire and  
8 the damage by the fire department that would give  
9 us something to hang their hat on, you know,  
10 because we do look at these many times and say,  
11 well, how many more of these will ever come back.  
12 We do get these.

13  
14 MS. GUILOR: Right.

15  
16 CHAIRMAN MAMMINA: You know, and we try,  
17 you know, we try our best. Normally when we get  
18 them, there's an existing side yard that had been  
19 there originally and they need to repair the  
20 outside wall of the house and therefore they have  
21 to come back to the zoning Board. So you know I  
22 guess that's the question.

23  
24 MS. GUILOR: I don't think we did a  
25 straight analysis, but I can tell you it's severe  
26 and I can tell you the reason we are here in front  
27 of you is because -- and just --

28  
29 MEMBER GOODSELL: While they're having a  
30 discussion, I just want to let you know I have also  
31 lived through a fire and I am very sympathetic to  
32 the amount that it costs, because I don't care what  
33 the insurance is, it is never, never enough to  
34 rebuild what you think it's going to rebuild. So I  
35 read with great interest your contractor's letter  
36 about the increased cost and my fire was  
37 pre-pandemic and still, the insurance did not  
38 cover, I would say maybe 50 to 60 percent of what  
39 we rebuilt. So I would like to express my  
40 sympathy, this was Their primary residence. Mine  
41 was just an office building. But wasn't destroyed  
42 by fire, when the fire department comes in and they  
43 just chop away and yes they put the fire out and  
44 yes they contain it, but they're not interested in  
45 saving 50 percent of your house. They're  
46 interested in putting the fire out.

47  
48 MS. GUILOR: Exactly.

## APPEAL #21220

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CHAIRMAN MAMMINA: I think as was pointed out to me, you know, by counsel, which is correct, the building department is not denying it for, you know, for that variance. They're denying it strictly for floor area, you know, my understanding is that what was there before is not being put back exactly the way that it was before and it's larger.

MS. GUILOR: True. Well what I explained is that footprint of the house did not change. What we did is the second floor was built in the attic. It was a one and a half story house. What we did is, we raised the attic and made it a full second-story and built a roof on top. By doing that, the square footage of the house grew.

MEMBER GOODSELL: But it's still within the footprint of the original house. It's not cantilevered out, it's not extending.

MS. GUILOR: It's still within the footprint of the existing. Right. We did not increase it.

CHAIRMAN MAMMINA: Why can't they put back what they had and just make the full issue go away. I mean, the floor area we look at very carefully. I mean, we don't grant a lot of floor area. Now, you know, I guess I misunderstood the fact that that room on the second floor, whether or not the footprint is the same.

MS. GUILOR: Right.

CHAIRMAN MAMMINA: It got bigger on the second floor. And so the question is, if you put it back the way it was and we -- and they -- if they put it back the way it was, everything would go away.

MS. GUILOR: Right. We put an application, David, not to put it back the way it was.

1 APPEAL #21220

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3 CHAIRMAN MAMMINA: Understood.

4  
5 MS. GUILOR: But to raise the roof. The  
6 roof was gone. Raise the roof and create a full  
7 second floor. That brought up the FAR about what  
8 we suggested to do and we got a permit for it and  
9 we almost at the end of the construction. We're  
10 not at the beginning. Is to deduct the 60 square  
11 feet from that garage. What I'm asking you today,  
12 is to allow me not to deduct the 60 square feet  
13 from the garage so that I can keep everything the  
14 way it is. If -- if you're not -- let's assume for  
15 one minute and I hope you are going to think this  
16 today, that you're not going to grant it. If  
17 you're not granting, I have to take 60 square feet  
18 off from the garage. I was prepared to do it. I  
19 came here because I felt like 60 square feet out of  
20 this whole project and out of what this area is, is  
21 really de minimus and it's in the back. It's in  
22 part of the garage and I can really mitigate it  
23 with planting. Nobody will notice it. Nobody will  
24 know it. It's not really affecting the mass of the  
25 house. The house will remain. It's the garage.

26  
27 MEMBER HERNANDEZ: Can I ask one  
28 question. You gave us the, as part of the  
29 rational, the increase cost of the job. It was  
30 anticipated that it would cost \$3,500 and now it's  
31 anticipated that it will cost \$13,000 (inaudible),  
32 which is a sizable amount. How -- how large --  
33 what is the percentage of this job, this overall  
34 job that you're doing this. Your comparing one  
35 small job to one small job. The job is obviously  
36 much bigger. What is the overall cost of the job  
37 that's being built or was the rebuilt since it's  
38 done already.

39  
40 MS. GUILOR: Right. So the whole  
41 overall project is at about \$350,000 so far.

42  
43 MEMBER DONATELLI: I would just like to  
44 make one point, which is that -- and I understand  
45 your point about the 60 square feet from the  
46 garage, but as the Chairman said in his opening  
47 remarks, we are bound by zoning codes just as  
48 everyone else is and so if the town -- I feel this

1 APPEAL #21220

2  
3 is point that I have to make stated in the opening  
4 on the record, if the town says that any garage  
5 that is over 300 square feet, that counts towards  
6 gross floor area, then we are all bound by that and  
7 I don't want to minimize the importance of that.  
8 That is regulation. That is why you are here.  
9 That's something we just can't put aside lightly.

10  
11 MS. GUILOR: I agree 100 percent and if  
12 this was a new house, I would design it for 300 for  
13 sure, because to take away 300 square feet from  
14 your house because you built a 360 square feet  
15 garage is ludicrous and no designer will ever do  
16 that. If it was done today, I would rebuild that  
17 garage at 300, because it's 360 that the town code  
18 requires to add to the floor area. If I remove the  
19 60, I'm okay. So I'm -- that's why your Board is  
20 here. Of course we are respecting this and we are  
21 looking at something happened in the past, we are  
22 looking at something imposed on our applicant and  
23 we are looking for you to understand the balance  
24 that really that affect of this 60 square feet in  
25 the rear facing another garage is really not going  
26 to affect the environment, not going to affect the  
27 neighborhood, not going to create any negative  
28 impact and I think that's where, like, David said  
29 before, it's the weighing and the balancing between  
30 what is it to me and what is it to my neighborhood.  
31 That's why you're here, representing my  
32 neighborhood.

33  
34 CHAIRMAN MAMMINA: I think what we want  
35 to do is reserve the application now so that we can  
36 look, you know, very carefully, you know, at this,  
37 you know, in order that we are doing, you know,  
38 that balancing test properly. I'm not going to say  
39 for one second that I'm not sympathetic, you know,  
40 to what happened here. It was catastrophic and we  
41 are all homeowners, we all pay a lot of taxes to  
42 live in a beautiful part of Long Island and, you  
43 know, so let us -- let us reserve this application  
44 and we may or may not decide this this afternoon.

45  
46 MS. GUILOR: Thank you.

47  
48 CHAIRMAN MAMMINA: But you can -- you

1 APPEAL #21220

2  
3 can check in with the office. And then I think  
4 counsel points out a very legitimate point. Why  
5 don't we hear from your client, you know, so that  
6 they can put on the record why they need the space  
7 and just complete, you know, the presentation.

8  
9 MS. GUILOR: I agree. Okay. I will ask  
10 Karen Mualem --

11  
12 MEMBER DONATELLI: If I may just add to  
13 that; since the appeal is based on (inaudible) plus  
14 the additional cost of making the garage comply,  
15 perhaps either you or your client, if someone  
16 knows, can just tell us what that estimated cost  
17 might be.

18  
19 MS. GUILOR: I exhibited to you an  
20 exhibit and it's part of my documents of precise  
21 numbers.

22  
23 MEMBER DONATELLI: Okay. Understood.  
24 Thank you.

25  
26 MS. GUILOR: You're very welcome. Let  
27 me just clarify, when I -- when I -- let me just  
28 clarify when I wrote --

29  
30 (Multiple parties talking simultaneously.)

31  
32 CHAIRMAN MAMMINA: I understand  
33 Mr. Hernandez's point. You're talking about  
34 something that's three times, four times, five  
35 times the cost as oppose to if this was a \$350,000  
36 project and you had a cost of \$175,000. You had a  
37 \$15,000 cost that's a tiny percentage.

38  
39 MS. GUILOR: What I would just like to  
40 say out of that, that the majority of this number  
41 of the 350,000 is coming from the insurance  
42 company.

43  
44 CHAIRMAN MAMMINA: Of course.

45  
46 MS. GUILOR: So it's not that -- yeah.  
47 Okay.

48



1 APPEAL #21220

2  
3 CHAIRMAN MAMMINA: Got it. Please give  
4 your name and address.

5  
6 MS. MUALEM: Good morning. Karen  
7 Mualem, 27 Devon Road. I apologize, this is my  
8 biggest nightmare speaking in public and doing it  
9 all under three minutes quite a challenge for me.

10  
11 MS. ALGIOS: You're not restricted to  
12 three minutes.

13  
14 MS. MUALEM: Okay. Well, I don't want  
15 to take too much time. But I come from a family  
16 that understands the importance of regulations and  
17 rules, and that's the kind of parents that we were  
18 as well. So I'm assuming that when there's an  
19 appeal process, that other things are being  
20 considered and this is what I'm here today to ask  
21 you to consider. I understand the rules and the  
22 regulations again, but when things happen in life  
23 and we were going through making decisions,  
24 especially the fogginess that was in my brain at  
25 the time, the last time that we were anticipating,  
26 my husband and I, is everything what happened in  
27 the past year and a half. A quite a lot has  
28 happened not just financially, it reeked havoc.  
29 I'm so sorry. I'm so sorry.

30  
31 CHAIRMAN MAMMINA: No. That's okay.  
32 That's okay. These things can be very, very  
33 emotional and we understand.

34  
35 MS. MUALEM: So when I'm looking at my  
36 garage and I think about those three feet, as much  
37 as I understand that sometimes black is black and  
38 white is white, I can't fathom -- I can't fathom  
39 going through -- we were just starting to see the  
40 light at the end of the tunnel. The house is just  
41 starting to look like a house and I'm just  
42 constantly discussing this with my community on how  
43 we anticipate going back to normal and regular life  
44 as much as we can. Not forgetting what happened,  
45 but moving on and for me, somehow those three feet  
46 have become so significant. I just want to go  
47 back, not thinking about the additional planning  
48 and the shopping, and the expenses and the stress,

1 APPEAL #21220

2  
3 and not having my home. We had designed it, we  
4 lived there for all this time and all of that was  
5 already in the house for almost 100 years. It was.

6  
7 MEMBER GOODSELL: Let me ask you a  
8 question. Okay. I also lived through a fire. I  
9 told your architect I also lived through a fire. I  
10 know all about what the fire department does to my  
11 horror and they come at it with axes and things  
12 like that. You lived at this property for 23  
13 years, correct? The garage looks like it's been  
14 there for a long time. Do you know when the garage  
15 was built? Do you have any idea how old that  
16 garage is.

17  
18 MS. MUALEM: I believe that it was from  
19 1938 from when the house was built.

20  
21 MEMBER GOODSELL: You didn't make any  
22 changes to the garage to make it any bigger or any  
23 -- any -- change it at all.

24  
25 MS. MUALEM: No. No.

26  
27 MEMBER GOODSELL: So really you didn't  
28 create a garage which was oversized and apparently  
29 when you weren't looking, we changed the rules on  
30 you which I'm very sympathetic to. If your garage  
31 was 300 square feet or less, I don't think you'd be  
32 in front of us. I think the building department  
33 did approve the plans for the second floor and so I  
34 do sympathize that this is not something that you  
35 created yourself. That is one of the five factors  
36 we consider when we consider whether to grant a  
37 variance. Was this self created. So I think you  
38 can certainly testify you didn't create the fire  
39 and you didn't create the garage. Is that correct.

40  
41 MS. MUALEM: Yes. It's correct. I'm  
42 really still trying to understand everything that  
43 was being said here. I don't get everything, but I  
44 do get what you're saying and again, I'm here only  
45 from the desperation of hoping that maybe it  
46 appeals. Sometimes really weighing how much and  
47 this is completely separate from regulations and  
48 rules, but the emotional toll that it took us and

1 APPEAL #21220

2  
3 I'm just wondering if that balance can mean  
4 anything. So I'm here appealing to just let us get  
5 on.

6  
7 CHAIRMAN MAMMINA: Thank you. And as I  
8 said in the beginning, we're not hear to say no.

9  
10 MS. MUALEM: I know that. I know, but  
11 something has to be decided I guess.

12  
13 CHAIRMAN MAMMINA: And that's why we are  
14 here.

15  
16 MS. MUALEM: I know. Thank you.

17  
18 CHAIRMAN MAMMINA: That's why we are  
19 here.

20  
21 MEMBER GOODSELL: Thank you, ma'am.

22  
23 CHAIRMAN MAMMINA: Thank you so much.

24  
25 MS. GUILOR: The application -- the  
26 papers that I submitted to you by East View  
27 Development Corporation, that's the latest. That  
28 was May 4. So that's the most -- more accurate  
29 one. So I usually do it for much larger projects,  
30 but I think just because we have question here, I'd  
31 like to put it into the record the five instances  
32 of how you're going to --

33  
34 CHAIRMAN MAMMINA: Please. It's very  
35 important.

36  
37 MS. GUILOR: I'd like to start by saying  
38 that no desirable change will be produced in the  
39 character of the neighborhood. No detriment to  
40 nearby properties will be created by granting this  
41 area variance. The benefit that's sought by my  
42 applicant can be achieved by some other method  
43 visible for the applicant to pursue other than the  
44 variance. There is no other way that they can do  
45 it that will not inflict the financial burden that  
46 I showed you.

47  
48 CHAIRMAN MAMMINA: Just to clarify the

1 APPEAL #21220

2  
3 record, in favor of you, you don't have to make all  
4 five points for an area variance. Okay. You can  
5 -- you can -- you're -- you're -- you're allowed to  
6 not necessarily comply with every single one and  
7 financial hardship is not one of the test, but it's  
8 certainly -- we can consider it as part of that and  
9 yes, you do have an alternative all may it be a  
10 difficult one to swallow there is an alternative,  
11 but that's not damming to your case.

12  
13 MS. GUILOR: Okay. So I filled it  
14 actually all five.

15  
16 CHAIRMAN MAMMINA: Keep going. Put the  
17 other two on the record. Put on four and five.

18  
19 MS. GUILOR: Number three is you might  
20 think that this is a substantial request. We feel  
21 it is not. It's not substantial and we feel that  
22 there is no adverse impact, no significant change  
23 to the neighborhood and we will -- we are prepared  
24 to mitigate it by the use of landscaping and I said  
25 it before and I'm saying it again, it definitely  
26 will not have any adverse affect or impact on the  
27 physical environment of the neighborhood or the  
28 district. Again, I showed you pictures. The only  
29 physical entity that will be affected by it is a 24  
30 foot wall that doesn't even have a window of a  
31 garage that's next door. I have a picture. And  
32 the last one is the (inaudible). So I will hope  
33 with all of that and with your further analis of  
34 what's happening here, you will grant that  
35 application.

36  
37 CHAIRMAN MAMMINA: Okay. Thank you and  
38 Ms. Mualem as well for your testimony. Okay. So  
39 we will reserve decision, you know, on the  
40 application, and this may or may not be decided  
41 later today.

42  
43  
44  
45  
46  
47  
48

1 APPEAL #21174

2

3 CHAIRMAN MAMMINA: Ms. Wagner, please  
4 call the next case.

5

6 SECRETARY WAGNER: Next appeal, appeal  
7 number 21174, Anthony Branchinelli; 36 Soundview  
8 Crest, Manhasset, Section 3, Block 204, Lot 12 in  
9 the Residence-A Zoning District, bumped-up to a  
10 Residence-AA. Variances from 70-21(A) and  
11 70-16(A), to construct a roofed-over car port that  
12 is too close to the side property line and does not  
13 provide enough total side yard space, a roofed-over  
14 patio that does not provide enough total side yard  
15 space, and construction of a widow's walk that is  
16 too high.

17

18 CHAIRMAN MAMMINA: You heard appeal  
19 number 21174, Anthony Branchinelli. Is there  
20 anyone in the room interested in the application,  
21 other than the applicant? Seeing no one. Let the  
22 record show --

23

24 MEMBER HERNANDEZ: Mr. Chairman, I will  
25 recuse myself from this application.

26

27 CHAIRMAN MAMMINA: Let the record show  
28 that Member Hernandez is recusing himself from this  
29 application. So he will step out of the room.  
30 Thank you. Please give your name and address.

31

32 MR. KELLNER: Good morning. My name is  
33 Keith Kellner, I'm an architect representing Mr.  
34 Branchinelli this morning. My address is  
35 (inaudible) Long Island, New York and --

36

37 CHAIRMAN MAMMINA: If you can speak up  
38 just a little bit. Thank you.

39

40 MR. KELLNER: Sure. Sure. I do have  
41 some green cards to hand in, some letters that were  
42 returned and also consent forms from several  
43 neighbors.

44

45 CHAIRMAN MAMMINA: Can we pick up the  
46 cards. Thank you. Please.

47

48 MR. KELLNER: Also, as -- I may have to

1 APPEAL #21174

2  
3 submit these as another exhibit. I have some  
4 pictures for the Board.

5  
6 SECRETARY WAGNER: Photographs will be  
7 submitted as exhibit two.

8  
9 MR. KELLNER: So the first two photos  
10 deal with the variance on the right side, the  
11 carport. I thought it would be helpful to see the  
12 situation and then the third photo is for the  
13 covered porch on the left side of the house, which  
14 is not over the setback. That one just deals with  
15 -- it adds to the aggregate side yard. So I just  
16 want to explain and go over the variance that was  
17 -- the variances that we're seeking. First, a  
18 proposed open roofed-over carport located next to a  
19 detached garage. Extends into the right side yard  
20 setback by 11 feet, where a 15 foot setback is  
21 required. So a variance for 11 feet will be  
22 needed, leaving four feet to the side property  
23 line. Okay. A proposed open roofed-over patio on  
24 the left side of the house leaves 15 feet to the  
25 left side property line, which does comply with the  
26 minimum side yard setback. Now where both of these  
27 structures come in, there's a variance needed for  
28 23 feet from the aggregate side yard for a total  
29 side yard where 42 feet is required and that's  
30 obtained by 35 percent of the lot width. 19 feet  
31 total is proposed for the side yard aggregate so  
32 that's adding 15 feet to the side yard to the left.  
33 So our variance for that is a total aggregate side  
34 yard will be 22 feet, where 42 feet is required and  
35 then the third variance is for total height. The  
36 variance is for 30 foot 10, which is proposed where  
37 30 foot maximum is allowed and 31 foot 10 is  
38 proposed with a new widow's walk. You can see the  
39 widow's walk that goes on the peak of the roof so  
40 that widow's walk just bumps up the height by 1  
41 foot 10.

