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Town of North Hempstead
Board of Zoning Appeals
PUBLIC HEARINGS

Wednesday, January 10, 2024
10:17 a.m.

BOARD MEMBERS PRESENT:

- David L. Mammina, Chairman
- Leslie Francis, Vice Chairman - Absent
- Daniel D. Donatelli, Member
- Patricia A. Goodsell, Member
- Jay Hernandez, Member

ALSO PRESENT:

- Deborah Algios, Town Attorney
- Virginia Wagner, Secretary
- Amy Boguszewski, Stenographer

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CHAIRMAN MAMMINA: So if everyone would please rise and join Member Hernandez in the Pledge of Allegiance.

(Following recitation of the Pledge of Allegiance, the meeting was called to order.)

CHAIRMAN MAMMINA: Okay. Good morning, ladies and gentlemen. Welcome to the Town of North Hempstead Zoning Board of Appeals. And what we like to do at the beginning of each Hearing is talk a little bit about the way we conduct business here in case you've never been to a Zoning Board and in case you have been to a Zoning Board, but maybe not this one, and we may do things just a little bit differently. What I will say for everyone who has never been to a Zoning Board before, just relax, it's okay. Pretend like we are at your kitchen table and we are talking back and forth.

So what we will do is as Ms. Wagner calls the case, we will ask for the applicant, okay, the person whose application it is, to stand up and come on forward to the microphone and the podium. I will then ask if there is anyone who wishes to speak regarding the application, which means you may want to speak for the application, you may want to speak against the application.

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Why don't we just let everybody come on in.

Good morning. What I will do, because I was only like two sentences in, I will start it over again. So what I had said is we like to go through this as to how we conduct business in the Town of North Hempstead in case you have never been to a Zoning Board or maybe you have been to another Zoning Board in another town or village, we may do things a little bit differently here. If you have never been before a Zoning Board before, then we just ask everybody just relax. If you are going to come up and speak, we just pretend like we are, you know, just a bunch of neighbors sitting and talking.

Then Ms. Wagner will call the case. And at that point, I will also ask if anyone here has interest in the case, and that interest might be in support of the case or in opposition to the case. You don't need to identify that at that time. Everyone will have the opportunity to speak. And what we ask is that if you are speaking either for or against an application and if someone else has already said what you would like to say, if it's on the record more times, it doesn't give it any more weight. I mean, you may want to expand on it or whatever, but all you need to do is come up and say,

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I agree with what the previous speaker said regarding traffic or whatever it might be. Then you are also on the record.

So once Ms. Wagner then has called the case, the applicant has come to the podium, the applicant will give their name and address to our stenographer, as everyone will when they come up. There is a record that is taken for this proceeding. It is a quasi-judicial proceeding, so therefore, you know, the document is created in that way. So at that point, the applicant will then have the podium. And the applicant will put on to the record whatever they feel that they would like to have as stating their case. The Board will then ask whatever questions it may feel are appropriate of the applicant. The applicant will have a chance to respond to those. And then at that point, we would ask for whoever might want to speak regarding the application, you know, just one at a time, come on up. You don't have to speak just because you are here. And you put your name and address on to the record. You will state what your feelings are regarding the application and you will then have a seat. Then when that part of the Hearing is done, the applicant will come back up to the podium. The applicant, and typically only the

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applicant, gets to speak two times, because the

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applicant has to have the opportunity to either

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support or refute what someone said either in favor

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of or against their application.

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When that is done, the Board will then do one

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of four things. We will either approve the

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application, we may deny the application, we may

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continue the application. When we continue the

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application, it means that we've asked the applicant

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to give us another document, whether it's a closing

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document or a lease, a different survey or something.

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It could really be anything, because we feel that we

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don't have enough information at that point in order

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to make that decision today. You know, or we may

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reserve. I have only done this for 32 years, but

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sometimes my brain ends up someplace else. So if we

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reserve the application, that means that we have all

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the information that we want, but we may want to go

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back and see the site, you know, again. We may want

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to verify, you know, something between ourselves. We

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may want to deliberate regarding the merits of the

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case.