42  
43 MEMBER GOODSELL: And the widow's walk  
44 would go across the full length of the house?

45  
46 MR. KELLNER: Yes. Yes. It's really  
47 just decorative.  
48

1 APPEAL #21174

2  
3 MEMBER GOODSSELL: It's not accessible.

4  
5 MR. KELLNER: No. It's not accessible.  
6 It's on the peak of the roof. It's really just  
7 decorative. Now for the carport, obviously the  
8 reason for the carport is Mr. Branchinelli would  
9 like to get a couple of the cars out of the  
10 weather. He's got an attached garage.

11  
12 MEMBER GOODSSELL: And how many car  
13 garage is the attached garage? Two car?

14  
15 MR. KELLNER: Two car garage. So he  
16 feels the need to do a couple -- maybe one or two  
17 cars out of the weather and right next to the house  
18 is a perfect spot for it. It's next to the  
19 existing attached garage and you can see from the  
20 picture, that the -- on that side where the carport  
21 is going is on the right side of the house next to  
22 where the existing attached garage. There is ample  
23 landscaping to buffer the neighbors to the right.  
24 That neighbor's backyard abuts that property line  
25 so all the way back to the property line.

26  
27 MEMBER GOODSSELL: There is no structure  
28 then on the neighbor's property that's immediately  
29 adjacent to this particular area. And then could  
30 you address the covered porch on the other side of  
31 the property?

32  
33 MR. KELLNER: Sure. Sure. The covered  
34 porch is compliant with the 15 foot setback. The  
35 way that variance is 15 foot that's left plus the  
36 four feet that's left on the other side gives you  
37 one foot and the total aggregate side yard is --  
38 comes to 19 feet where 42 feet is -- is required.

39  
40 MEMBER GOODSSELL: I just want to refresh  
41 my recollection. This is kind of an odd kind of an  
42 odd shaped piece of property. Kind of a reverse L  
43 piece of property.

44  
45 MR. KELLNER: Yes. Yes.

46  
47 MEMBER GOODSSELL: Where the L is the  
48 driveway that goes in. Is that correct?

1 APPEAL #21174

2  
3  
4 MR. KELLNER: Yes. Yes. The main part  
5 of the property is 120 feet wide so 35 percent of  
6 120 is 42. So 42 feet is required. That's where  
7 that comes from.

8  
9 MEMBER GOODSELL: What is immediately to  
10 the rear of this house. Is there other houses, is  
11 it built on a cliff? You can't see --

12  
13 MR. KELLNER: There's other houses but  
14 it goes down significantly and those houses are --  
15 I would -- I could look it up on the survey, but I  
16 would say at least couple hundred feet away.

17  
18 MEMBER GOODSELL: Okay. Okay. And  
19 where is Eldershot Lane? It's one of the consents  
20 that was submitted. Where is that?

21  
22 CHAIRMAN MAMMINA: I'm sorry. Come up  
23 and put yourself on the record.

24  
25 SECRETARY WAGNER: State your name and  
26 address.

27  
28 MR. BRANCHINELLI: Good morning.  
29 Anthony Branchinelli, 36 Soundview Crest,  
30 Manhasset, New York 11030. Eldershot Lane is -- is  
31 the homes directly behind my backyard. So like you  
32 just mentioned, we have -- my property has a cliff  
33 and probably about 48 feet from the level of the  
34 yard to the Eldershot's backyard and we are  
35 probably a little bit over 90 to 100 feet from the  
36 existing home on Eldershot that backs up to our  
37 property in the rear.

38  
39 MEMBER GOODSELL: So when we use the  
40 address, 136 Soundview Crest, you really are on the  
41 crest of that hill. Is that correct?

42  
43 MR. BRANCHINELLI: Yes. Correct. Yes.

44  
45 CHAIRMAN MAMMINA: Thank you.  
46 Mr. Kellner, this is extremely (inaudible).

47  
48 MR. KELLNER: Yes.



1 APPEAL #21174

2  
3  
4 CHAIRMAN MAMMINA: I don't know if  
5 you've been before this Board before.

6  
7 MR. KELLNER: No.

8  
9 CHAIRMAN MAMMINA: I mean, but this is a  
10 real big one. You've already got, you know, one of  
11 the keys to propagating what is the side yard, you  
12 know, and, you know, the -- basically, you know,  
13 it's the control, you know, the massiveness of any  
14 house. It's a lovely house, but aesthetics really  
15 doesn't really have anything to do with it. I  
16 don't know. I just, you know, I just think it's --  
17 I'm only one Board member but I think it's a real  
18 big ask. You've got a two car garage, you've got a  
19 space on the side, you know, to -- to park another  
20 car. You've got a lovely, lovely, you know,  
21 backyard, but I mean that almost conservatory  
22 looking piece of construction, you know, could be  
23 popped onto the back of the house or handled in  
24 some different way, you know. I -- again, I just  
25 -- I don't think we've ever even come close to  
26 anything like this.

27  
28 MEMBER GOODSELL: Could I ask another  
29 theoretical question and I understand the  
30 Chairman's point.

31  
32 MR. KELLNER: Sure.

33  
34 MEMBER GOODSELL: If you were asking us  
35 for the carport only. If you were not asking us  
36 for the covered porch, would that reduce -- would  
37 you still require a variance with the aggregate  
38 side yards?

39  
40 MR. KELLNER: I believe so because 23  
41 feet is what's needed that would subtract 11 feet.

42  
43 MEMBER GOODSELL: So you would still  
44 have to come before us. I mean, I see where a  
45 carport would make a difference to the number of  
46 vehicles you have. It's a two car garage. Could  
47 you address the need in this case for a covered  
48 porch. Again, putting all aesthetics aside, give

1 APPEAL #21174

2  
3 us the rational for the -- you've given us for the  
4 carport, give us the rational for the request of  
5 the covered porch.

6  
7 MR. KELLNER: I'll give what I would say  
8 and then I'd like Anthony to also give his.

9  
10 CHAIRMAN MAMMINA: I think we should do  
11 that separately. You put yours on, you know,  
12 and --

13  
14 MR. KELLNER: And let Anthony speak  
15 later? Okay.

16  
17 CHAIRMAN MAMMINA: All right. Yeah. I  
18 don't know. I just don't want to confuse the  
19 record. One is the professional and the other is  
20 your client.

21  
22 MR. KELLNER: Yes. Okay. To answer  
23 your question first as far as the carport, keep in  
24 mind that the carport is totally open. It's only  
25 supported by several columns. There's no way to  
26 get onto it. It's not going to be a balcony of any  
27 sort from the first floor. It's totally open and  
28 the structure only has a roof and like I say, some  
29 columns. I don't think it's going to appear as a  
30 solid structure and it's really just serving a  
31 purpose to keep the cars out of the weather, to  
32 take the cars off the driveway, you know, sometimes  
33 the driveway and the few spots that are there for,  
34 you know, parking, fills up if they have any kind  
35 of company or visitors. It would really help to be  
36 able to get the cars off the driveway and out from  
37 in front of the garage. That was the -- the idea  
38 behind the carport.

39  
40 CHAIRMAN MAMMINA: Are you familiar with  
41 the bump up and what that -- what it means?

42  
43 MR. KELLNER: When you say bump up, are  
44 you referring to the --

45  
46 CHAIRMAN MAMMINA: This property is  
47 originally zoned --  
48

1 APPEAL #21174

2  
3 MR. KELLNER: Single A and it bumped up  
4 to AA. Correct.

5  
6 CHAIRMAN MAMMINA: Right. And the  
7 zoning -- the town board recognizes that sometimes  
8 people have a very big parcel of property. So the  
9 bump up basically says you must meet all other  
10 components of zoning as part of your bump up. 120  
11 foot wide lot, at that, is not, you know, a big --  
12 it's not a wide lot.

13  
14 MR. KELLNER: Correct.

15  
16 CHAIRMAN MAMMINA: It's very deep.

17  
18 MR. KELLNER: Yes. Right.

19  
20 CHAIRMAN MAMMINA: And, you know, within  
21 our balancing test, we consider configurations. I  
22 mean, we've seen -- I mean, this is -- one leg of  
23 it is 235 feet. That's -- that's very big. But,  
24 you know, we've seen, you know, 120 and 160, you  
25 know. That sort of thing. So you can meet that 15  
26 feet, you know, those 15 foot side yards, you know,  
27 in there. You know, so I mean, we're not even  
28 close, you know, on this, you know. And again,  
29 I'll say I'm one Board member, but I just don't see  
30 it. The widow's walk, I've got no problem with it.  
31 That's fine. You know, in my opinion it's  
32 transparent, you know, it's something that's just  
33 strictly a decorative element, you know, as a --

34  
35 MR. KELLNER: Right.

36  
37 CHAIRMAN MAMMINA: -- cap on the top of  
38 it and it fits the capillary of the house, and  
39 based on where the house is and the fact that it is  
40 setback, you know, from the road, you know, in a  
41 way that it is, you know, it doesn't affect, you  
42 know, anyone. I'm one Board member and I don't see  
43 the other two.

44  
45 MR. KELLNER: I would say also to your  
46 point that, the fact that it was bumped up and  
47 configuration of the property, that whole area that  
48 the driveway comes down doesn't help the fact that,

1 APPEAL #21174

2  
3 you know, we need more width in order to do this.  
4 And they -- they were bumped up from single A to  
5 AA.

6  
7 MS. ALGIOS: Mr. Kellner, do you want to  
8 just take a moment and address the five factors as  
9 it relates to the setback variance you're  
10 requesting?

11  
12 MR. KELLNER: Okay. I'll try to  
13 remember what they were. I don't have it written  
14 down. But I know one was does it detrimentally  
15 affect the character of the neighborhood. I don't  
16 believe it would. Nothing that they are doing is  
17 going to aesthetically cause a detriment and I  
18 don't think it will be detrimental even though it's  
19 coming close to the property line. The right side  
20 with the carport will be buffered by landscaping,  
21 which it already is. That's why I had brought the  
22 picture of that. So I don't think it will  
23 detrimentally affect the character. One of the  
24 other things is it substantial? Yes. It is  
25 substantial.

26  
27 MS. ALGIOS: I'm sorry. But with  
28 respect to the character of the neighborhood, do  
29 you have any of the other properties, surrounding  
30 properties and what their setbacks are?

31  
32 MR. KELLNER: No. I do not. I don't  
33 know if they're as close, you know. We are -- we  
34 are going to maintain 15 foot on the side of the --  
35 on the left side for the covered porch. It's  
36 really -- it's really the carport that is the  
37 problem. So even though I know that the 35 percent  
38 for 420 feet is 42 feet, we are meeting the setback  
39 on one side where we are not on the other. So to  
40 -- to her point though, we still would need a  
41 variance. Yes. That's true. But -- and obviously  
42 that is why it's a substantial request.

43  
44 MEMBER DONATELLI: May I just ask a  
45 question?

46  
47 MR. KELLNER: Yes.  
48

1 APPEAL #21174

2  
3 MEMBER DONATELLI: As I look at the  
4 elevations, I believe I'm seeing a two car garage  
5 from the front of the house. Is that correct?

6  
7 MR. KELLNER: Yes. Yes.

8  
9 MEMBER DONATELLI: But as I look at the  
10 rear elevation, it seems to (inaudible).

11  
12 MR. KELLNER: No. Those are just  
13 arches. It's built out arches from the top.

14  
15 MEMBER DONATELLI: That are supporting  
16 the walkway?

17  
18 MR. KELLNER: There's a balcony up  
19 there.

20  
21 MEMBER DONATELLI: Okay. But that is  
22 not a garage?

23  
24 MR. KELLNER: No.

25  
26 CHAIRMAN MAMMINA: We only have  
27 (inaudible).

28  
29 MEMBER DONATELLI: I would just like to  
30 put on the record and I've said this other times,  
31 that the bump up from single A to AA is a benefit  
32 which I believe the town Board intended, as in  
33 part, as a way to discourage people from having  
34 large lots and wanting to subdivide them and then  
35 perhaps create another house. So in affect, when a  
36 house is bumped up, it is being built larger  
37 (inaudible) it might otherwise be allowed, as long  
38 as it applies with other zoning regulations. So  
39 this particular house, as one Board member, I think  
40 this particular house already received the benefit,  
41 but now we are being asked to grant a variance for  
42 -- for the side yard. For the aggregate and that  
43 is where I personally have the difficulty, because  
44 again, we want to encourage people to maintain  
45 larger lots that would otherwise be required. It's  
46 a granting and that would be my hesitation in  
47 something like this. I would agree with the  
48 Chairman. I actually think that the widow's walk

1 APPEAL #21174

2  
3 is an attractive amenity. I personally  
4 (inaudible). I think also that given the distance  
5 from the road, that's really de minimus. So I  
6 would be in favor as to the widow's walk. It's an  
7 attractive amenity. But I would be very, very  
8 skeptical for the side yards.  
9

10 MEMBER FRANCIS: Yeah. I would just add  
11 to that. One of the things that we are really  
12 careful about is setting precedents. Usually we  
13 look for some way to distinguish a property from  
14 other properties in the town if we do in fact grant  
15 a substantial variance like you are asking for. In  
16 this case, I don't see any -- I don't see anyway of  
17 distinguishing this application or this property  
18 from any other property that may come before us. I  
19 also would be very, very hesitant to grant.  
20

21 CHAIRMAN MAMMINA: Just one other thing  
22 for the record, we do get pretty good amounts, you  
23 know, of the bumps.  
24

25 MEMBER FRANCIS: Absolutely.  
26

27 CHAIRMAN MAMMINA: And most of those is  
28 where the 15 feet is 13 feet, you know, and we  
29 grant the 13 feet, because they still make the  
30 aggregate, you know. So if you could just push the  
31 house over, you know, two feet, those are the kinds  
32 that that would get, you know, for, you know, for  
33 that.  
34

35 MEMBER GOODSELL: If one of the two side  
36 requests, the carport or the covered porch, because  
37 I'm looking at this and it's pretty close. I'm  
38 looking at this, if one of those requests was  
39 removed, how much of a variance would you need to  
40 build the other?  
41

42 CHAIRMAN MAMMINA: There's no  
43 architectural site plan so I was not able to  
44 calculate that. At least there's not in my  
45 package.  
46

47 MEMBER GOODSELL: Knowing the --  
48

1 APPEAL #21174

2  
3 MR. KELLNER: There was a site plan  
4 landscape plan. It's kind of small.

5  
6 CHAIRMAN MAMMINA: Okay. We have just  
7 gone electronic in the town, you know, and we're,  
8 you know, maybe it was there, but you know I --

9  
10 MR. KELLNER: Well, so you would add the  
11 11 feet back into the four feet, right. So then  
12 you would have 15 plus 15. That would be 30. The  
13 -- it would still -- you would still need the 12  
14 feet.

15  
16 MEMBER GOODSELL: You need 42. Okay.  
17 Because I'm trying with my glasses to read the  
18 distances and read the width of each addition.

19  
20 MR. KELLNER: The distances are also on  
21 the drawings that you were given. I don't know if  
22 that's what you're looking at.

23  
24 MEMBER GOODSELL: I have a diagram.  
25 It's just the numbers are small.

26  
27 MR. KELLNER: Yeah. It's very small.  
28 You can see on the front elevation of the covered  
29 porch it comes out 18 feet and 15 foot is left so  
30 that would still meet the setback.

31  
32 CHAIRMAN MAMMINA: Right. But you would  
33 still be off of the aggregate.

34  
35 MR. KELLNER: Right.

36  
37 MEMBER DONATELLI: Is there anything  
38 further that you would like to add?

39  
40 MR. KELLNER: I don't know if this is  
41 more or less a decision for Anthony, but he  
42 suggested that if we do away with the carport  
43 structure, I know it still doesn't comply with the  
44 total width, but if he just does the covered porch  
45 on the left hand side which is open. It's an open  
46 structure.

47  
48 CHAIRMAN MAMMINA: Again, I'm just --

1 APPEAL #21174

2  
3 I'm just one person. There's three other people.

4  
5 MR. KELLNER: And can I just ask what --  
6 what the -- what your --

7  
8 CHAIRMAN MAMMINA: No. You don't get to  
9 ask questions.

10  
11 MR. KELLNER: Okay. It would be -- it  
12 would then be 12 feet.

13  
14 CHAIRMAN MAMMINA: I think I made myself  
15 pretty clear. You've already got the bump, you  
16 know, and this is -- this is not, you know, a  
17 substantially wide lot. You know, if it were  
18 turned in the other direction, you know, it -- it  
19 may be a different, you know, wouldn't need it at  
20 all. You would have gotten the bump up, you would  
21 have plenty of room, but it still just becomes a  
22 very, very wide house.

23  
24 MR. KELLNER: I think Anthony has some  
25 questions. Can I step aside?

26  
27 CHAIRMAN MAMMINA: You can't ask  
28 questions. You can make some statements. The  
29 Board doesn't answer any questions.

30  
31 MS. ALGIOS: Mr. Kellner, maybe -- maybe  
32 -- and I don't know if the applicant himself would  
33 like to address this, but the need. I think maybe  
34 that hasn't been addressed too. The need for this.

35  
36 MR. BRANCHINELLI: Well just after our  
37 last discussion with the other family, this seems  
38 pretty --

39  
40 MEMBER GOODSELL: Put your name and  
41 address on the record.

42  
43 MR. BRANCHINELLI: Anthony Branchinelli,  
44 36 Soundview Crest, Manhasset, New York 11030. The  
45 need for the carport was our driveway is very  
46 narrow and we don't have much area to remove snow  
47 from. So what I do for me and my neighbors is, we  
48 have a small bobcat come in and what they do is



## APPEAL #21174

1  
2  
3 pull the snow out and we have to kind of disburse  
4 it amongst the street, because there's really no  
5 room. It's a dead end. So what usually happens  
6 is, that side yard, we could put a car or two cars  
7 underneath the carport to leave that area able for,  
8 you know, snow plow or a plow company to come and  
9 remove the snow from my house and I do other two  
10 neighbors as a favor. And so what we would do from  
11 the garage on that east side, there is a doorway  
12 that goes in the two garage. So what we usually do  
13 is if we park on the side, especially with the bad  
14 weather, we would just go right into the door that  
15 would take us into the garage. But I don't think  
16 the carport is the significant thing. Mostly we  
17 would like to do the covered porch on the west side  
18 of the house. If you look at the plans, we have a  
19 walkout basement. So what happens is, when --  
20 basically when the sun sets by four, 4:30, we have  
21 no sun there. So our family kind of tends to come  
22 to the side yard where the house is facing  
23 southwest. You get really nice sunsets there so we  
24 always kind of tend to talk about doing a porch  
25 there or some sort of covered porch where we could,  
26 you know, spend our afternoons with our family.  
27 But like I said, the carport was something that we  
28 would -- were thinking of when bad weather was the  
29 issue and, you know, we had such snowstorms in the  
30 last couple of years. We always bring our cars  
31 there and not have the snow there and just have  
32 everything taken away. But the --

33  
34 MEMBER DONATELLI: Sorry. I don't want  
35 to interrupt. I have question; is there anything  
36 that mandates that the covered porch be as large as  
37 it is. So in other words, could that covered porch  
38 somehow be made to comply if in fact you are  
39 prepared to -- to do away with the carport, is  
40 there some way that the covered porch could be made  
41 to comply?

42  
43 MR. BRANCHINELLI: Absolutely. I think  
44 we could shorten it. Just kind of take away from  
45 where the backyard is and just make that shorter so  
46 it would be less aggregate square footage.

47  
48 CHAIRMAN MAMMINA: We're making turns

1 APPEAL #21174

2  
3 and we said, you know, and that's usually what we  
4 get on these sorts of things. And, you know, I'm  
5 not saying yes. But many times they end up meeting  
6 a wall or something, you know, and those are thins  
7 that we can usually see our way through much more  
8 easily. And I think that a terrace might be the  
9 direction to go. I mean, I understand that this is  
10 lovely the way it opens up off of the living room  
11 Area and I'm all about sunsets. If I open my  
12 phone, you will see 150 pictures of sunsets.

13  
14 MR. BRANCHINELLI: Our old house was  
15 facing west and we moved here so we miss our  
16 sunsets as well.

17  
18 MEMBER DONATELLI: We are trying to help  
19 you through this situation.

20  
21 MR. BRANCHINELLI: Thank you.

22  
23 MEMBER DONATELLI: However, you should  
24 understand this is not a horse trading bizarre kind  
25 of thing. There are standards that we have to  
26 comply with. So I think you're hearing the sense  
27 of the Board that this is a very big ask. The ask  
28 that's being made, Mr. Chairman, perhaps if the  
29 applicant and his architect having heard the  
30 position of the board this morning amend their  
31 application, perhaps we can continue this hearing?

32  
33 CHAIRMAN MAMMINA: If that's okay.

34  
35 MEMBER GOODSELL: Would you be  
36 interested in doing that?

37  
38 CHAIRMAN MAMMINA: Your architect did a  
39 very good job.

40  
41 MR. BRANCHINELLI: Yes. He did. He; s  
42 worked with us before.

43  
44 CHAIRMAN MAMMINA: I love him.

45  
46 MR. BRANCHINELLI: Thank you very much.  
47 Appreciate that.

48

1 APPEAL #21174

2  
3 CHAIRMAN MAMMINA: So we will continue  
4 this which will, you know, give Mr. Kellner an  
5 opportunity to take a look at it, you know, in a  
6 different way, you know, and I'm not saying yes or  
7 no, but if there were some small variance but we  
8 basically live within the intents, you know, of  
9 those side yards, you know, that -- that could be  
10 something that we then can consider. It doesn't  
11 knock you out of the box, you know, and you don't  
12 have to come back for another hearing, you can  
13 submit that and, you know, we will -- we will take  
14 a look at it. You know, I am the architect on the  
15 Board and I'm very sensitive to design and many  
16 times I have a hard time separating myself from  
17 what we do here and, you know, the design that I  
18 love.

19  
20 MR. KELLNER: Just one thing that I  
21 noticed, if we need to completely comply with that  
22 42 foot, that means the covered porch can only --  
23 can only be six feet.

24  
25 CHAIRMAN MAMMINA: Well, that's what I  
26 was figuring too. So that's really not going to do  
27 much for you. That's why I think a terrace is a  
28 bit of a direction. Yes, the patio would still  
29 need to make a setback.

30  
31 MR. KELLNER: Yeah. I don't know if I  
32 said it correctly about the covered porch on the  
33 left side. That would still -- in order to comply,  
34 it could only be six feet.

35  
36 CHAIRMAN MAMMINA: Yes.

37  
38 MR. KELLNER: So can we come back with a  
39 smaller --

40  
41 CHAIRMAN MAMMINA: No. I'm saying you  
42 can come on back and you can come on back with  
43 whatever you would like and I mean that in a nice  
44 and positive way. And you can -- you don't need to  
45 go to, you know, all of the drawing. I still have  
46 gray on my hand here from 50 years of, you know, of  
47 sketching. It could be a sketch if it's easier or  
48 do it in the computer. You can come back with two

1 APPEAL #21174

2  
3 ideas, three ideas, you know, whatever you would  
4 like. We will consider each one of those carefully  
5 so that we can try to get (inaudible) the goal that  
6 you're, you know, that you're trying to achieve  
7 here. We certainly understand.

8  
9 MR. KELLNER: Would that be coming back  
10 here?

11  
12 CHAIRMAN MAMMINA: You need to send --  
13 all that you need is resubmit those.

14  
15 SECRETARY WAGNER: (Inaudible.)

16  
17 MR. KELLNER: Thank you.

18  
19 CHAIRMAN MAMMINA: All right. Thank  
20 you. Thanks so much thanks for understanding our  
21 position as well.

22  
23  
24  
25  
26  
27  
28  
29  
30  
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42  
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46  
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48

## APPEAL #21221

1  
2  
3 SECRETARY WAGNER: Next appeal, appeal  
4 number 21221, Peter and Donna Rowlinson; 15 Lincoln  
5 Place, Port Washington, Section 5, Block 41, Lot 7  
6 in the Residence-C Zoning District. Variances from  
7 70-50.B, 70-51.B, 70-52, 70-52.3(A) and 70-101.B,  
8 to construct additions that are too close to the  
9 rear and side property lines and too close to the  
10 street and that are within the sky exposure plane,  
11 and to construct a porch that is too close to the  
12 street.

13  
14 CHAIRMAN MAMMINA: You heard appeal  
15 number 21221, Peter and Donna Rowlinson. Is there  
16 anyone in the room interested in the application,  
17 other than the applicant? Seeing a couple of hands  
18 and you will have the opportunity to speak after  
19 the presentation.

20  
21 MR. ROWLINSON: Hello, Board members.  
22 My name is Peter Rowlinson and I live at 15 Lincoln  
23 Place, Port Washington, New York.

24  
25 MEMBER DONATELLI: Good morning, sir.

26  
27 SECRETARY WAGNER: So you're submitting  
28 a photograph as Exhibit 1.

29  
30 MR. ROWLINSON: Is it okay where these  
31 are now or should I move it to the right a little  
32 bit? I know it's a little bit small, I apologize.

33  
34 MEMBER DONATELLI: Will you be doing  
35 your own presentation or are you going to have an  
36 architect.

37  
38 MR. ROWLINSON: I do have an architect  
39 here as well.

40  
41 MEMBER DONATELLI: Okay.

42  
43 CHAIRMAN MAMMINA: Please proceed.

44  
45 MR. ROWLINSON: Okay. Thank you what  
46 I'm here for today is my home is currently 502  
47 square feet total living space. It's very small as  
48 you can imagine. I'm requesting for an approval to

## APPEAL #21221

1  
2  
3 do a modest increase of 334 square feet so my total  
4 living space will be 836 square feet. That's a  
5 very small house. Small now and I'm asking for a  
6 very modest increase to be functional for my wife  
7 and I. Currently the house, as you can see in some  
8 of the photos is a bit of an eyesore so I think  
9 it's an improvement for the neighborhood, our  
10 request. The house does have a nice piece of  
11 property, nice landscaping and privacy and we are  
12 -- that's one of the reasons why we moved into the  
13 house is because it really has a nice landscaping.  
14 So he had intend to keep that and do as much as we  
15 can to improve the landscaping and the appeal of  
16 the house and property. The designs that we  
17 submitted were very carefully done with Janice, my  
18 architects help. We wanted to maintain the small  
19 footprint, have a cottage feel and but most  
20 importantly, use what was there. So we are not  
21 asking to knock down my house and put a large 2,300  
22 square foot house on this property which it could  
23 accommodate. We have factored in a basement, a  
24 partial basement and partial attic for storage,  
25 because we wanted to keep the footprint small. So  
26 we put in storage in both a partial basement and  
27 partial attic. The house currently is about 16  
28 feet high we're asking to go to 21 feet high. So  
29 it's not a large height increase and the house  
30 behind me is about -- it is two and a half story  
31 house and the house to the right is a two story so  
32 I'm asking for just a one story house with an attic  
33 at what we think is a modest height. Our plan does  
34 include very nice stone exterior so the appeal of  
35 the house was very important to me. Because it's  
36 small, we want to make it very charming like a  
37 cottage with architectural details, stone exterior.  
38 I spoke to the neighbors regarding putting in some  
39 shrubs or trees between the properties so that it  
40 might help provide more shelter if there's a desire  
41 for that. I'm not asking for anymore floor area, a  
42 significant floor area. I'm just asking for 334  
43 square feet. You know, I love the neighborhood. I  
44 love the property of the house and my intent is to,  
45 you know, stay there with my wife and I and have a  
46 small functional house that will serve our needs.

47  
48 MEMBER GOODSELL: Mr. Rowlinson, it

1 APPEAL #21221

2  
3 looks like you have absolutely no backyard.

4  
5 MR. ROWLINSON: I don't. I don't. I  
6 think it's three and a half feet. Approximately  
7 three and a half feet.

8  
9 MEMBER GOODSELL: So you're very, very  
10 close. If you could magically pick this house up  
11 and move it to the center of the lot, I don't think  
12 you'd be in front of us for a variance. But I  
13 actually visited a house very similar to this that  
14 friends of ours had bought where they're built  
15 right up against the back fence. The front yard is  
16 tremendous. It triple setback which is what it  
17 looks. So the addition that you're looking for on  
18 your diagram would be to front of the house. Is  
19 that what I'm understanding.

20  
21 MR. ROWLINSON: No. It's actually, the  
22 addition I don't know if it shows in the photo --

23  
24 MEMBER GOODSELL: It's the green area  
25 then that shows to the side of the house.

26  
27 MR. ROWLINSON: This is the addition  
28 here. This is existing. This area in front, not  
29 the yellow. The yellow is what I guess --

30  
31 CHAIRMAN MAMMINA: Just a suggestion,  
32 why don't you let your architect make the  
33 presentation, you know, regarding the sky plane. I  
34 know how excited you are, you know, positively  
35 excited. But so let her do her part in that and  
36 you can fill in anything you'd like. We do have  
37 two other people who would like to speak. Col.

38  
39 MS. MILLER: My name is Janice Miller,  
40 architect. I live at 2 Lincoln Place, Port  
41 Washington which happens to be the same street so  
42 I'm very invested in my street and my neighborhood  
43 and I think the intent from beginning for Peter and  
44 Donna was to build something very small scale which  
45 was the reason I would work with them because I  
46 don't -- I had, you know, if they had said we want  
47 to build a 2,300 square feet on this property, it  
48 wouldn't have been something I was interested in

1 APPEAL #21221

2  
3 doing. So renovating this, could I say eyesore  
4 modestly seemed like a really good thing for the  
5 street and, you know, a good choice for them. So  
6 we kept the front yard, I tried to build you can  
7 see here the bulk of this one room addition  
8 basically is within the boundaries that are going  
9 to be allowed. It's a very difficult lot. That  
10 street really didn't exist until 1927 so I think it  
11 was an accessory structure for a house on  
12 (inaudible) and never really complied with any  
13 setbacks.

14  
15 CHAIRMAN MAMMINA: Yeah. I mean this is  
16 -- Port Washington has, you know, a lot of very  
17 peculiar and I don't say that in a negative way,  
18 because it can be charming (inaudible).

19  
20 MS. MILLER: This particular street,  
21 it's got a Lincoln Place address, but it actually  
22 fronts onto Franklin. There's only one other house  
23 on Franklin which is directly to their right. The  
24 rest of it is other accessory structures, garages  
25 or the back to other peoples homes.

26  
27 CHAIRMAN MAMMINA: Okay. Why don't we  
28 hear from the other two people --

29  
30 MS. MILLER: Sure.

31  
32 MS. BORRIS: Hello, Members of the  
33 Board. My name is Nicole Borris. I live at 11  
34 Lincoln Place with my husband Evan and daughters  
35 Avery and Tinley, ages six and four. I'm hear to  
36 express my concerns about the proposed construction  
37 which is adjacent to our property. When it came  
38 time for my family to leave New York City in --

39  
40 CHAIRMAN MAMMINA: Step a little away  
41 from the microphone.

42  
43 MS. BORRIS: Can you hear me now?  
44 Wonderful. Okay. Good.

45  
46 CHAIRMAN MAMMINA: Yes. Perfect.

47  
48 MR. BORRIS: So when it came time for my



## APPEAL #21221

1  
2  
3 family to leave the city in 2018, the only town we  
4 ever looked at was Port Washington. We had friends  
5 and family who raved about the school district,  
6 commute and proximity to the train, they valued the  
7 quality of life. Being a first time home buyer,  
8 choosing the location you hope to watch your family  
9 grow is challenging and we felt really fortunate to  
10 have found 11 Lincoln Place. Lots of room,  
11 storage, outdoor space to call our own. However,  
12 we knew that the property, 15 Lincoln Place was a  
13 bit of a concern. We weren't sure whether or not  
14 somebody could build in a manner that would  
15 interfere and negatively impact our homes value.  
16 When the property first went on the market in 2019  
17 so it has changed owners a few times recently, we  
18 spoke to our attorney and the building department  
19 and were satisfied to learn that it was an  
20 irregular corner lot and significant to  
21 construction would be unlikely to meet the  
22 residential zoning and standards that the town has  
23 in place. Our rear yard already has light and air  
24 issues with the proximity to 21 Franklin Avenue and  
25 a multistory addition so close to our property  
26 would only further reduce sky exposure. Every  
27 other home on Lincoln Place enjoys north, south and  
28 eastern exposure for their backyard and our  
29 property would be boxed in essentially east and  
30 south instead of adhering to the required setback  
31 limits. Having just completed a home renovation,  
32 we appreciate that the Rowlinson's are trying to  
33 make an older home more comfortable for their needs  
34 and we absolutely support this. However, going  
35 from a 502 quare feet to a proposed 1,589 square  
36 feet is more than be a moderate expansion. So  
37 really, we are just hoping to avoid any negative  
38 implications for our home and neighborhood. It's  
39 really the -- the exposure to light that concerns  
40 us so.

41  
42 MEMBER GOODSELL: Can I ask you a  
43 question. How many stories does your house have?  
44

45 MS. BORRIS: We have -- so we have the  
46 basement, we have a first floor and we do have a  
47 very small attic.  
48

1 APPEAL #21221

2  
3 MEMBER GOODSELL: You have an attic. Is  
4 there any living space up there? Any bedrooms, any  
5 bathroom, anything.

6  
7 MS. BORRIS: No.

8  
9 MEMBER GOODSELL: So you're really a  
10 one-story living space then.

11  
12 MS. BORRIS: We have the main story and  
13 then we have a second story with the bedrooms. No  
14 we are a two story plus an attic. It's 11 Lincoln  
15 Place. Yeah.

16  
17 MEMBER GOODSELL: Okay. Okay.

18  
19 MEMBER DONATELLI: So I do have a  
20 question. I've been to this site actually several  
21 times because I had trouble envisioning it. So --  
22 so as you're on webster and proceeding up Lincoln  
23 and then the road takes a sharp left turn.

24  
25 MS. BORRIS: Yes.

26  
27 MEMBER DONATELLI: Where are you in  
28 relation to this particular house? Are you --

29  
30 MS. BORRIS: We are the last house on  
31 Lincoln and then when you turn -- yes. The  
32 previous owners of our house owned this lot. They  
33 bought it to protect their house.

34  
35 MEMBER DONATELLI: So you're virtually  
36 abutting this property.

37  
38 MS. BORRIS: Yes. Yes. We open our car  
39 door to their property line.

40  
41 CHAIRMAN MAMMINA: Also, just for the  
42 record, the house is 1,052 square it's not 1,500  
43 square feet according to the building department.

44  
45 MS. BORRIS: I got these numbers from  
46 the architect. I don't know.

47  
48 CHAIRMAN MAMMINA: Okay. I'm just

1 APPEAL #21221

2  
3 saying that this is what's submitted to the Board.  
4 They are permitted to have 2,359 and they will have  
5 1,052 when this is complete.

6  
7 MEMBER DONATELLI: Thank you.

8  
9 CHAIRMAN MAMMINA: Thanks so much. It's  
10 very, very important when people come out. Sir?

11  
12 MEMBER DONATELLI: Good morning.

13  
14 MR. CARVER: Good morning. I'm Michael  
15 Carver at 21 Franklin Avenue. Mr. Chairman, Mr.  
16 Vice Chairman, Members of the Board, we purchased  
17 our house in 2004 and at that time, we were not to  
18 thrilled to have what's been accurately referred to  
19 as an eyesore next door. But there were hedges or  
20 bushes which separated their property from ours and  
21 none of it was visible except for a tiny bit of the  
22 roof. Now, we are immediately abutting them and  
23 there is a very narrow strip of I'll call them  
24 hedges or bushes between our property and there's.  
25 What we're concerned about, is that if the  
26 variances are approved and we have no problem with  
27 the basement, we have no problem with new facade,  
28 but if their house is raised, it's going to loom  
29 over our driveway and it's going to impede our  
30 sight lines from our none too capacious front lawn.  
31 We just think it's going to be less of an eyesore  
32 if your view it from the street, but it's going to  
33 be more of a problem for us because we are going to  
34 see it constantly. We're appreciative of the fact  
35 that the Rowlinson's would like a larger house, but  
36 the limitations were known before he moved in. He  
37 knew or should have known that the house he was  
38 purchasing was right on a property line and had  
39 restrictions in terms of what could be built. What  
40 I'll say is, before he purchased the house,  
41 somebody else came by, consulted with all the  
42 neighbors, said what he wanted to do with the  
43 house, the neighbors said no, no, that's not going  
44 to work and didn't purchase. So I think  
45 Mr. Rowlinson understandably wants a bigger house  
46 on that property but to the detriment to his  
47 neighbors.