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All deliberation is done in public. So

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anyone may come back and sit and listen to us, if

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they would like, or we do live stream this. So right

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now, you are all TV stars. So that way you have the opportunity then to hear what the Board has to say. If we reserve and you do come back, there is no testimony from anyone who is sitting here. So you would then be here just for information and to see the way that the Board acts on it.

So with all of that said -- yes. Thank you, Jay. Anyone who wishes to speak either for or against the application, we limit that to three minutes. As I would like to say, we are not chopping your head off at the end of the three minutes, but we like to keep the Hearing moving today. We are a small group. Sometimes this room is packed and there is people outside, as well.

So the other thing just that I would like to say is we ask that everybody -- you know, we all have our electronic everything, just kind of hold them up put them on silence. You don't have to shut them off. If you have to make a phone call or take a phone call at any point, that's absolutely fine. We are all ladies and gentlemen. You kind of get up and scoot on outside and that's all right. If there is anyone else who is coming who is not here, we just ask that you tell them the same thing.

Then the last thing is that truly, truly keep

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crosstalk, you know, as part of the audience to zero. It's very difficult for the Stenographer to take the record. It's difficult for the Board to hear. And lots of times, we, as a Board, have to bring ourselves under control to stop crosstalk so that the record can be taken accurately. And I think I covered everything. Okay.

Then, Ms. Wagner, do we have any modifications to the calendar this morning?

SECRETARY WAGNER: Yes. We have an adjournment of Appeal #21482 Phyllis Scobbo; 1212 Port Washington Blvd., Port Washington; Section 5, Block 25, Lot 4; Zoned: Residence-C/Business-B. Variances from 70-51.A, 70-101.1.B, 70-208.F and 70-100.2(4)(a)[5] to legalize a two-story rear addition too close to a side property line and expanding a non-conforming dwelling, a roofed-over patio too close to a side property line, and a fence that is too high on a property with a non-conforming dwelling in a business district being reviewed under the rules of the Residence-C district pursuant to 70-208.K.

That's adjourned without a date.

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We also have an adjournment of Appeal #21497 Kevin Developers, LLC (Tropical Smoothie Caf); 32 B Glen Cove Rd., Greenvale; Section 20, Block 29, Lot 161; Zoned: Business-B/Residence-C.

Conditional Use 70-126(A) to construct interior alterations to convert an existing commercial space into a food use.

That's also adjourned without a date.

CHAIRMAN MAMMINA: Okay. So if anyone is here for either of those two Appeals, those will not be heard again -- will not be heard today. Those are both adjourned without date. Do they have to advertise again just by letters?

SECRETARY WAGNER: They do. There may be some changes to the application

CHAIRMAN MAMMINA: Okay. So you will be notified again because the application will be changed. And the other thing just that I can say, you know, is that in 32 years here and 30 years as the Chairman, I don't think we have ever had a calendar with two cases on it. It's usually at least two pages of cases, but so it goes. It is what it is. So Ms. Wagner, please call the first case.

1 Appeal #21495

2 RESIDENTIAL CALENDAR

3 SECRETARY WAGNER: Appeal #21495 Danny

4 Andre; 19 Cromwell Rd., Carle Place; Section 9, Block
5 595, Lot 9; Zoned: Residence-B.

6 Variance from 70-102.C(5)(a) to construct a
7 pool and pool equipment too close to the side
8 property line.

9 CHAIRMAN MAMMINA: Okay. You've heard Appeal
10 #21495 - Danny Andre. Is there anyone in the room
11 who wishes to speak other than the applicant? Seeing
12 no one. Please give your name and address.

13 MR. BROWNE: All right. Good morning, Chairman.
14 Christian Browne of McLaughlin & Stern; 1122 Franklin Avenue in
15 Garden City. Here for the applicant. Happy New Year. Nice to
16 see you.