48 I'd be happy to answer any questions.

1 APPEAL #21221

2  
3  
4 MEMBER GOODSSELL: Sir, I'll ask you the  
5 same question that I asked the previous speaker.  
6 How many stories do you have on your house.  
7

8 MR. CARVER: We have two stories.  
9 We have an attic, but it's part of the second  
10 story.  
11

12 MEMBER GOODSSELL: Thank you.  
13

14 MR. CARVER: You're welcome. Anybody  
15 else? Okay. Thank you.  
16

17 MR. ROWLINSON: Mr. Chairman, would it  
18 be okay if I just said a couple of quick words.  
19

20 MEMBER DONATELLI: Just one second, sir.  
21

22 CHAIRMAN MAMMINA: If I'm not sitting  
23 there or any of the Board Members (inaudible).  
24 You have a very capable architect here  
25 who is going to be able to explain the questions  
26 that I have and then of course you may continue to  
27 speak after.  
28

29 MR. ROWLINSON: Okay. Yeah. I just  
30 wanted to say --  
31

32 CHAIRMAN MAMMINA: So you're not going  
33 to listen.  
34

35 MR. ROWLINSON: I'm sorry. I thought  
36 you wanted me to say -- go ahead.  
37

38 CHAIRMAN MAMMINA: Why don't we do that.  
39 If you want to address any of the comments that  
40 were made by the neighbors, then please go ahead  
41 and do that. But I would like your architect to  
42 show specifically where the intrusion with the sky  
43 plane is and I know you don't have the full set of  
44 drawings here. I think we are a little bit  
45 confused with north, south, east and west. I mean,  
46 I've got them up here. You can talk me through it.  
47 I've got it, you know, but I can see where the  
48 adjacent neighbors are. I think I know where the

1 APPEAL #21221

2  
3 one gentlemen is. The young lady I'm not sure, you  
4 know, where she faces. So why don't we just do one  
5 thing at a time, you know, we can have  
6 Mr. Rowlinson speak to the --

7  
8 MR. ROWLINSON: Make a couple of quick  
9 -- I just wanted to just say that we are asking for  
10 five feet higher. We're at 16 feet, you know, so  
11 it's not a two story house. It's just an attic.  
12 It's very small. And then secondly, the total  
13 living space is 512, we are asking it to go to 834.  
14 I know the number that was mentioned was a thousand  
15 or something, but that includes I guess --

16  
17 MS. MILLER: Height over (inaudible).

18  
19 CHAIRMAN MAMMINA: Okay.

20  
21 MR. ROWLINSON: So the living space is  
22 836 square feet when it's done. That's small. So  
23 we are not looking to do anything big. We really  
24 went over the plans very carefully to make sure it  
25 was a very small house.

26  
27 CHAIRMAN MAMMINA: Yes. And that's one  
28 of the questions that I was going to ask  
29 Ms. Miller, because I had heard you say originally  
30 that it was you know, somewhere around 850 square  
31 feet.

32  
33 MS. MILLER: That's the footprint.

34  
35 CHAIRMAN MAMMINA: Okay. So why don't  
36 -- why don't we do this, Janice, you just talk us  
37 through which is the -- where is the north  
38 elevation.

39  
40 MS. MILLER: Well first thing I just  
41 want to clarify, this is the neighbor.

42  
43 CHAIRMAN MAMMINA: Correct. Yes. May I  
44 ask a question; do you have anything that shows  
45 where that neighbor's house is in comparison to  
46 what's proposed, like, as a sight plan.

47  
48 MS. MILLER: I don't have -- they're

1 APPEAL #21221

2  
3 adjacent on Lincoln.

4  
5 MEMBER GOODSELL: There is a diagram on  
6 the electrical diagram as showing the location of  
7 the houses to the subject property.

8  
9 MS. MILLER: Okay. Yeah. A setback.

10  
11 CHAIRMAN MAMMINA: That's the setback.  
12 All right.

13  
14 MEMBER GOODSELL: That's the setback,  
15 but it shows where 11 Lincoln is. It doesn't  
16 Franklin -- the house on Franklin. It shows the  
17 lot, but not the house. But it does show the four  
18 adjacent lots to the north of this property.

19  
20 MS. MILLER: I just wanted to clarify  
21 one thing about that. The addition in the front  
22 that we're asking for is five feet back so it  
23 really -- they're entitled to do that.

24  
25 CHAIRMAN MAMMINA: It's complaint.

26  
27 MS. MILLER: It's compliant so.

28  
29 CHAIRMAN MAMMINA: Now where is the sky  
30 plane.

31  
32 MS. MILLER: The sky plane issue happens  
33 at the existing where we are raising the attic.  
34 These are the two sky planes.

35  
36 CHAIRMAN MAMMINA: So where is the ridge  
37 facing the neighbors.

38  
39 MS. MILLER: There's a gable this way so  
40 you would be -- how do I explain that.

41  
42 CHAIRMAN MAMMINA: Well, let's just look  
43 at -- Mr. Rowlinson, I really don't want to do  
44 this, but in a second, I'm gonna ask you to have a  
45 seat. Okay. I have to be able to ask the  
46 questions and I would prefer if the architect  
47 answer the question. So as I'm looking at the  
48 elevations.

1 APPEAL #21221

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MS. MILLER: Yes.

CHAIRMAN MAMMINA: Is it the north elevation that faces the neighbor.

MS. MILLER: No. Well that's facing 11 Lincoln. Yes. So that is facing this house.

CHAIRMAN MAMMINA: Correct. Okay. So that is not the sky plane or that is.

MS. MILLER: The sky plane issue is the back of the north elevation. The attic portion.

CHAIRMAN MAMMINA: The north elevation. Correct. The north elevation. I don't --

MS. MILLER: I don't know how to explain it.

CHAIRMAN MAMMINA: Well no I see it on the west elevation.

MS. MILLER: Yes. Correct.

CHAIRMAN MAMMINA: Okay. All right. So -- so here's the -- here's the question.

MS. MILLER: The front faces this way Franklin. This is the view from Franklin. So you're looking -- that's the sky plane. Yes. Yes. You are right, Ginny.

CHAIRMAN MAMMINA: All right. So it -- it is facing the neighbor.

MS. MILLER: Yes.

CHAIRMAN MAMMINA: Yes. Okay. That's what I thought. It's facing the neighbor to the side on Franklin. Yes. Okay. That's what I thought. All right.

MS. MILLER: And we are very close. I mean, it starts at 1.5 or 1.75 and then it sways a

1 APPEAL #21221

2  
3 little towards the rear to, like, three feet.

4  
5 CHAIRMAN MAMMINA: Yeah. I see that.  
6 The south elevation is -- fronts on which street.

7  
8 MS. MILLER: Franklin. Franklin.

9  
10 MEMBER GOODSELL: So the legal address  
11 is 15 Lincoln, but the new front door faces  
12 Franklin or what is the new front door faces  
13 Franklin.

14  
15 MS. MILLER: Right. (Inaudible).

16  
17 CHAIRMAN MAMMINA: You know, I think --  
18 I think based on something that Ms. Wagner had put  
19 out to us, we might have to hold this anyway and I  
20 will say, you know, with the greatest of apologies,  
21 we are just confused as to, you know, what's front,  
22 back, where is the sky plane, you know, in this.  
23 Is there anyway the sky plane can be mitigated, if  
24 it even warrants mitigation, you know, it may not  
25 and I think there was someone -- Ms. Wagner, if you  
26 could help me out with that someone?

27  
28 SECRETARY WAGNER: (Inaudible.)

29  
30 MS. MILLER: (Inaudible.)

31  
32 CHAIRMAN MAMMINA: Why don't we do this  
33 anyway and Mr. Rowlinson, I apologize. I know  
34 you're all excited and we can do it as an off the  
35 record or whatever, but I -- I've (inaudible) and  
36 we had to go to the Board of Stanson Appeals, which  
37 is a New York City Zoning Board and at one point  
38 the Rabbi who is so familiar with the zoning, that  
39 he corrected the zoning Board chairman and he was  
40 right. You know, so I get it, you know, because it  
41 was a mistake on the record so I appreciate your  
42 enthusiasm. I'm an architect. I have a lot of  
43 clients. I don't blame you, you know, so I  
44 apologize for, you know, for cutting you off. I'm  
45 sure you'll understand it's one person at a time.  
46 So why don't we do that, you know, if we put this  
47 off, you can get this back into us, which I'm sure  
48 you can. This is not a big ask. I would ask that



## APPEAL #21221

1  
2  
3 Mr. Rowlinson can knock on the door of the  
4 neighbors, hand them that. I'm not telling you  
5 what to do, but maybe you want to go by and just  
6 explain, you know, exactly, you know, what this is,  
7 because you do have a compliance side yard and I  
8 think it's important for them to understand that.  
9 You're entitled to build in the two areas that are  
10 faced by neighbors. So I think it's important that  
11 they understand that. That's as of right. And  
12 then it will also help us to just understand and if  
13 it's correct saying north, south, east and west.

14  
15 MS. MILLER: I'm just curious, what's  
16 the issue? It's the secondary of what the sky  
17 exposure because it's in the front yard?

18  
19 CHAIRMAN MAMMINA: We're having a hard  
20 time figuring out where's the front of the house,  
21 where's the back of the house, where's the side of  
22 the house and then where is the sky plane in every  
23 one of those elevations. You might have that. You  
24 showed the sky plane in two places so I'm not  
25 saying anything that you have here is incorrect.

26  
27 MS. MILLER: Yes. I'm wondering if I  
28 can clarify. Yeah.

29  
30 MEMBER DONATELLI: If I may, what would  
31 be helpful for me is where you have the south, east  
32 and west elevation, if you can put in the vicinity  
33 of those elevations, which street it is that you're  
34 fronting from. So that would be very helpful in  
35 terms of visualizing the issues, because we are  
36 very mindful (inaudible). We are also mindful of  
37 what the application is. We want to make sure we  
38 get it right.

39  
40 CHAIRMAN MAMMINA: And I think the other  
41 minor thing that might be helpful and I'm not  
42 asking you to go back to the surveyor, I do know  
43 that the -- unless, did the surveyor layout the  
44 front yard setbacks and things for you?

45  
46 MS. MILLER: Yes. Yes. Yes.

47  
48 CHAIRMAN MAMMINA: Okay. So then maybe

1 APPEAL #21221

2  
3 they can accurately give you the footprint of that  
4 neighbor to the left and you can just pop that, you  
5 know, onto a separate piece of paper.

6  
7 MS. MILLER: So the process for me to  
8 reappear?

9  
10 CHAIRMAN MAMMINA: No.

11  
12 MS. MILLER: And then you get a decision  
13 based on this reiteration or how does that work?

14  
15 CHAIRMAN MAMMINA: Hang on just one  
16 second.

17 I think if you could show both houses.  
18 The house in the back and the house to the sides,  
19 you know, to best of your ability, you know, where  
20 they are, because, you know, as Ms. Wagner pointed  
21 out, the house is skewed, you know, on it's, you  
22 know, it's property. And, you know, so the sky  
23 plane, as you get to the southern side of the  
24 property is going to encroach more than it does on  
25 the Northern side, I think. That's why I'm  
26 saying --

27  
28 MS. MILLER: Can I just tell you what I  
29 think. Maybe for what it's worth, this part of the  
30 project is no sky plane issue.

31  
32 CHAIRMAN MAMMINA: Understood.

33  
34 MS. MILLER: It's just really this back  
35 part of the house.

36  
37 CHAIRMAN MAMMINA: Yes. So I think you  
38 can clarify that. Get us -- I'm not sure when our  
39 next hearing, you know, is. Okay. May 25. So  
40 it's whatever, two weeks away. Get that back to  
41 us. My suggestion, you don't have to, is go knock  
42 on the neighbor's doors. Show them what it is, if  
43 you chose to. That's up to you. And get that  
44 back, you know, to Ms. Wagger as soon as you can.  
45 It doesn't have to be today and just give us that  
46 clarification, you know, as to, you know, what  
47 street each one of those elevations is facing onto  
48 and I know that you showed us the sky plane in two

1 APPEAL #21221

2  
3 areas, but you might want to point to area A, area  
4 B.

5  
6 MS. MILLER: Last question. I'm sorry.

7  
8 CHAIRMAN MAMMINA: That's okay.

9  
10 MS. MILLER: This portion of the project  
11 that encroaches on the secondary, is just a  
12 different part of this whole project and it has a  
13 different value.

14  
15 CHAIRMAN MAMMINA: Sure.

16  
17 MS. MILLER: Is there anyway, I guess,  
18 if we do modify this part of it and take away some  
19 of those issues, you know, is this going to be a  
20 major problem also?

21  
22 CHAIRMAN MAMMINA: For me --

23  
24 MEMBER DONATELLI: I don't know I'd be  
25 comfortable, at this point, indicating one way or  
26 another. This is a very unusual property with  
27 quite unique circumstances. So I think helping us  
28 get to a point where we can at least understand it  
29 first would be helpful. And as we understand that  
30 it is a unique property, I understand that there  
31 are some questions here that are not likely  
32 presented on other properties in the Town of North  
33 Hempstead. But I don't know that I'd be prepared  
34 to indicate at this point. But anything you can  
35 give us to help us understand that, it would help  
36 us to get to a better point.

37  
38 MS. MILLER: It's very complicated.

39  
40 MEMBER GOODSSELL: Continue the diagram  
41 this way and this way.

42  
43 MS. MILLER: So where they are, you can  
44 see this house is all the way here at the front of  
45 the property.

46  
47 CHAIRMAN MAMMINA: I think so. I think  
48 so and that's why I'm asking you to show, it

1 APPEAL #21221

2  
3 because I think it is also.

4  
5 MEMBER GOODSELL: And the other  
6 gentlemen on Franklin, show where his house is  
7 behind. Sp what you've got, just expand into the  
8 next two plots so we can see where the sky plane --  
9 the properties that it affects.

10  
11 MS. MILLER: I mean, their house won't  
12 really come close to --

13  
14 MEMBER DONATELLI: Show us.

15  
16 MEMBER GOODSELL: Show us that.

17  
18 MS. ALGIOS: Janice, one more thing.  
19 Just -- since you're not coming back, it may be a  
20 good for you, just on the record, to go through the  
21 five factors just so we have that.

22  
23 MS. MILLER: I don't have that. I think  
24 we are attempting to improve the character of the  
25 neighborhood. No, I don't think there is much of a  
26 detriment.

27  
28 SECRETARY WAGNER: Is there anyway  
29 (inaudible).

30  
31 MS. MILLER: Yes. If we could -- we  
32 could reopen this to move forward and have a long  
33 house within the buildable area. But we would be  
34 sacrificing the attic space.

35  
36 SECRETARY WAGNER: (Inaudible.)

37  
38 MS. MILLER: It's not a floor area  
39 variance. It's a sky exposure and setback. So I  
40 can't interpret whether it's substantial. I don't  
41 think so.

42  
43 SECRETARY WAGNER: (Inaudible.)

44  
45 MS. MILLER: Absolutely not.

46  
47 MEMBER GOODSELL: Was the difficulty  
48 self created?

1 APPEAL #21221

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MS. MILLER: No.

MEMBER GOODSELL: In a sense, all difficulties are self created. The house right now, the way it exists, does it violate sky plane? It does not from what I can see.

MS. MILLER: No. It does not. It was built in the 30s I am sure as an accessory structure to another home. So it's very -- it might have been a garage.

CHAIRMAN MAMMINA: When did you purchase the house?

MR. ROWLINSON: A year ago.

CHAIRMAN MAMMINA: A year ago. Okay.

MS. MILLER: Thank you.

CHAIRMAN MAMMINA: All right. We will continue the -- the application. So that means there is no decision, you know, today and you'll submit that, you know, that information to us as soon as you have it and if you chose to, you will go knock on the neighbors door just so they see it.

MS. MILLER: Sort of clarify. Yes. Okay. Thank you.

CHAIRMAN MAMMINA: Thank you.

MEMBER DONATELLI: To the neighbors thank you for coming down.

CHAIRMAN MAMMINA: Yes. Very important to see it from your perspective.

We're just gonna do literally a five minute break.

(A recess was taken.)

## APPEAL #21214

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SECRETARY WAGNER: Next appeal, appeal number 21214, Stephen Rhine; 207 Forest Street, Roslyn Heights; Section 7, Block 41, Lot 27 in the Residence-B Zoning District. Variances from 70-102.5(A) and 70-100.2(i), to construct a new in-ground pool located too close to the rear and side property lines and pool equipment located in a side yard.

CHAIRMAN MAMMINA: You heard appeal number 21214, Steven Rhine. Is there anyone in the room interested in the application, other than the applicant? Seeing no one. Please give your name and address or both give your name and address.

MS. RHINE: Well he can sit down. My name is --

CHAIRMAN MAMMINA: You carry the gun, officer.

MS. RHINE: Yeah. Exactly. My name is Kristin Rhine, Esquire. 207 Forest Street, Roslyn Heights, New York 11577. My husband is here to support the technical aspects. I'm here for the legal aspects. We are before this honorable board today seeking a variance to install an in-ground pool with the same setbacks as previously granted by this Board and to place the pool equipment in the side yard. The pool will replace our current semi in-ground pool. The issuance of the variance is based on hardship, which was not self created, is unique to the neighborhood and will not negatively change the character of the neighborhood. The property in question is uniquely shaped and was originally subdivided from a farm. We currently reside at -- I reside at 207 Forest Street with my husband Stephan and two daughters, 11 and 15 for almost 20 years. My father-in-law lives two houses down and as much as he has helped us over the years, we now can help him as he ages. I am a police officer in the 6th precinct covering Manhasset for over 10 years and currently I'm now a lieutenant in the second precinct. I'm also in

## APPEAL #21214

1  
2  
3 charge of the diversity and recruitment committee  
4 and I've also taken on a lot of legal aspects  
5 within the Nassau County Police Department being an  
6 attorney as well. I apologize for the uniform  
7 today, but due to a clerical error with the town,  
8 we were supposed to have the hearing a couple of  
9 weeks ago and I couldn't get off so I'm enjoying my  
10 meal time with you today. As discussed, I'm also a  
11 practicing attorney for over 25 years and as such,  
12 I'm representing us today and had the enjoyable to  
13 learn some things about boarding and zoning and  
14 taking a couple of CLE's on it so it was actually  
15 very enjoyable. My husband is a lieutenant in the  
16 fire department in Elmhurst and a member of the  
17 FDNY Incident Management Team, which responds to  
18 disasters and he's gone for weeks at a time  
19 whenever disasters hit across the country. Any  
20 technical questions he can address. And he was  
21 also instrumental in New York City's response to  
22 Covid. We are both volunteers in the Roslyn Fire  
23 Department. Also, we promise that when we go to  
24 fires, we try to save and protect the property. I  
25 know that was address before. So we do like to  
26 save as much as we can. As with honorable Board,  
27 public service is where our hearts are at. Why we  
28 are here; back in 2014, we came before the Board  
29 seeking a variance to maintain a semi in-ground  
30 pool. Some of the same Board members are here  
31 today. I have a copy of the decision.

32  
33 SECRETARY WAGNER: This will be Exhibit  
34 1.  
35

36 MS. RHINE: For the record, the decision  
37 is dated March 19, 2014 for appeal number 19696  
38 where the Board approved variances which allowed  
39 the location of our semi in-ground pool with five  
40 foot setbacks. We've enjoyed this pool since then  
41 and we also knew at some point we would be at the  
42 end of its life span and make the decision on what  
43 to do next. So here we are eight years later  
44 looking for the same relief. Unfortunately due to  
45 our jobs, we work a lot and a pool will allow us to  
46 enjoy stay-cations and enjoy our often irregular  
47 hours with our family. So we looked into obtaining  
48 an in-ground pool. And the board doesn't often get

APPEAL #21214

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2  
3 to see what the results of the pool are. So as you  
4 can from the pictures, here's the kids. The pool  
5 itself is 18 inches underground with a deck around  
6 it with five foot setbacks from the side and  
7 backyard and we're looking for that same relief  
8 today. What we realize is that we want to improve  
9 the privacy for everyone. As you can see from my  
10 daughter, she's also 5'11. You can see into the  
11 neighbor's yard and also been seen from the street  
12 so we wanted more privacy and we've done the best  
13 we can by putting up plants and also inviting them  
14 over to swim whenever they want. So that's a good  
15 factor there. My biggest number one concern in  
16 constructing a new pool is safety. The pools  
17 maximum depth is five feet and the setbacks of five  
18 feet allows it to be far enough from the house so  
19 it's safe. I've personally been involved in  
20 rescues of young children and adults from pools and  
21 I've also been involved in recovery efforts for  
22 drowning's. My husband was also just recently  
23 involved in jumping into the East River and saving  
24 a drowning man. (Inaudible.) So I really take  
25 into heart all safety measures. We have already in  
26 place all the necessary safety features for an in-  
27 ground pool. As discussed in 2014, the semi  
28 in-ground nature is hybrid between both an  
29 in-ground pool and aboveground pool. So we  
30 followed the rules and safety precautions for an  
31 in-ground pool including exit alarms, six foot  
32 fence with two additional self latching gates and  
33 all windows are latched. Before I go into the five  
34 point balancing test, I want to talk about the  
35 location of the pool with the setbacks, which I  
36 will also touch upon in my legal argument. This is  
37 a copy of the survey that was previously approved,  
38 the color coding is just we had to make -- with  
39 regard to the last board decision, we had to change  
40 some of the heights of the fences so that's why  
41 it's color coded. But this survey was approved as  
42 from the last hearing.

43  
44 SECRETARY WAGNER: Exhibit two.

45  
46 MEMBER FRANCIS: You said the pool is 18  
47 inches aboveground.  
48



1 APPEAL #21214

2  
3 MS. RHINE: Correct.

4  
5 MEMBER FRANCIS: It's a semi in-ground.

6  
7 MS. RHINE: Correct. It's gonna be the  
8 same setbacks, it's a change in the location.

9  
10 MEMBER HERNANDEZ: You went from the  
11 right side to be in the middle.

12  
13 MS. RHINE: Yeah. To the right side  
14 figured to be in the middle just so we can see it  
15 better and everything else. So the hardship -- so  
16 the hardship was not self created and is unique.  
17 As discussed in my introduction, the street was  
18 farmland and the dimensions of our lot are peculiar  
19 and irregular. The front yard is 56 feet as you  
20 can see on the survey and the rear yard is 49 feet.  
21 This makes it difficult to adhere to rear side yard  
22 setbacks. I've also broken down the square  
23 footage, which I'll submit after I read it of the  
24 properties on our street, which also shows that the  
25 hardship was not self created. With regards to the  
26 housing on the street, it's both zoned B and C.  
27 Our property is 5,300 square feet out of the 10  
28 other properties there is only one smaller  
29 property, which is 5,000 square feet. So in total  
30 the average in the B zoning area is 5,860 square  
31 feet and the average in the C -- so these are the  
32 10 properties on our block is 6,686 square feet.  
33 So the total average is 6,235 square feet and our  
34 property is 5,300 square feet. So therefore, the  
35 way the property was done, it wasn't our issue is  
36 self created. So our residence is 500 square feet  
37 below the average of the other RB's on the  
38 properties. It's almost 1,500 square feet below  
39 the average of the RC zoned properties and it's  
40 also nearly 1,000 square feet smaller than the  
41 entire block on average so it just goes to my  
42 argument that this was not a problem that we  
43 created. I just want to mark this as well.

44  
45 SECRETARY WAGNER: Exhibit three.

46  
47 MS. RHINE: So the setbacks requested  
48 the property line are as a result of the unique

## APPEAL #21214

1  
2  
3 dimensions of the property. Both in size and also  
4 both in regards to the setback from the front of  
5 the property to the rear of the property. And  
6 there is also another property on 165 Elm Street  
7 that was also found to be a unique property and  
8 that property, the pool setback for the in-ground  
9 pool are actually four feet. We are not looking  
10 for four feet, we are looking for five feet but  
11 that was previously granted for that resident who  
12 was in a similar situation in terms of the size of  
13 the property.

14  
15 MEMBER FRANCIS: And what kind of pool  
16 was that.

17  
18 MS. RHINE: That's an in-ground.

19  
20 MEMBER FRANCIS: With a four feet  
21 setback.

22  
23 MS. RHINE: Correct. And now I'll  
24 discuss how we satisfy the five point test.

25  
26 MS. ALGIOS: I'm sorry. I just want to  
27 clarify one thing because you said it's not self  
28 created. So it's not so much the property itself  
29 that you didn't create, it's the fact that you're  
30 seeking a variance to do something, right, and  
31 that's self created. So your request to put in a  
32 pool is self created. A pool that does not  
33 conform.

34  
35 MS. RHINE: Understand. Correct. And  
36 it was previously when we had this -- went for the  
37 variance of the semi in-ground pool, the board had  
38 found that because the property itself went in  
39 where most properties go straight back so it goes  
40 from 56 to 49, they felt that we did not create  
41 that and that this may be difficult to adhere to  
42 the setback requirement because of that so they  
43 were allowing us to keep it at five feet, because  
44 it was coming in and that itself wasn't self  
45 created. The additions of the in-ground pool will  
46 provide a desirable change and will not be a  
47 detriment to nearby properties. The semi in-ground  
48 pool which we currently have is on a raised deck.

## APPEAL #21214

1  
2  
3 When standing on the deck, we are higher than the  
4 fence line and can look into our neighbors  
5 surrounding yards. This also increases the noise  
6 to our neighbors. With the pool flush to the  
7 ground, our neighbors will now have the privacy and  
8 any noise from kids playing in the pool or people  
9 sitting around the pool will now be buffered by the  
10 fence. This would be an improvement to the  
11 character of the neighborhood as you will no longer  
12 see people standing on the deck from the streets.  
13 We also have letters from all the neighbors. We  
14 also provided them with a copy of the survey so  
15 they can see what it is. I'm just going to discuss  
16 the specific letters, because each are a little bit  
17 different. The first one is the resident of 211  
18 Forest Street. He is right next to us in to right.  
19 He is in full support and also discuss that because  
20 the deck overlooks his backyard, he will have more  
21 privacy as well. The other two letters are from  
22 the residents of 200 and 190 Forest Street, that's  
23 the properties directly across from our property.  
24 They basically also agree and would like a pool to  
25 be had, but also they say that you can't now see  
26 the pool from the street, which is benefit to Their  
27 properties. The next one is the neighbor behind us  
28 who happened to also use the same pool company that  
29 they wish to use. The pool came out beautiful for  
30 him and that's also why we wish to use the same  
31 pool. He -- the Gus pools we are looking to use  
32 has done over 20 pools in the Town of North  
33 Hempstead and to our knowledge, has had no problems  
34 with them. And he as well said with a raised deck,  
35 we will now be flush so it will be a benefit to his  
36 property as well. The property diagonal also  
37 basically said we can't see into their yard. It  
38 doesn't touch our property, but it was one of the  
39 ones required that were required as part of the 300  
40 or 500 around. I'm not sure. 300. Okay. And  
41 also another one for 204 Elm Street. That's the  
42 property that's in the corner. So as discussed,  
43 they say we do our best to block it with palm  
44 trees, but sometimes if we were flat to the ground,  
45 it would be a benefit. But most important is 205  
46 Forest Street, which is the property to our left.  
47 They also said they fully support obtaining the  
48 variance and we showed them the blueprints. We

APPEAL #21214

1  
2  
3 discussed why we would put the pool equipment in  
4 the side yard. Their AC unit is in their side yard  
5 as well. They are also blocked by a fence and they  
6 would not have to see it and they have an AC unit  
7 and they were totally okay with the unit being  
8 there and for us also safety is a factor no one  
9 would be able to go near that pool equipment  
10 because of the -- gated by the six foot fence there  
11 now, which is self latching which goes to the back  
12 yard and it would be behind that fence which would  
13 make that even safer and like I said, safety is  
14 paramount. So I would like to submit these letters  
15 as well from all the neighbors in support.

16  
17 SECRETARY WAGNER: Exhibit four.

18  
19 MS. RHINE: I'm on the second step now.  
20 We cannot achieve the benefit by any other method  
21 other than area variance. We came before the Board  
22 approximately eight years ago seeking the same  
23 relief for a semi in-ground rule. We were granted  
24 the relief we are currently requesting five foot on  
25 one side yard and five foot on the rear yard. The  
26 Board at the time agreed we could not achieve the  
27 benefit by any other method. They did require we  
28 follow the rules and setbacks for an in-ground pool  
29 for the semi in-ground pool so the fencing  
30 requirements will remain the same and are already  
31 in place. And as discussed, it's an irregularly  
32 sized lot and also an irregularly shaped lot.  
33 Number three, the requested area variance is not  
34 substantial but minimal. It is a de minimus  
35 request. The side yard and rear yard request has  
36 been previously approved by this honorable Board.  
37 This is the minimum space we need in order to place  
38 the pool safely in the backyard. If we were  
39 required to put 10 feet on both sides as with our  
40 current semi in-ground pool we will not be able to  
41 put a pool in, because it would be too close to the  
42 house. And the key is the safety factor of having  
43 the space from the house in order to be able to see  
44 the kids and not having one just run into the pool.

45  
46 MEMBER GOODSELL: Could you expand on  
47 that for a moment, because I'm curious to know if  
48 in fact you put the pool 10 feet from the rear line

1 APPEAL #21214

2  
3 and 10 feet from the sideline, what would be the  
4 distance between the pool and the back of the  
5 house.

6  
7 MS. RHINE: I'll resort to my technical  
8 expert on that. He can do the calculations.

9  
10 MEMBER GOODSELL: Well then I'll let you  
11 finish your presentation and I will ask him that  
12 question.

13  
14 MS. RHINE: Okay. And then he can  
15 discuss that. I appreciate that.

16  
17 MEMBER GOODSELL: Because when you're  
18 addressing is this self created, if you centered  
19 the pool in the backyard, would you need a variance  
20 from us at all? Now, I can certainly understand  
21 why you would want some distance between the back  
22 of the house and the pool, but the numbers on my  
23 diagram are pretty small so if you were 10 feet  
24 from the rear, tell me how you selected this  
25 location.

26  
27 MS. RHINE: So the location is also  
28 because if you take a look at the (inaudible)  
29 there's also AC units which are right behind the  
30 house so it would also encroach on that. So that's  
31 where that location would be. And then also just  
32 from the back, having the pool in that corner it  
33 was a center sight line from the rear of house  
34 being able to see from the pool from the backyard  
35 we can see right from the house and if we had to  
36 move it 10 feet up, it would be right at the door  
37 basically. He'll go into that.

38  
39 MEMBER GOODSELL: Then I'll reserve my  
40 question.

41  
42 MS. RHINE: Please, if you can. If you  
43 don't mind. Okay. So the requested area variance  
44 is not substantial but minimal. It's de minimus  
45 and then I just spoke about that already. Since we  
46 are required to fill with the last pool, we have  
47 window latching, fencing, door alarms and as I said  
48 before, safety is paramount. The location setbacks

## APPEAL #21214

1  
2  
3 provide the greatest safety for us and like I said,  
4 the personal experience with drowning's and  
5 everything else, we are over the top in terms of  
6 safety in our house with everything. I wish I  
7 could out my kids in bubble wrap sometimes with  
8 what I see at work and what he sees at work.

9           Number four, the proposed variance will  
10 have beneficial impacts on the physical and  
11 environmental conditions in the neighborhood. The  
12 new pool will use salt water and not chlorine and  
13 the filter will also be more Eco friendlier and  
14 more efficient.

15           And number five, the impact of the  
16 variance will have, if granted, will improve the  
17 character of the neighborhood and make our property  
18 more esthetically pleasing for our neighbors. Over  
19 the years, we have tried to help our neighbors have  
20 some privacy by putting up some palms on the deck  
21 to block our visual intrusion into their yards.  
22 These palms, however, only block a small area. As  
23 the pool will now be level with the ground, there  
24 will be less noise that the fence will be able to  
25 block. We are really looking for the same minimal  
26 relief. The side yard and rear yard setbacks.  
27 Like I said, due to our irregularly sized lot and  
28 irregularly shaped lot. We are also request the  
29 pool equipment be placed in the side yard, as  
30 discussed, will be safer for the children. Once  
31 again, safety is paramount and the letter from our  
32 neighbor at 205 has indicated that she has no  
33 problem with that and she also has her AC unit on  
34 that side as well. The Board found the last time  
35 we requested this variance that the property  
36 difficulty was not self created because the  
37 property is irregular, the front of the property is  
38 wider than the rear and because that it's a unique  
39 situation. For the pool and equipment to fit  
40 properly, we need the assistance of the board to  
41 grant us another variance for the same setbacks.

42           In conclusion, I request this honorable  
43 grant the de minimus request. The pool will be  
44 beautiful and will not be visible to those unless  
45 you're invited and will no longer be elevated. And  
46 thank you for your time.

47  
48           MEMBER FRANCIS: Thank you.

## APPEAL #21214

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MEMBER HERNANDEZ: Thank you.

MS. ALGIOS: So I just want to point out one thing. The 2014 decision related to the above ground so the Board had granted the setback and treated it as an aboveground pool which required a seven foot setback and they gave you a five. But now you're asking for an in-ground pool, which requires a 10 foot setback. So it is -- it's a greater variance that you're seeking.

MS. RHINE: It is a greater variance but I know that from the last time I was up here with regards to that variance, the Board also a little bit of difficulty with regards to the hybrid nature of the pool because it was semi in-ground because of the 18 inches as well and they also -- it was, like, a distinguished number and they weren't sure -- I don't know if they've actually corrected that yet. I was going to look into that, whether there is a different rule for semi in-ground pools now as opposed to above and in-ground but like I said, this is, you know, my key is paramount and safety and in doing anything that's what we really want to do to make sure the pool is safe, aesthetically pleasing and as I said before, especially for the neighbors, this would be a huge, huge upgrade from the last pool.

CHAIRMAN MAMMINA: I think the distinction is very important in that last three sentences because the town board's requirement is 10 feet based on safety, you know, as well specifically on in-ground pools and they do make that distinction between aboveground and in-ground pool. I think while certainly we want to complete the record and things today, at a minimum I want to read the transcript from this and I would also like for the building department to pull the records (inaudible) you submitted. I think I understood you to say they got variances or they just installed -- just give your name and address.

MR. RHINE: Steven Rhine 204 Forest Street, Roslyn Heights, New York. 165 is a legal

1 APPEAL #21214

2  
3 pool. The one that Kristin had mentioned. That's  
4 the one with the four foot.

5  
6 CHAIRMAN MAMMINA: No. We've got --

7  
8 MS. RHINE: The one that's right behind  
9 us.

10  
11 CHAIRMAN MAMMINA: No. There was a list  
12 of pools.

13  
14 MR. RHINE: The one behind us.

15  
16 CHAIRMAN MAMMINA: No there was about  
17 maybe eight or nine pools.

18  
19 MEMBER GOODSELL: No. That was setbacks  
20 and square footage of lots.

21  
22 CHAIRMAN MAMMINA: Square footage of  
23 lots is not germane to pools. Here it is. Okay.  
24 So I guess this Exhibit 3 so this doesn't say  
25 anything about the setbacks.

26  
27 MS. RHINE: No. That was just in  
28 regards to the square footage.

29  
30 CHAIRMAN MAMMINA: Okay. But I guess do  
31 you acknowledge that the square footage of the lot  
32 has nothing do to (inaudible).

33  
34 MS. RHINE: We're just saying that the  
35 lot itself -- I'm sorry. The lot itself wasn't  
36 self created in terms of -- because of the way the  
37 property was subdivided. It was an irregular lot  
38 from it going from wide to narrow.

39  
40 CHAIRMAN MAMMINA: But it is self  
41 created. It's always self created.

42  
43 MS. RHINE. I understand. No, I  
44 understand that.

45  
46 CHAIRMAN MAMMINA: There's no such thing  
47 as not self created unless you're an American  
48 Indian who's ancestors bought this land or had this



## APPEAL #21214

1  
2  
3 land. Once you buy the lot, it's self created  
4 (inaudible).  
5

6 MS. RHINE: The other thing I was also  
7 going to say is the pool behind us, which is legal,  
8 you know, with regard to the setback from the yard  
9 or setback, like, for example, this is us looking  
10 into our neighbor's backyard and he has a pool and  
11 his garage is, like, less than three feet from the  
12 pool. So, like, in terms of the setback itself,  
13 you know, that's, you know, obviously there's a  
14 reason why with regard to safety and (inaudible).  
15

16 CHAIRMAN MAMMINA: I see that. Again, I  
17 would want to see the paper.  
18

19 MS. RHINE: Well, no I'm -- this is to  
20 the garage so I'm assuming he had 10 feet but he  
21 received approval.  
22

23 MR. RHINE: He didn't go to the BZA.  
24 But just going back to the --  
25

26 CHAIRMAN MAMMINA: I want to make sure  
27 we keep the record clear because anything that was  
28 approved and anything that's before us today.  
29

30 MR. RHINE: Just going back to the  
31 record from several years ago as it being an  
32 aboveground pool from what we currently have, we  
33 went from seven to five feet. We also -- I know  
34 that it was kind of -- they said it was kind of a  
35 tricky thing in terms of semi in-ground pools with  
36 this town. So I know we asked for five as opposed  
37 to seven with the aboveground pool and treat it as  
38 an aboveground pool, but we still had to conform to  
39 all the in-ground pool regulations in terms of  
40 fencing, latching, door alarms and so on and so  
41 forth.  
42

43 MS. ALGIOS: Was your prior application,  
44 was that for a proposed or was that for a maintain?  
45

46 MR. RHINE: Maintained.  
47

48 MS. ALGIOS: So it was already

APPEAL #21214

1  
2  
3 installed.