17 So as you know, this is a pool application. 19
18 Cromwell Road in Carle Place. It's a Residence-B District.
19 This is a 7200 square foot lot. My client, Mrs. Andre, is
20 here. My clients have lived on the property since 2010. In
21 2020, they fully renovated the home and intend to stay here as
22 their forever home. They have a young family. And the
23 addition of the pool is sort of the last piece they are hoping
24 for to make this a place that their family, you know, can fully
25 enjoy. As Mrs. Andre will tell you, they are not in a position
26 to go on lavish vacations and they don't belong to a beach

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2 club, so this is their recreation area.

3 And I know you've heard many of these types of
4 applications. In recent years, pools have become ubiquitous,
5 so you understand the reasoning behind it. As I said, it's a
6 60 by a 120 lot. We need two variances in order to install the
7 pool in the current configuration. The first is a variance
8 just from the side yard for the pool itself, and that would be
9 on the -- forgive me -- that would be the --

10 CHAIRMAN MAMMINA: West.

11 MR. BROWNE: Yes, the west side. So we are requesting
12 8 feet, where 10 is required. As you can see, the neighbor has
13 a garage quite close to there that's probably about a foot or
14 two off the property line. So this would be fully fenced. It
15 wouldn't really change the conditions there. That's a rather
16 minor variance. And the neighbor on that side has consented,
17 has no objection to installing the pool there.

18 The other variance is also a side yard variance, and
19 that pertains to the pool equipment. And I should mention the
20 pool is 29-feet long by 16-feet deep going 16 feet that is
21 going back towards the rear yard.

22 The other variance concerns the pool equipment, which
23 is on the east side, the opposite side of the pool. The
24 proposed location is behind the shed that is on the property.
25 My clients installed the shed back in around 2020 legally at
26 the time they renovated the house. It is a permanent structure

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on concrete footings. And they use it, of course, to store the types of things you would imagine a young family with kids and toys, and all sorts of household items. So it's important to them and it is a permanent fixed structure. So they have explored -- and Mrs. Andre can speak to this -- you know, where else they could put the pool equipment recognizing that 3 feet is a more substantial variance than the request of 7 feet of relief as opposed to the 2 feet on the other side. So it is a more substantial variance, but it is quite difficult to find another place to locate this piece of equipment. If you put it in the back, you are going to run into problems with the power lines and then it would encroach in the rear yard. It can't go in front of the shed because that's where the entrance to the shed is. And it's just not really feasible to put it anywhere else where it would be legal. It would always need a variance. So here, it's tucked in the back behind the shed. The neighbor on that side has also signed a consent letter, has no objection.

And I recognize that, you know, this Board is often reluctant to grant larger variances, but here, given the fact that the shed is sort of in the way, but it is a permanent structure that can't be moved without significant hardship to the applicant, I would ask you to allow them to have the pool equipment in that area. I think it's the best place possible on the property.

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Finally, I just will mention -- and Mrs. Andre can emphasize -- it is a significant cost just doing this. The renovation was a significant cost. As I said, this is sort of the last piece of what they are hoping to make their permanent home. This is the last piece of the investment. It's difficult to fit the pool legally here without some relief from the Board. So on the west side, I think that's a minor variance. On the east side, while it's a more significant variance for the reasons that I stated, we would ask you to grant some relaxation here in this particular instance.

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CHAIRMAN MAMMINA: Before I turn it over to other Board Members, just for the record, Mr. Browne, I understand your testimony. But, yes, our job is to grant the most minimum variance. If we are going to grant the variance, it's not that we don't like to do that. And if anything, you know, we are all homeowners, so, you know, we get it. And at least in terms of the make up of the Board now, we are also all in parts of the town that are not villages. So, you know, we understand that right now where your client is now and us, this is our, you know, place to go. So just a very minor thing.

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MR. BROWNE: And I recognize that, Chairman, and I know and I explained to my client that this Board takes the legal duties seriously. And I am not as concerned with the -- my personal opinion -- with the 8 foot versus 10. I know the bigger ask is the 3 foot versus 10. But it's quite tricky to

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figure out how to locate pool equipment in this one particular instance because of the way the property is laid out and because that shed is already in existence and is on concrete footings, it's a permanent structure.

MEMBER DONATELLI: Mr. Browne, I do have a few questions.