4  
5 MR. RHINE: Yes.

6  
7 MEMBER FRANCIS: One of the reasons I  
8 want to see the transcript from that, because I was  
9 on the board then also and I'm struggling with the  
10 height of the fence in relation to the height of  
11 the deck. I really don't understand how we granted  
12 that, because in effect what you have is a three  
13 foot fence next to a pool deck, which doesn't make  
14 any sense in my mind. That's why I really want to  
15 see what that transcript says, because I can't  
16 imagine that we granted that knowing that there was  
17 going to be a deck next to that --

18  
19 MR. RHINE: The deck was already in  
20 place. It was a maintain. Everything that was  
21 there is still there till this day. Nothing has  
22 changed at all.

23  
24 MS. RHINE: If you take a look at the  
25 survey that we provided, that's the one that was  
26 stamped by the BZA.

27  
28 CHAIRMAN MAMMINA: Yeah. I mean, that's  
29 why I want to see the transcript as well.

30  
31 MEMBER FRANCIS: I mean, the pictures of  
32 your daughter standing next to that fence, you  
33 know, to me, that seems to be a safety issue.  
34 That's why I'm struggling with how we did that.

35  
36 MR. RHINE: I think because the kids  
37 have gotten older, getting bigger, we are now  
38 looking for an in-ground so it's level with the  
39 ground so it's on grade so they will not fall over.

40  
41 MS. RHINE: We didn't expect my daughter  
42 to grow to 5'11. I only fed her to grow to 5'6.

43  
44 MEMBER GOODSSELL: As part of your  
45 application, is this deck coming down.

46  
47 MR. RHINE: Yes. Everything is being  
48 removed. Yes.

1 APPEAL #21214

2  
3  
4 MEMBER GOODSSELL: And as part of your  
5 application, everything is now going to be leveled  
6 with the ground. That's correct.

7  
8 MR. RHINE: Correct. Yes.

9  
10 MEMBER GOODSSELL: Exactly. And I'll ask  
11 you the same question that I asked your wife, which  
12 is, if you maintained a 10 foot setback from the  
13 backyard -- back fence and a 10 foot from the side,  
14 how close would this pool be to the back of the  
15 house? I know you have a number there, I can't  
16 read it.

17  
18 MR. RHINE: So basically from here to  
19 the house is approximately 15 feet. This would be  
20 five feet from the house and then coming down the  
21 steps would then be four feet. I felt like that's  
22 just not safe.

23  
24 MEMBER GOODSSELL: And the address the  
25 issue why the pool couldn't be moved a little bit  
26 more --

27  
28 MR. RHINE: If we move over somewhere  
29 around here, the side yard coming at this angle.  
30 So it just didn't (inaudible) properly to get  
31 around it.

32  
33 MEMBER GOODSSELL: Okay.

34  
35 MR. RHINE: So we put it on this side.  
36 It's just kind of very difficult back here in the  
37 back so that's why we set it here.

38  
39 MEMBER GOODSSELL: Okay. So how much  
40 distance on your proposal is there between the pool  
41 and the right side -- yeah. From the pool, how  
42 much distance is that right now on your proposed?  
43 I can't read that number. I know it's up there.

44  
45 MR. RHINE: Just over 18 feet.

46  
47 MEMBER GOODSSELL: Okay. Thank you.

48

## APPEAL #21214

1  
2  
3 MEMBER DONATELLI: Do you want to  
4 address the overall issue about the pool equipment  
5 being in the side yard.  
6

7 MR. RHINE: Just the pool equipment  
8 being in the side yard because there really is no  
9 place. We have air-conditioning units that are in  
10 the backyard, there really is no place to put the  
11 pool equipment to make it safe so that nobody can  
12 kind of run into it. Right now the  
13 air-conditioning units are kind of cornered off so  
14 nobody can kind of really get back there and we did  
15 that on purpose. We don't have any place to put  
16 the pool equipment that would be appropriate that  
17 we can even corner off. So if we put it onto the  
18 side yard and have it on the side yard, that's why  
19 we spoke with our neighbor to make sure that  
20 they're okay and they signed the letter saying yeah  
21 no we're 100 percent okay with that. The sound,  
22 there's a five foot vinyl fence there. The sound  
23 would then go up and wouldn't, you know, infiltrate  
24 our neighbors if they're enjoying their yard.  
25

26 MEMBER FRANCIS: One of the things that  
27 we were discussing is whether or not the pool could  
28 be smaller. Say 12 by 20 instead of 14 by 16.  
29

30 MR. RHINE: So we thought about that as  
31 well. The current pool is 12 by 20. We've enjoyed  
32 it for a very, very long time and we thank you  
33 guys, this Board for allowing that to happen. But  
34 again, as the children grow in size and everything,  
35 a little bit bigger of a pool would be more for  
36 (inaudible) them so if we did do a 12 by 20, yes,  
37 it could possibly fit in there. However, the, you  
38 know, we've been living with that for the last  
39 eight years or so. And we feel that it would go  
40 into the backyard a little bit more, which is fine.  
41

42 MEMBER DONATELLI: The one thing that I  
43 would suggest is, we have a great many of these  
44 kinds applications and some of them are mandated by  
45 conditions on the grounds and sometimes a house is  
46 -- is positioned one way or another, sometimes we  
47 are required to reconsider a bunch of factors. One  
48 of the things we have to look at is, as a board, is

## APPEAL #21214

1  
2  
3 whether or not you can achieve the smallest  
4 possible variance. And I understand that you and  
5 your wife are very much safety oriented and I  
6 appreciate that. But we have to consider that  
7 anything that we put on this Board, might then be  
8 used as precedent in another situation where maybe  
9 people are not as safety conscious as you and your  
10 wife are, and that's kind of a big concern for us  
11 and I think what I would suggest to the extent that  
12 maybe you could deal with a 12 foot pool or maybe  
13 moving the pool over somewhat so we don't have as  
14 large a variance as is being proposed. Because  
15 you're proposing a 50 percent variance. That is my  
16 source of difficulty as one Board member.

17  
18 MS. RHINE: Just to go back to what the  
19 difference is from the side. Basically, I think  
20 the last time too, is because the property went in  
21 so much. That was the difference, because had our  
22 property went straight back, we wouldn't have to  
23 probably request as much of the side yard because  
24 the property would have gone straight back.  
25 Instead of 49 -- it should be 56 on both sides in a  
26 perfect world but unfortunately we're at 49.

27  
28 CHAIRMAN MAMMINA: You have an  
29 interesting point, because I could be wrong and  
30 maybe Ms. Wagner, you can verify. I think in a  
31 Residence-B, the minimum lot size is 6,000 square  
32 feet. Now that's not to say there is no such thing  
33 as undersize lot that was leftover at one point.  
34 But, you know, not only -- not only does it narrow,  
35 it's, you know, it's a potential illegality. When  
36 I say illegality, you bought it, it's there, it's  
37 fine, you know, you have to (inaudible) whatever,  
38 but it's also a small lot.

39  
40 MS. RHINE: We had this issue as well --  
41

42 CHAIRMAN MAMMINA: It's just a  
43 diminished lot size. It doesn't really show it on  
44 this. No. No. No. I see that, but you're 49.5  
45 feet at the back instead of 60.

46  
47 MR. RHINE: Quick back story of the  
48 area. It was all farm. The owner of the farm had

## APPEAL #21214

1  
2  
3 four daughters and three sons and subdivided four  
4 lots up for his four daughters to buy houses and  
5 then we purchased the house from one of his  
6 daughters after she had passed away.

7  
8 MEMBER GOODSELL: How old was the house?  
9 When was it built?

10  
11 MR. RHINE: 1950. Early 1950s.

12  
13 MEMBER GOODSELL: When many farms turned  
14 into houses.

15  
16 MR. RHINE: Exactly.

17  
18 CHAIRMAN MAMMINA: Okay. I think we are  
19 going to continue this, because I, you know, I  
20 certainly want to see, you know, the transcript and  
21 just a few other things that I have regarding this.

22  
23 MR. RHINE: Okay.

24  
25 MS. RHINE: Is there anything else you  
26 need for us to submit?

27  
28 CHAIRMAN MAMMINA: No. I don't think  
29 so. And just off the record.

30 (A discussion was held off the record.)

31  
32  
33 CHAIRMAN MAMMINA: I'm going to reserve  
34 it.

35  
36 MR. RHINE: Thank you all very much.  
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## APPEAL #21217

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SECRETARY WAGNER: Next appeal, appeal number 21217, Jeremy Lu; 11 Pilgrim Street, New Hyde Park, New York; Section 8, Block 328, Lot 13 in the Residence-C Zoning District. Variances from 70-100.2.A(2) and 70-100.2(H), to construct fencing in a front yard and to locate two air conditioning units too close to the side property line.

CHAIRMAN MAMMINA: You heard appeal number 21217, Jeremy Lu. Is there anyone in the room interested in the application other than the applicant? Seeing no one. Please give your name and address. There's a bus load of people outside coming in for your application. That's a joke for the record.

MS. XIE: Good afternoon, ladies and gentlemen. My name is Jiang Xie, J-I-A-N-G, last name, X-I-E, from Xie Consultant we're the -- I'm the architecture designer. I'm supervised by the professional engineer helping my client Jeremy Lu to -- for the BZA Application. So before my presentation, may I submit the green cards -- thee mail in receipts?

CHAIRMAN MAMMINA: Sure. And just for the record, you're not an architect?

MS. XIE: Unfortunately one more test.

CHAIRMAN MAMMINA: Good for you. Let me know after you pass, if you want a job, I know a place will hire you.

MS. XIE: Thank you. Unfortunately my boss is my husband so it's a little difficult to quit my job.

CHAIRMAN MAMMINA: I just can't get our young people to understand that they need to go get their license, but good for you.

MS. XIE: Thank you so much. And -- and also, before my representation, may I submit a couple of exhibits for -- for my reference?

## APPEAL #21217

1  
2  
3           This is Exhibit A, which I also  
4 submitted through the portal. This is the -- and  
5 this one -- Exhibit B is (inaudible). Exhibit C is  
6 screening. Then D is also screening options.

7           Good afternoon again. So the  
8 application is -- my client decide to get --  
9 improve the existing one and a half story house  
10 into a two story house right now. And in order to  
11 upgrade the entire mechanical systems, he decided  
12 -- there was no HVAC system prior and he decide to  
13 install two HVAC system. One serve for the second  
14 floor and the other one serve for the first floor  
15 and -- first floor. And in order to -- and -- and  
16 I apologize. This is a corner lot between the  
17 Pilgrim Street and Hillside Avenue. Hillside  
18 Avenue is a very, very busy street. Therefore, the  
19 ideal location for the HVAC unit is located in the  
20 side yard, which we located behind the chimney. So  
21 there is minimum impact from Hillside Avenue and  
22 Pilgrim Street. And -- however, the side yard --  
23 the side yard -- the existing side yard setback is  
24 -- is only 3.97. So after it -- where we propose  
25 the HVAC unit, it's going to be less than a three  
26 feet variance. Three feet permitted encroachment  
27 from the zoning code 70-101.2H. Therefore, we do  
28 need the side variance for the HVAC units in order  
29 to improve the situation. We understand that we  
30 are -- we need variance. We decided to -- if you  
31 refer to exhibit number -- exhibit number C and D,  
32 ideally we would -- hold on. I apologize. It's  
33 only exhibit number C. Ideally, we would love to  
34 plant some evergreens to block the HVAC unit.  
35 However, due to the very minimal distance between  
36 the fence and the HVAC units, it's only one foot  
37 two, I believe in between the face of the HVAC unit  
38 to the proposed fence. So the alternate option is  
39 to have the heavy duty privacy screenings to secure  
40 it to the metal fence that we propose to create the  
41 vision and sound barrier for the neighbors. We are  
42 lucky that that side of the side yard is is where  
43 the neighbor's driveway goes through. So it won't  
44 impact the neighbor as much if the neighbor is only  
45 five foot away from our property. So that is  
46 variance number one that we are requesting. And  
47 the second variance is the front -- the fencing --  
48 the fencing install along the Hillside Avenue.



APPEAL #21217

1  
2  
3 Again, this is a corner lot. This is a corner lot  
4 and there are two car garage. An existing two  
5 garage is in the rear yard. So my client has very  
6 minimum rear yard space for -- for the future kids  
7 and the dogs. That's why the encroached front yard  
8 to create more lawn space is very ideal from them  
9 and also creates privacy and security for the  
10 family that -- wish plan to live there for many,  
11 many years. Again, they also have dogs. A fence  
12 is really helping them to -- for the dogs to get  
13 some activities freely in the yard without, like,  
14 walking them everyday on the street. And I also  
15 submit some precedents from the same neighborhood  
16 along Hillside Avenue. The (inaudible) is about  
17 two blocks away from our project -- our project and  
18 they're -- wait. No. I apologize. (Inaudible) is  
19 right across the street from our project. So it's  
20 literally across the street of the Hillside Avenue  
21 and the second one is 34 Avenue. That is the same  
22 proposal that we are making. We are going to use  
23 the evergreen front to screen in the fence and I  
24 have the fence behind the -- the evergreens. I  
25 mean, closer to the house. So even though we do  
26 ask for variance for the fence, it's going -- it's  
27 going to create minimum visual impact from driving  
28 along Hillside Avenue to see there's a fence there.  
29 So that's 34 Avenue. That's almost the same move  
30 that we going to make. To use the screening from  
31 the bushes and then the fence and then it's lawn  
32 space for the yard.

33  
34 MEMBER DONATELLI: May I interrupt?

35  
36 MS. XIE: Sure.

37  
38 MEMBER DONATELLI: Do you know, has this  
39 Board approved these fences that you have cite in  
40 this precedent?

41  
42 MS. XIE: That I don't know. However,  
43 there are three of them I submitted. They all have  
44 the similar situation and -- and the fence got  
45 installed.

46  
47 MEMBER DONATELLI: I understand. But my  
48 point is, sometimes people take it upon themselves

1 APPEAL #21217

2  
3 to install these fences.

4  
5 MS. XIE: That would be unfortunate to  
6 my client's neighbor.

7  
8 MEMBER FRANCIS: Yeah. I know. I mean,  
9 your client's neighbor, that certainly is not one  
10 that we would have granted.

11  
12 CHAIRMAN MAMMINA: I doubt that that is  
13 even on their property line. I bet it's within the  
14 setback of the street. Based on what it looks  
15 like.

16  
17 MS. XIE: So I'm not representing my  
18 client's neighbors.

19  
20 CHAIRMAN MAMMINA: No. No. No. Of  
21 course not. But you submitted it.

22  
23 MS. XIE: If they don't -- if they are  
24 not relevant, we are going to come back and focus  
25 on what I'm proposing.

26  
27 CHAIRMAN MAMMINA: I think that's the  
28 only reason we are establishing the record as to  
29 whether or not we granted the variance or not.  
30 That's okay. Every case stands on its own.

31  
32 MS. XIE: Thank you very much. I  
33 apologize. I should do homework before I start.

34  
35 CHAIRMAN MAMMINA: That's okay.

36  
37 MS. XIE: However, if you look at the  
38 side yard, HVAC units are located closer to the  
39 rear yard and also closer to the chimney to create a  
40 minimum visual impact. And also, the (inaudible)  
41 the right off the chimney and on that. It will be  
42 an ideal spot to run all the HVAC lines, duct works  
43 and all that stuff. And also, the electrical  
44 channel in the house is very close here -- to here.  
45 So that will -- if we move it, will create a harder  
46 connection for the HVAC unit.

47  
48 MEMBER GOODSSELL: Is there a fence there

## APPEAL #21217

1  
2  
3 right now between your client's property and the  
4 adjacent property where you are going to put the --  
5 the proposed AC units? Is there already?  
6

7 MS. XIE: Let me -- so I submitted the  
8 Exhibit A for the existing house photos and also  
9 submitted (inaudible). So this is where we are  
10 trying to install the HVAC units. Vinyl fence we  
11 are going to remove the vinyl fence and put the  
12 (inaudible) five foot high fence. So the fence  
13 will go over past. That will be in the side yard.  
14 However, this fence is a little bit too close to  
15 the property line somewhere further out away.  
16

17 MEMBER GOODSELL: So you're going to  
18 move it back because it's too close to that little  
19 alcove of the house. Is that what you're saying?  
20

21 MS. XIE: What I'm saying is the vinyl  
22 fence is going to be here and we will install the  
23 black metal fence directly on the property line,  
24 which is going to be further away. I mean, closer  
25 to the neighbor's driveway than what it is  
26 currently.  
27

28 CHAIRMAN MAMMINA: That's your  
29 neighbor's driveway?  
30

31 MS. XIE: This one is neighbor's  
32 driveway.  
33

34 CHAIRMAN MAMMINA: That driveway is  
35 virtually on his property.  
36

37 MS. XIE: We are going to move exactly  
38 on our property line. Let me go back to the  
39 construction drawing and take a quick look. If we  
40 do need to move it closer, then it will make the  
41 lot worse.  
42

43 MEMBER DONATELLI: I understand that.  
44 I'm just saying that the property disputes  
45 (inaudible) and I know sometimes even inches.  
46

47 MS. XIE: Yeah. I have the demo and the  
48 new. This is from the drawing (inaudible). So

1 APPEAL #21217

2  
3 this doesn't need a variance. So that was from the  
4 property line --

5  
6 (Audio is inaudible.)

7  
8 MEMBER GOODSELL: That's the estate  
9 fencing?

10  
11 MS. XIE: Right. Thank you. So we try  
12 to minimize the distance of the fence. However,  
13 for the kids and dog.

14  
15 MEMBER DONATELLI: No. I understand  
16 that, but also we would -- I think we want to see  
17 it setback from the property line.

18  
19 MS. XIE: Which it does from the front  
20 yard along Hillside Avenue, I set it back three  
21 feet. Specifically for the shrubbery.

22  
23 MEMBER GOODSELL: Shrubbery. Evergreen.

24  
25 MEMBER DONATELLI: Would the homeowner  
26 be amendable, rather than a three foot setback,  
27 would the homeowner (inaudible). We are concerned  
28 about the growth of the (inaudible) and the fact  
29 that they might then encroach on the sidewalk or  
30 any other property that might be within the right  
31 of way?

32  
33 MS. XIE: I understand. I think five  
34 feet is very -- I mean, he needs something. Five  
35 feet he will take the deal and make it happen,  
36 because it's -- even five feet, he will have some  
37 space in the rear yard with an open front yard and  
38 Hillside Avenue, that's rough.

39  
40 MEMBER GOODSELL: I would a make motion  
41 then that we grant the variance with respect to the  
42 location of the new HVAC condensers on the side.  
43 We leave it to the homeowner to decide how they are  
44 best to get serviced in the location. And I make a  
45 motion that we approve an estate fence on that  
46 portion of the property that faces Hillside Avenue  
47 setback five feet, rather than three feet with the  
48 evergreen plantings as shown on the diagram. I'm

## APPEAL #21217

1  
2  
3 sorry. On Pilgrim as well. Pilgrim -- Pilgrim  
4 Street is different. They meet the setback. The  
5 fence would have to be even on Pilgrim Street with  
6 the house and planting in front of rather than  
7 behind. All right. On Pilgrim Street plantings in  
8 front of the fence rather than behind the fence.  
9 That would give them the room they are looking for.

10  
11 CHAIRMAN MAMMINA: So your fence will be  
12 setback five and then you will plant -- personally,  
13 I think it should be on both sides. But I think he  
14 should do that on Hillside as well -- okay. For  
15 sure.

16  
17 MEMBER GOODSELL: All right. I --

18  
19 CHAIRMAN MAMMINA: But you will maintain  
20 the bushes from the other side.

21  
22 MEMBER GOODSELL: If I can hold a short  
23 discussion with the Chairman.

24 Let me make this motion again. I move  
25 that we grant the variance with respect to the HVAC  
26 units on the side of the house as shown on the  
27 plans. And I move that we grant the homeowner an  
28 estate fence of five foot -- an estate fence but  
29 that it be five feet from the property line behind  
30 and between Hillside Avenue and the property line,  
31 and that the greenery be planted closer to Hillside  
32 Avenue on the Hillside Avenue side and closer to  
33 Pilgrim Street, on the Pilgrim Street side.

34 So to clarify, the fence that we are  
35 granting is on the inside closer to the house and  
36 the greenery will be outside the fence, closer to  
37 both public streets. It's fine with respect to the  
38 side of the driveway. That's my motion.

39  
40 CHAIRMAN MAMMINA: I'm assuming you're  
41 going to want a gate across the part of the front?

42  
43 MS. XIE: Yes.

44  
45 CHAIRMAN MAMMINA: That would also be  
46 made out of estate fencing?

47  
48 MS. XIE: That's correct. Same

## APPEAL #21217

1  
2  
3 appearance, same height. That will be behind --  
4

5 MEMBER GOODSSELL: No. I further make a  
6 motion that the gate shown on the diagram closest  
7 to Pilgrim Street, the gate itself be only four  
8 feet high.  
9

10 MS. XIE: Okay.  
11

12 MEMBER GOODSSELL: I'm going to amend my  
13 motion to propose that we grant on the side facing  
14 Pilgrim Street, a four foot estate fence. Not just  
15 a gate, but a four foot fence as required by the  
16 town code. And we are treating the side closest to  
17 Hillside Avenue, as a side yard fence. We are  
18 approving a five foot fence on that said.  
19

20 MEMBER DONATELLI: Is that subject to  
21 the setback that we have said, five feet?  
22

23 MEMBER GOODSSELL: Subject to a five foot  
24 setback on the Hillside Avenue side of the  
25 property.  
26

27 CHAIRMAN MAMMINA: Okay. Have we  
28 finished the motion?  
29

30 MEMBER GOODSSELL: I have finished the  
31 motion and counsel understands.  
32

33 MEMBER DONATELLI: I will second.  
34

35 CHAIRMAN MAMMINA: Okay. So please poll  
36 the Board.  
37

38 SECRETARY WAGNER: Member Goodsell.  
39

40 MEMBER GOODSSELL: Aye.  
41

42 SECRETARY WAGNER: Member Donatelli.  
43

44 MEMBER DONATELLI: Aye.  
45

46 SECRETARY WAGNER: Member Hernandez.  
47

48 MEMBER HERNANDEZ: Aye.

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APPEAL #21222

SECRETARY WAGNER: Vice Chairman  
Francis.

MEMBER FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

## APPEAL #21222

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SECRETARY WAGNER: Next appeal, appeal number 21222, Sha Sha Jiang; 9 Center Drive in New Hyde Park; Section 9, Block 578, Lot 15 in the Residence-B Zoning District. Variances from 70-41.A and 70-208.F, to construct additions to a non-conforming dwelling that are too close to the side property line and with not enough total side yard space.

CHAIRMAN MAMMINA: You heard appeal number 21222, Sha Sha Jiang. Is there anyone in the room interested the application other than the applicant? Seeing no one. Please give your name address.

MR. RODGERS: Mr. Chairman, good afternoon, Members of the Board. Bernard Rodgers Architect, my office is located at 2150 Wantagh Park Drive, Wantagh, New York 11793. I'm before you today representing my client Sha Sha Jiang and Andy Wu. The owners of 9 Center Drive, New Hyde Park, 11040 Zoned Residence-B by the Town of North Hempstead. My clients are proposing to build a second floor addition, a small front addition and a front portico. The proposed second floor addition is to be built directly over their existing house. Their existing house is nonconforming in terms of side yards. The proposed second floor will have a side yard setback of 6.9 feet where a minimum of seven feet is required and a side yard aggregate of 14.8 feet where 18 feet is required. As you can see on our architectural plans, this proposed second floor is being built directly over the existing house. We are vertically extending the existing nonconformity. We are not increasing it. If you also look at the submitted property survey prepared by NY Land Survey dated July 20, 2021, you will see that the de minimus deficient 6.9 foot side yard is on the north side of the property. The survey reveals the distance of 11.4 feet from the side property line to the adjoining house for a distance of 18.3 feet between the two houses. On the opposite side here is a distance of approximately 18 feet in between the houses at the front building line of my clients house. I have



1 APPEAL #21222

2  
3 two pictures that shows the relationship to these  
4 two houses that I'd like to submit to the Board at  
5 this.

6  
7 SECRETARY WAGNER: That will be Exhibit  
8 1.

9  
10 MR. RODGERS: My clients have spoken to  
11 their two next door neighbors about hour proposal  
12 and why we need to come before the Board today to  
13 seek relief. Mr. Franke Ling at 11 Center Drive  
14 and Ms. Emily Wong at 1046 Maple Lane. Mr. Ling  
15 has signed a consent letter that I would like to  
16 submit to the Board at this time.

17  
18 SECRETARY WAGNER: That will be Exhibit  
19 2.

20  
21 MR. RODGERS: My clients have spoken  
22 with Ms. Wong a couple of different times. She has  
23 said that she has no objection, but she does not  
24 wish to put anything in writing. We feel that our  
25 project conforms with the aesthetic of the block  
26 and the area. We believe that if approved, it will  
27 have no adverse affect on the neighboring property  
28 or the neighborhood in general. So in collusion,  
29 I'd like to thank you very much for your time and  
30 consideration with hearing our request.

31  
32 MEMBER DONATELLI: I'd like to start off  
33 with a brief question. Are you increasing the --  
34 the side yard aggregate deficiency at this point.

35  
36 MR. RODGERS: No we are maintaining it.

37  
38 MEMBER DONATELLI: It's being  
39 maintained. You are merely building up.

40  
41 MR. RODGERS: Correct.

42  
43 CHAIRMAN MAMMINA: And I also see that  
44 all of the roofs are (inaudible.) Okay. So we  
45 have minimal impact on our neighbors in terms of  
46 what they are looking at. So thank you for that.

47  
48 MR. RODGERS: Thank you.

## APPEAL #21222

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MEMBER GOODSELL: I have no objection to this. I have no objection to this at all. This is one of three houses that are all -- look like they were built at the same time. Looks like they were setback approximately the same amount and they all face Center Drive and I do not -- you don't violate floor area ratio at all. You're not increasing the side yard deficiencies on either side. You are going up in accordance with the existing four corners of the house and so, Mr. Chairman, I don't have any objection to this.

CHAIRMAN MAMMINA: Okay. So we will consider that a motion. Do we have a second.

MEMBER FRANCIS: Second.

MEMBER FRANCIS: Seconded by Vice Chairman Francis. Please poll the Board.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

MEMBER FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

## APPEAL #21225

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SECRETARY WAGNER: Appeal number 21225, Jerikho, LLC; 2208 Jericho Turnpike, New Hyde Park, New York; Section 33, Block 124, Lot 2583-2585 in the Business-B Zoning District. Variances from 70-103(A) and 70-103(B), to construct interior alterations to convert a retail building into professional offices with not enough off-street parking and parking spaces that are too small.

CHAIRMAN MAMMINA: You heard appeal number 21225, Jerikho, LLC. Is there anyone in the room interested in the application other than the applicant? I'm seeing some opposition. Waving frantically. That's a joke for the record.

MS. DEEGAN DICKSON: Thank you very much, Mr. Chairman, Members of the Board. It's a pleasure to see you here in three dimension. My name is Kathleen Deegan Dickson, I'm a partner at the firm of Forchelli, Deegan, Terrana, 333 Earl Ovington Boulevard, Uniondale, New York. Here on behalf of Jerikho, LLC, which is the owner of 2208 Jericho Turnpike in Garden City Park. As the secretary stated, we are here for parking variances to -- so the proposal is to convert a portion of an existing retail building into nonmedical office space. We are proposing a 1,333 square feet office and a 1,078 square feet of retail. There's also going to be some minor modifications to this sight, which don't require variances but will impact the parking layout in the rear, including the creation of an ADA compliant parking space and then removal of a shed that was installed by a prior tenant or a prior owner without permits. So we require variance this afternoon for the number and size of the parking stalls. The parking is located within -- I'm sorry. The property is located within the Town's Business-B Zoning District. Improved with a commercial building and brick garage that were constructed in 1948. The applicant purchased the property last fall and wants to use a portion of the building for his offices for his own construction company. The retail portion on the -- on the right hand side is currently vacant and he doesn't have a tenant in there yet. The property

## APPEAL #21225

1  
2  
3 will get a full facelift as part of this  
4 application with the replacement of fencing and  
5 clean up of the property, which will be a dramatic  
6 improvement in the area. The applicant has a  
7 construction company where most of their employees  
8 are offsite. They have satellite construction  
9 offices at their construction sites and he expects  
10 to have no more than three employees at his office  
11 space at any given time. You'll notice on the  
12 floor plan, there's a proposal for four individual  
13 offices and a conference room. That's for people  
14 -- essentially, the fourth one is for people to hot  
15 seat if they come in, if they have something to do  
16 in the main headquarters office. And then the  
17 conference room would be used to meet with  
18 perspective customers or clients. Any other kind  
19 of meetings of nature relating to existing  
20 construction projects, would more often than not,  
21 happen at the construction site and satellite  
22 offices. The conversion from retail to office and  
23 retail requires a total of six parking spaces. We  
24 are proposing two legal parking spaces, leaving the  
25 four space deficiency. I emphasize legal parking  
26 spaces, because those are the ones that are fully  
27 complaint with the town code. One is nine by 21  
28 parking space and one is an ADA compliant with the  
29 eight foot parking and eight foot accessory area.  
30 You'll see from the site plan that there is still  
31 plenty of room in the rear including a two car  
32 garage that can't be counted as legal spaces,  
33 because the code provides that all parking or in  
34 the Business-B District has to be open air parking  
35 and this would be an inclosed parking space. But  
36 it is in fact two parking spaces there. The nine  
37 by 21 parking space is complaint, because of  
38 section 70-103B allows up to 20 percent of  
39 nonmedical office space to be nine by 18, but  
40 because we only have two parking spaces we now have  
41 50 percent of our nonmedical as less than 10 by 20.  
42 So they're technical variances as opposed to  
43 anything that's truly going to impact the use of  
44 this site. The site has been operating with this  
45 -- this configuration for about 75 years. So the  
46 -- it's going to have negotiable impact or actually  
47 no impact on the neighborhood or the use of the  
48 site. With our application, we submitted a parking

## APPEAL #21225

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2  
3 study from Mulryan Engineering. We have with us  
4 this afternoon Sean Mulryan. I'd like to introduce  
5 him. His testimony will demonstrate that the  
6 requested variances will not cause an undesirable  
7 change in the character of the neighborhood or have  
8 a negative impact on the physical or environmental  
9 conditions in the area. You can see that the --  
10 that the relief requested is in fact de minimus.  
11 When we go from all retail to retail and office,  
12 it's really a change of one parking space. We are  
13 providing four onsite. Two legal ones and at least  
14 two others that are functional. And, you know, we  
15 are limited by the size and configuration of the  
16 lot and the buildings that are there. It's not a  
17 self created hardship, other than that, you know,  
18 from the point of view that they are not expanding  
19 the building, or footprint, or doing a use that's  
20 really overly impactful in the area. It's very  
21 consistent with the other uses in the neighborhood.  
22 So with that, I'm going to introduce Sean Mulryan  
23 and if you have any questions, we'll respond to  
24 them. Thank you.

25  
26 MR. MULRYAN: Good afternoon, Sean  
27 Mulryan, Mulryan Engineering. 1225 Franklin  
28 Avenue, Garden City, New York. We looked into this  
29 application and as mentioned, if this building was  
30 used full retail, it would require five parking  
31 spaces. The applicant has purchased the building  
32 and would like to locate his construction office  
33 there, his -- basically headquarters for his  
34 paperwork and other things. That office space  
35 requires one additional parking space. So if this  
36 was built out as full retail, it would require  
37 five. As proposed, it requires six so there's a  
38 change in one parking space. The configuration of  
39 the site obviously is not changing. We are not  
40 expanding the building, there is no changes in  
41 height, or width, or we're not going out to the  
42 back. We are actually cleaning up some of the  
43 miscellaneous things that have been built over the  
44 years in the rear. There is parking on Jericho  
45 Turnpike. The applicant and a construction office  
46 is something that is gonna have a minimal impact.  
47 Minimal number of people coming too and from. If  
48 you have someone at the office, it's generally a

## APPEAL #21225

1  
2  
3 one person visit. You wouldn't have a big team  
4 meeting here. Those would more likely be at an  
5 architect's office, or at a construction site, or  
6 somewhere else. This is more of a professional  
7 office, somewhat of law firm or something of that  
8 nature. We believe that this is a good fit for the  
9 area. Again, the building was built 75 years ago  
10 so some of the encumbrances and terms of the size  
11 of the lot are part of the previous construction.  
12 It was built many years ago. There is a driveway  
13 into the rear to get to the parking lot. However,  
14 the driveway, as some of the driveways on Jericho  
15 Turnpike are, is very narrow. So you would  
16 anticipate that the people using the rear parking  
17 lot would be familiar with the site. They would be  
18 the employees of the building, people that are  
19 coming for office visits and things would more  
20 likely take parking on Jericho Turnpike, which  
21 again, is available and we feel that there will be  
22 no real demand on this building that would cause  
23 any spillover impact to the residential properties  
24 to the south and certainly not to the north.  
25 People might come to Jericho Turnpike and park, but  
26 they're not going to go around the corner because  
27 this is not a facility that's going to generate  
28 that much traffic or parking generation. And the  
29 availability that we found that was part of my  
30 study, feels that we would be able to accommodate  
31 this small change in the use. If there's any  
32 questions from the Board, I'll be happy to answer  
33 them.

34  
35 CHAIRMAN MAMMINA: Would that be correct  
36 to say that while the garage is not legal parking  
37 spaces based upon the town ordinance, garage, garage  
38 structures and there are two more spaces in there  
39 so that essentially there is four spaces?

40  
41 MR. MULRYAN: Correct. And as you have  
42 employees parking in the rear, they'd be available  
43 to those employees and a person visiting the site  
44 wouldn't necessarily know to look in the back, but  
45 employees that are working in the building would  
46 certainly have access to those.

47  
48 MEMBER GOODSSELL: And there's on street

## APPEAL #21225

1  
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3 parking on Jericho Turnpike on both sides as  
4 Jericho as I recall.

5  
6 MR. MULRYAN: Correct. Correct. There  
7 are certain limitations, but we consider that in  
8 our review and across the street is the funeral  
9 home. So they do have no parking limitations for  
10 the cars in the front, but there are other spaces  
11 that are available and we took that into account  
12 when we looked at numbers. Thank you very much.

13  
14 CHAIRMAN MAMMINA: Good question. Thank  
15 you, Ms. Wagner. The existing gravel part of the  
16 lot, do we know what's happening there.

17  
18 MS. DEEGAN DICKSON: There is no  
19 proposal to do anything there at this time. It's a  
20 gravel lot. In order to make it adequate for  
21 parking under the town code it would require  
22 drainage structures, repaving and then an  
23 application to New York State DOT. Our client  
24 doesn't feel that it's necessary at this time, has  
25 no use proposed for it. They're going to change  
26 the existing vehicle gate to a man gate or a person  
27 gate so that it's not going to be used for storage  
28 or parking. It could be available for parking, but  
29 we figured the town would have concern about  
30 possible construction vehicles or -- which it's not  
31 intended for. Our client has another facility on  
32 Denton Avenue where he keeps his vehicle and any  
33 equipment that he has.

34  
35 CHAIRMAN MAMMINA: Okay. That was my  
36 question.

37  
38 MEMBER GOODSELL: I have no further  
39 questions. All right. I have no objections to  
40 this and frankly, I think it's going to improve the  
41 area because what is there now there is a bit of an  
42 eyesore. And yes, if you can conduct business  
43 right across the street from the funeral home, god  
44 bless you. I don't see -- they're very quite  
45 across the street obviously. I make a motion,  
46 Mr. Chairman, that we grant the variance.

47  
48 CHAIRMAN MAMMINA: Okay. We have a

## APPEAL #21225

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motion be Member Goodsell. Do we have a second.

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: Seconded by Member Hernandez. Please poll the Board.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSELL: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis.

MEMBER FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.



## APPEAL #21223

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SECRETARY WAGNER: Appeal number 21223, SAB 1488 to 1506 Northern Associates, LLC; 1488 Northern Boulevard, Manhasset; Section 3, Block 145, Lot 205 in the Business-A Zoning District. Variances from 70-103(A)(1) and a conditional use under 70-126(A), to construct interior alterations to an existing building for use as a bakery (conditional use) with not enough parking.