MR. BROWNE: Sure.

MEMBER DONATELLI: First of all, I see that the length of the pool is --

CHAIRMAN MAMMINA: 29.

MEMBER DONATELLI: 29 feet. Is that a standard size or can the pool be made 27 feet in length, and therefore be compliant?

MR. BROWNE: It could be made 27 feet, and I thought you might ask that question. If that would get this case through, my clients would agree to move the pool in 2 feet.

CHAIRMAN MAMMINA: Also, just so that your client understands, and I think it's important because I have said this many times. I can remember as a very young man, black hair, much longer than it is now, sitting, I think, where the young man back there is saying on my first Zoning, oh, I know what I would do there, I know what I would do there, and then you get up here and you say, wait a minute, there are laws.

MR. BROWNE: Right.

CHAIRMAN MAMMINA: And it can't be just because I like

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2 it. And as you well-know -- and I am sure you have told your
3 client that you are a very, very good attorney.

4 MR. BROWNE: Thank you.

5 CHAIRMAN MAMMINA: Our job is also to grant the most
6 minimum that we can, you know, without destroying the project.
7 We are going to consider the variance.

8 MR. BROWNE: Yes.

9 CHAIRMAN MAMMINA: So the question becomes why can't it
10 be 27 feet?

11 MR. BROWNE: Would you like to say something briefly?

12 MRS. ANDRE: Yes, sure.

13 CHAIRMAN MAMMINA: Come right up and give your name and
14 address.

15 MRS. ANDRE: I was very nervous, but now I am --

16 CHAIRMAN MAMMINA: That's why I said, don't be nervous.

17 MR. BROWNE: Just put your name and address on the
18 record.

19 MRS. ANDRE: Stephanie Andre; 19 Cromwell Road, Carle
20 Place, New York. So we knew this was going to get brought up.
21 And basically, this project -- I'm getting upset -- but this
22 project is financially a big deal for us. We are doing it for
23 our little boys. We have a 3 and 6 year old.

24 CHAIRMAN MAMMINA: Maybe I can make you laugh. I
25 always say I hate when the ladies cry.

26 MRS. ANDRE: And I'm sorry. It's almost like my

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2 nervousness coming out, anyway.

3 CHAIRMAN MAMMINA: It's okay, though.

4 MRS. ANDRE: I know. There are much bigger problems in
5 the world than a pool. I get it. So anyway, the reason for
6 the 2 feet was truly because this is financially a stretch for
7 us. We are working very, very hard to make this happen. And I
8 just wanted something that I knew my little ones, my boys,
9 could enjoy, like, well into adulthood. And, obviously, we
10 worked with an engineer. We worked with a pool company. We
11 did every way. We situated every way possible. So that's the
12 reason, really. It was so that I could see my kids in 20 years
13 still really enjoying this pool to really just trying to
14 maximize this.

15 MEMBER DONATELLI: And we appreciate that. The reason
16 for the 10-foot requirement in the Town of North Hempstead is
17 really a safety requirement. And as long as I have been on
18 this Board, I know that we are very, very conscious of safety
19 requirements, and so that was really the source of my question.
20 So while I understand, you know, that it's always nice to have
21 a larger pool, the source of my question really is we try to
22 prompt compliance any time compliance is possible. So I
23 appreciate your flexibility on that issue.

24 I do have another question -- and maybe this is for
25 Mr. Browne. I see on your notes that you have a note as to the
26 overhead wires.

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2 MR. BROWNE: Yes.

3 MEMBER DONATELLI: And needing compliance with PSEG on
4 that. Did you contact PSEG.

5 MRS. ANDRE: Yes. We have the letter of approval from
6 PSEG, which I believe my husband did submit that, as well, into
7 the town.

8 MEMBER DONATELLI: All right. Let me just check.

9 MRS. ANDRE: Yes, of course.

10 MEMBER DONATELLI. Okay. My question really was
11 pertaining to the plans that were submitted and disapproved.
12 Let's see if there is a date on this. There is a date here of
13 September 13, 2023 and it shows a note that PSEG was still to
14 be contacted.

15 MR. BROWNE: Actually, I have a disapproved date of
16 11/14/2023. I think it was updated after.

17 MEMBER DONATELLI: Okay. Well, as I said, I am just
18 looking at that particular page. So if you don't mind,
19 perhaps, some other Board Members have some questions.

20 MEMBER GOODSSELL: I do.

21 MEMBER DONATELLI: I am just going to read through the
22 rest of the file.

23 MR. BROWNE: Sure.

24 MEMBER GOODSSELL: About the frame shed. Now, when I
25 looked at your property -- and it is beautiful. I can see
26 where you spent some money on it.

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MRS. ANDRE: Thank you.

MEMBER GOODSSELL: When I looked at your property, the frame shed looks very much to me like a garage. What does your Certificate of Completion say? Does it say that it is for a shed or does it say it is for a garage/shed? Because it's about the right size of a garage. It is. When we say shed, we think of something like Rubbermaid that can be picked up and moved. This looks like a very permanent structure.

MRS. ANDRE: No. This is a shed that we got a permit for a shed. And part of the compliance with the town to have that shed was the concrete footing.

MEMBER GOODSSELL: Okay.

MRS. ANDRE: That, was in compliance with the town. We didn't choose to do the concrete footing, the town required it.

MEMBER GOODSSELL: Your Counsel said as one of the reasons that your pool equipment cannot go closer to the front of the house is because the entrance to the shed is there?

MR. BROWNE: Right. Well, I had just suggested, when I was looking at it, could the pool equipment be moved over --

MEMBER GOODSSELL: To the south side of the shed.

MR. BROWNE: Correct. But that's where they enter the shed coming out of their back door. So the entrance to the shed faces the back of the house. And I would just add, because I have dealt with this before, the footings are, as Mr. Mammina, I think, will agree right there, state code

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issues. They don't want these things blowing off in a hurricane.

MEMBER GOODSSELL: I understand that. I understand that.

MR. BROWNE: That's why they are requiring it.

MEMBER GOODSSELL: And looking at it, if, in fact, this was a garage, because it's just a little shy of being a standard size garage, then the garage doors would be exactly where they are, where the shed entrance is now. Because you could easily take down the fence and you could make it a driveway. But then that would prevent -- if that's really where the entrance is -- that would prevent the pool equipment from being there, which is what we were thinking.

MR. BROWNE: Correct.

MEMBER GOODSSELL: We were thinking -- because it doesn't show the doors -- then if the pool equipment could be slid around to the 11.7 side of the building, that would make it into compliance.

MR. BROWNE: Right, but then you wouldn't be able to get into the shed, that's the problem.

MEMBER GOODSSELL: The shed is already there.

SECRETARY WAGNER: You can see it from Google Earth.

MEMBER HERNANDEZ: Just a question on the position. I looked at the aerial. You can't see the back of your house from the street, so it's kind of hard. I have to look at the

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2 aerial. And behind it, there seems to be a fair amount of
3 space before you get to like an apartment complex or something
4 like that.

5 MR. BROWNE: In the rear yard.

6 MEMBER HERNANDEZ: In the rear yard. Is there any
7 reason why you didn't consider having the equipment -- rather
8 than being next to the neighbor, the next door neighbor --
9 having it behind the shed/storage unit?

10 MRS. ANDRE: I am not sure exactly the correct answer.
11 So we actually have substantial amount of space, like you said,
12 behind. But we worked with an engineer. We hired an engineer
13 to write all these plans. I am pretty positive it's because of
14 the overhead wires.

15 CHAIRMAN MAMMINA: Well, I think that is something that
16 could be documented. And as Mr. Browne knows, that's your, I
17 will say, task.

18 MRS. ANDRE: Okay.

19 CHAIRMAN MAMMINA: To show this narrows down my
20 alternatives.

21 MRS. ANDRE: Because we -- like, I definitely did not
22 want to do this, right. So I asked the engineer. Like, we
23 asked him a million times. Is there any other place to put it?
24 And according to him -- and I am not an engineer.