CHAIRMAN MAMMINA: You heard appeal number 21223, SAB 1448 through 1506 Northern Associates, LLC. Is there anyone in the room interested in the application other than the applicant? Seeing no one.

MS. TSOUKALAS CURTO: Good afternoon, Chairman Mammina, Members of the Board. For the record, Andrea Tsoukalas Curto. I'm a partner with the firm of Forchelli, Deegan, Terrana with offices at 333 Earl Ovington Boulevard, Uniondale, New York on behalf of the applicant. With me today is Theodora Christaforo, she's a representative/owner of the French Workshop, Bob Eschbacher, traffic consultant with VHB and Harry Nicolitis and Son Su Lee the applicant's architects. Before I begin, I did want to submit the exhibit packet I prepared as applicant's Exhibit A. So as mentioned, this is an application for a parking variance and a conditional use permit for a proposed new bakery cafe at the premises known as the French Workshop. The proposed use requires 64 parking stalls based on the notice of disapproval that was issued. This is calculated at one space for every 80 square feet of floor area. So it's one space for every three linear feet of bar or counter space. The space we leased is 4,830 square feet. The applicants proposed to demolish the existing slab between the lower and upper floors to create a single two-story space. The French Workshop is an established business with several successful locations, including two locations in Nassau County. One is in Garden City and one in Plainview, as well as another location in Bayside, Queens and they're also opening a location in Wantagh next month. They have a rotating menu of food to include breakfast sandwiches, croissants, yogurts, soups,

## APPEAL #21223

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2  
3 salads and of course dessert in addition to French  
4 pastries, you also have a food menu. Their  
5 proposed hours are Monday through Thursday, seven  
6 a.m. to nine p.m. Friday, seven a.m. to 10 p.m.  
7 Saturday, eight a.m. to 10 p.m. and Sunday eight  
8 a.m. to nine p.m. that's what's proposed at this  
9 time, but, you know, may change based on how the  
10 business evolves at this location. Deliveries are  
11 typically right now at their other locations twice  
12 a week. They intend to do the same thing here.  
13 Box trucks would be delivering typically Wednesdays  
14 and Fridays in the mornings. I also wanted to  
15 mention, I know you have it in front of you and our  
16 exhibits show this as well, when we filed this  
17 application, we knew one other tenancy that was  
18 pending which is one rivers and art studio. It's  
19 depicted on the aerial that we gave you. It's also  
20 on the plan to the -- and the parking calculations  
21 for it are on the plan as well. The building  
22 department has been reviewing this application  
23 since 2019. Because of Covid, it was discontinued  
24 by the client at one point, then it was reinstated  
25 in '21. Then we had to go back and forth with a  
26 bunch of issue, which would include fire marshall  
27 issues. Unbeknownst to us, the application had  
28 expired. We just renewed it. So it's -- it's --  
29 it has been under review, but we did not receive a  
30 notice disapproval for it yet. We did want to  
31 explain to the Board that this with a use that was  
32 coming in since we knew about it. We thought it  
33 would make sense to present on that as well and  
34 Mr. Eschbacher is actually prepared to speak to  
35 that as well. We do understand that if our parking  
36 calculation doesn't match or doesn't, you know, if  
37 it doesn't agree with what the plans examiner says,  
38 then, you know, we may or may not have to come back  
39 for that one. So there's a 70 stall deficiency on  
40 this plan, which includes the art studio which is  
41 proposed with 16 stalls. The art studio would be  
42 replacing Cafe Bene, which had a higher parking  
43 demand because it was a food use. I wanted to give  
44 a little background regarding the premises. I'm  
45 sure you're all familiar for the site -- of the  
46 site, but I just wanted to, for the record. The  
47 premises is a shopping center located on the south  
48 side of Northern Boulevard, 625 feet east of

## APPEAL #21223

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3 Shelter Rock Road, it's situated in the Town's  
4 Business-A Zoning District and is improved with a  
5 commercial building having six tenancies and a  
6 parking lot in the rear. Only two of the six  
7 tenancies are occupied at this time. The  
8 Huntington Learning Center and Santos Restaurant.  
9 Everything else is vacant. All of the tenancies  
10 have two floor, an upper and lower level. The  
11 upper level is accessible directly from the  
12 entrance at Northern Boulevard and you can also  
13 have access from the rear by a flight of stairs  
14 going up and then the lower levels have direct  
15 access from the rear parking lot. I wanted to go  
16 through each of the tenancies, because I know it's  
17 a little confusing. I think this will be helpful  
18 for all of you. If you turn to Exhibit 2, you can  
19 follow along. And I'll point out there's some  
20 minor corrections on this plan. So 1488 Northern  
21 was formally occupied by Country Curtain. That was  
22 a retail use. What's proposed there is the French  
23 Workshop. The application that's before you today.  
24 1492 was formally the Breakfast Room. This will be  
25 divided into an upper and lower level. The lower  
26 level will be added to the French Workshop and the  
27 upper level will have a tenant, but at this time we  
28 don't who it would be so we are parking for retail.  
29 1496 was formally Center Cuts. It had come before  
30 this Board and you did approve a variance for that.  
31 It was then changed to Santos' Italian Restaurant  
32 but there was no change in parking demand or change  
33 in configuration so that remains at 30 stalls  
34 restaurant. 1500 Northern Boulevard, that was the  
35 formerly Artistic Tile, which was parked for  
36 retail. We do not have a tenant for this space at  
37 this time, although one has been filed with the  
38 building department. It's not before you today. I  
39 only found out about this a week ago there, but  
40 other uses that would be coming in obviously. 1504  
41 Northern Boulevard, that was the former Cafe Bene  
42 site. I actually did that application. It was a  
43 restaurant use and that's proposed to be the one  
44 river art studio, which is parked as public  
45 assembly. And then 1506 Northern Boulevard is the  
46 Huntington Learning Center. That is an existing  
47 tenant and will remain at the site. So what I  
48 wanted to explain is that the parking calculations

## APPEAL #21223

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3 on this plan, former Cafe Bene actually required 48  
4 spots.  
5  
6 MEMBER HERNANDEZ: Before you  
7 (inaudible).  
8  
9 MS. TSOUKALAS CURTO: Sure.  
10  
11 MEMBER HERNANDEZ: You said that the  
12 French Workshop (inaudible) concrete slab between  
13 the lower and upper floor.  
14  
15 MS. TSOUKALAS CURTO: That's correct.  
16  
17 MEMBER HERNANDEZ: To create a two  
18 story.  
19  
20 MS. TSOUKALAS CURTO: Yes.  
21  
22 CHAIRMAN MAMMINA: But the old Breakfast  
23 Room space will remain.  
24  
25 MS. TSOUKALAS CURTO: Yes. That's  
26 correct.  
27  
28 MEMBER HERNANDEZ: Where you have  
29 breakfast space, it appears from the drawing, only  
30 on the lower level. So is (inaudible) moved for  
31 lack of a better word.  
32  
33 MS. TSOUKALAS CURTO: It's going to be a  
34 different tenant. So that slab will remain in  
35 place so that you can maintain --  
36  
37 MEMBER HERNANDEZ: So that will be three  
38 tenants in this one space.  
39  
40 MS. TSOUKALAS CURTO: No. Two. French  
41 Workshop is taking over the lower level and then  
42 the upper level --  
43  
44 MEMBER HERNANDEZ: But the way this is  
45 drawn, you have the Breakfast Food accessible by  
46 the back. So you have to climb the stairs from the  
47 ground going up to the second floor. I didn't see  
48 the stairs.

## APPEAL #21223

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MS. TSOUKALAS CURTO: That's right. That's correct. That's okay. There's stairs. Lobby is for future use adjacent tenant. It's identified if you look at three, it shows it a little better. It says storage for future adjacent tenant and then it shows the staircase going up it. Doesn't show the space, because it's not before you today but it does show the staircase. So that upper level will be for a separate tenant. Okay.

MEMBER HERNANDEZ: So the upper and lower level will have space.

MS. TSOUKALAS CURTO: Yeah.

MEMBER HERNANDEZ: So you have stairs and you have storage.

MS. TSOUKALAS CURTO: Right. But I did want to explain that a lot of that Breakfast Room first floor area is going to be taken over by the French Workshop. It is just that lobby area that you're talking about that you saw and the staircase going up that would be for the future tenant.

MEMBER HERNANDEZ: But there is also a storage for future adjacent tenant.

MS. TSOUKALAS CURTO: Yes. There is a small area for that. Yes. We just wanted to explain that we are moving into the area where the Breakfast Food was also. So we did take over some of that space from the French Workshop that was previously the Breakfast Room and it shows here. It would have been a separate tenancy. Okay. Sorry. So now that we all understand all of the tenancies. I'm sure you're all familiar with the site. North of Northern Boulevard are single family residences. No residences abut the premises. They are across the street on the other side of Northern. To the west is another shopping center where we have New Best, the Wedding Salon, Compass Realty which just came before this Board and farther west is the former Lord and Taylor. To the south of the parking lot is the former Lord and

## APPEAL #21223

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3 Taylor store -- parking lot for the Lord and Taylor  
4 store. Yeah. All of that. And to the east is  
5 another shopping center with retail use, such as  
6 Verizon, Barnes and Noble, and I'm sure you're all  
7 familiar with that. I did want to go through  
8 briefly the prior variances. Again, to give you  
9 some context and to make it clear as to what the  
10 requirement is now versus what the requirement was  
11 then. So the last approved site plan was for  
12 Center Cuts. That was under appeal number 20477 in  
13 2017. The site plan that was approved for that  
14 appeal depicted 44 onsite parking spaces and there  
15 was a total requirement, at that time, of 106  
16 parking stalls based on the uses that existed at  
17 that time. Exhibit 2 does lay that out. I did,  
18 again, have to correct -- I have the last approved  
19 site plan if you want, but if you change the 30 to  
20 48 and the Cafe Bene does come out to 106. So the  
21 parking lot will be reconfigured now to provide an  
22 additional 13 parking stalls. So it will be a  
23 total of 57 parking stalls at the site. The total  
24 requirement with the proposed two new tenancies is  
25 127 parking stalls, which is 21 more spaces but  
26 there's only a net increase of eight, given that we  
27 are increasing the amount of parking at the site.  
28 So with that, I wanted to have Mr. Eschbacher come  
29 up if you didn't have any questions for me, to get  
30 into the parking in greater detail.

31  
32 MR. ESCHBACHER: Good afternoon,  
33 Mr. Chairman, Members of the Board. My name is  
34 Robert Eschbacher with VHB Engineering. My office  
35 is located at 100 Motor Parkway in Hauppauge. I  
36 was retained by the applicant to review the overall  
37 parking situation with respect to this group of  
38 stores. As was indicated, the one building has  
39 been broken up into six different tenant spaces.  
40 Two of them are currently occupied, French Workshop  
41 would be the third and the One River Art Studio  
42 would be the fourth, leaving two more that would  
43 still be vacant. Now as the Board is all aware,  
44 the Town of North Hempstead code does not take into  
45 consideration what we call simultaneous occupancy.  
46 And that's the case where different uses and  
47 different tenants have peak demand at different  
48 times. We are simply required by the code to add

## APPEAL #21223

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3 up each of the individual requirements and then  
4 comply with that. When you do that for the two  
5 existing tenants, the two that have been identified  
6 and proposed, including the French Workshop and  
7 considering the two non-designated spaces as retail  
8 uses, the total parking requirement is 127 spaces.  
9 Now, this is a very major over statement of what is  
10 actually required because of the nature of the  
11 individual tenants. Starting with the French  
12 Workshop, the reason we are here today. The peak  
13 demand for that is going to be in the morning.  
14 People will stop in either to get something and eat  
15 it there or pick something up and come to wherever  
16 their place of business is. That peak period takes  
17 place before many, if not most of the other  
18 businesses in that group are there. Perfect  
19 example would be the Italian restaurant. Not even  
20 open until dinner time. With respect to the amount  
21 of the French Workshop customers that would be take  
22 out, they are essentially in and out very briefly.  
23 So although they require a parking space, they are  
24 not occupying that space for an extended period of  
25 time and that space that they would occupy, is able  
26 to turnover a number of times. The other peak  
27 period for the French Workshop is after dinner and  
28 there you have the opposite case as the morning.  
29 Where once again, many of the other businesses are  
30 closed or operating at a very low level and they  
31 are not generating their peak demand. The second  
32 big example would be the current tenant is  
33 Huntington Learning Center. This is primarily an  
34 after school type of operation. Kids are in school  
35 during the day and after school, a parent will come  
36 and drop them off and can go do other things and  
37 return for pick up. But nevertheless, there is a  
38 parking requirement associated with that. Once  
39 again, it's a very brief in and out type of thing  
40 so there are -- that's not conflicting certainly  
41 with the morning business of the French Workshop.  
42 Italian restaurant, I mentioned, they don't even  
43 open until five o'clock in the afternoon. So all  
44 day long, their theoretical parking is not  
45 generating any parking, other than there might be  
46 some cooks, whatever that are there preparing for  
47 the evening business. So their parking is  
48 available for a large period of time throughout the

## APPEAL #21223

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3 day. We also had learned in the course of  
4 preparing for the hearing, that One River Art  
5 Studio is in the process of going through the  
6 permit review and based on discussions with  
7 representatives of that organization, we've learned  
8 that that's going to be primarily geared towards an  
9 after school or early evening type of business,  
10 primarily for children and once again, that's a  
11 case where parents would drop off the child and  
12 then go do some other the thing. Perhaps go to the  
13 French Workshop. But once again, we don't have  
14 that overlap of these uses. And then finally with  
15 the two remaining stores, which we have counted as  
16 retail use, we would expect that they would have  
17 the typical retail peak hours, which would be late  
18 morning, early afternoon into the later afternoon.  
19 Not interfering to any real extent with the French  
20 Workshop in the morning or the French Workshop in  
21 the evening for people going there after dinner.  
22 So looking at all these different factors for these  
23 specific tenants, it's my professional opinion that  
24 it will work very well. It's important to know  
25 also that it's going to be self regulating. You  
26 cannot park on Northern Boulevard. And same  
27 situation we've had in other cases, if people have  
28 difficulty parking here, they will choose to go  
29 somewhere else. So we think it will work out very  
30 nicely. And then I have to bring up the dreaded  
31 hair salon. The French Workshop space could be  
32 operated in a hair salon and nail salon, and would  
33 generate far more parking than would otherwise be  
34 required with strictly the retail requirement.

35  
36 CHAIRMAN MAMMINA: I thought that was  
37 part of the basement they were going to use.

38  
39 MR. ESCHBACHER: Well we are all  
40 familiar with, you know, hair salons especially at  
41 this location given that one of their neighboring  
42 businesses obviously. So in my professional  
43 opinion, with this mix of tenants, both existing  
44 and proposed as identified, I believe that there  
45 will be adequate parking to accommodate all the  
46 uses when they each have their individual peaks.  
47 I'll be happy to answer any questions.

48



## APPEAL #21223

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3 MEMBER GOODSSELL: According to the plan,  
4 are the parking spaces that are there going to be  
5 reconfigured, there's going to be additional  
6 parking, are they going to make the spaces  
7 narrower.

8  
9 MR. ESCHBACHER: The proposed spaces  
10 will be fully conforming to the standards.

11  
12 MEMBER GOODSSELL: Because the parking  
13 spaces in the lot next door have to be the smallest  
14 parking spaces I have ever parked in. But for the  
15 French Workshop, I would park there.

16  
17 MR. ESCHBACHER: All the spaces, they  
18 are the standard and the handicap spaces all fully  
19 comply. Yes. Thank you.

20  
21 MS. TSOUKALAS CURTO: In conclusion,  
22 based on the fact that the peak demands for the  
23 proposed uses do not overlap. We believe that  
24 there is adequate onsite parking because there is a  
25 parking demand for the proposed tenancies. The  
26 proposed uses are in character with other uses in  
27 the area and will provide a useful service, nearby  
28 residents and the greater Manhasset area and for  
29 those reasons, we request that the request for  
30 relief be granted.

31  
32 CHAIRMAN MAMMINA: Any questions?

33  
34 MEMBER HERNANDEZ: Mr. Chairman, I am  
35 familiar with this shopping center and Northern  
36 Boulevard. It is very, very self regulated. None  
37 of those businesses have the required (inaudible).  
38 But as you also pointed out and you can't park, you  
39 pull out and leave because you just have no other  
40 place to go and everyone of the owners is very  
41 jealous that you have all this parking in the rear.  
42 The unfortunate part is that we can't find a way to  
43 take the Lord and Taylor parking lot because they  
44 have a huge amount of parking that's not being use,  
45 but unfortunately that's not for us to solve. But  
46 it is self regulating, it has been working this way  
47 since this was built. I've been living in that  
48 community for 30 years and every business comes and

1 APPEAL #21223  
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3 goes, and seems to comply. So for all of those  
4 reason, I move that we grant the application.  
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6 CHAIRMAN MAMMINA: We have a motion.  
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8 MEMBER HERNANDEZ: Of course with  
9 restaurant conditions.  
10  
11 CHAIRMAN MAMMINA: We have a motion from  
12 Member Hernandez. Do we have a second.  
13  
14 MEMBER DONATELLI: I'll second.  
15  
16 CHAIRMAN MAMMINA: Seconded by Member  
17 Donatelli.  
18 Please poll the board.  
19  
20 SECRETARY WAGNER: Member Goodsell.  
21  
22 MEMBER GOODSELL: Aye.  
23  
24 SECRETARY WAGNER: Member Hernandez.  
25  
26 MEMBER HERNANDEZ: Aye.  
27  
28 SECRETARY WAGNER: Member Donatelli.  
29  
30 MEMBER DONATELLI: Aye.  
31  
32 SECRETARY WAGNER: Vice Chairman  
33 Francis.  
34  
35 MEMBER FRANCIS: Aye.  
36  
37 SECRETARY WAGNER: Chairman Mammina.  
38  
39 CHAIRMAN MAMMINA: Aye.  
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41 MS. TSOUKALAS CURTO: Thank you very  
42 much. Thank you for your time.  
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Proceedings

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MEMBER DONATELLI: So I'll make a motion  
that we adopt SEQR.

MEMBER HERNANDEZ: Second.

CHAIRMAN MAMMINA: So we have a motion.  
(Time noted: 2:30 p.m.)

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C E R T I F I C A T E

I, NICOLE L. BASILE, do hereby  
certify that the within transcript is a true,  
accurate and complete transcript of the  
proceedings which took place in the above matter.



NICOLE L. BASILE