25 MEMBER HERNANDEZ: Neither am I.

26 MRS. ANDRE: But according to his professionalism and

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the Town Code that he was following, he made it very, very clear, this was the only place to put it. And that's why we felt like we had no choice, but to apply for the variance.

MR. BROWNE: We could get a letter for the file. I believe the problem is it encroaches under the wires. We could get a letter demonstrating that it can't go there for those safety reasons.

MEMBER HERNANDEZ: Again, you seem to have your fence, your rear fence up against the back of your shed, correct?

MRS. ANDRE: No. No, there is a solid.

SECRETARY WAGNER: The fence is on the property line.

CHAIRMAN MAMMINA: The fence is this here.

SECRETARY WAGNER: That's not the fence. This is the overhead.

CHAIRMAN MAMMINA: Yes.

MEMBER DONATELLI: So I would think that a letter regarding why the pool equipment cannot be placed behind the shed would be very helpful. Only because you are absolutely right, we do get these applications often. And so if there is some circumstance that is particular to your property, that would be important for us to note to distinguish this particular situation.

MR. BROWNE: You are talking specifically about behind the shed, not out in the middle of the yard?

MEMBER DONATELLI: That's right. And if there is some

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reason for that, that would be helpful for us to know so that we can distinguish this from any other application that might come before us.

MR. BROWNE: Yes. We can submit an additional letter for the record explaining that.

CHAIRMAN MAMMINA: Also, a lot of times what we will do if we are going to grant a piece of equipment -- and I know that it's way back, but, again, we need to be consistent. And maybe it's not necessary, you know, in this instance and we can look at that further. Well, it probably wouldn't be because your fence at the rear line of the house, which is where it belongs, is going to be a 6-foot fence. So that's all you are going to see. You are not going to see that equipment back there, so never mind. We don't need any screening.

MR. BROWNE: The only thing I would add is -- and we will measure this out, but it may cause the same degree of variance also, because it's only about 5 feet behind the shed.

MEMBER HERNANDEZ: It's very possible.

CHAIRMAN MAMMINA: Oh, yes, but it's different, though, because that backs up to an apartment complex back there. I'm a Carle Placer since 1979.

MRS. ANDRE: You live in Carle Place, too?

CHAIRMAN MAMMINA: I am right over by Rushmore School.

MRS. ANDRE: Oh, that's awesome.

CHAIRMAN MAMMINA: Yes, right there.

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MRS. ANDRE: It's a nice little town, right? I love it there.

CHAIRMAN MAMMINA: It's wonderful. My kids have grown up there. It was wonderful. It's a great part of the world. And especially where you are, you are even buried more. There is no reason to go where your house is, unless --

MRS. ANDRE: Exactly, yes.

CHAIRMAN MAMMINA: And the same is largely true for where my house is.

MR. BROWNE: So we can investigate that. And if, in fact, we can certify that it can't go back there for safety reasons, we will put in a submission to the Board.

CHAIRMAN MAMMINA: Just to kind of go down the whole road in terms of establishing a record and how thorough we are. Why can't it go into the shed? I mean, it's not that large and I realize --

MR. BROWNE: Inside the shed itself?

CHAIRMAN MAMMINA: Inside the shed.

MRS. ANDRE: I think I have an answer. Because, I think, with the engineer, we also discussed that. There is two pieces of equipment, if I am not mistaken.

CHAIRMAN MAMMINA: Yes, there is usually two.

MRS. ANDRE: And I believe the engineer said for safety or Town Code, one of those pieces could not go into the shed.

CHAIRMAN MAMMINA: That could be.

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2 SECRETARY WAGNER: Maybe a heater.

3 MRS. ANDRE: I think that's what he said. He said that
4 the heater can't go into the shed.

5 MR. BROWNE: But we can put that in a letter, as well.

6 MEMBER DONATELLI: It sounds to me that you probably
7 know as much about this as your engineers do.

8 MRS. ANDRE: This has been a very, very lengthy
9 process.

10 CHAIRMAN MAMMINA: Sure. I think we need to go back to
11 the 29 versus 27. I would say the majority of these pools we
12 see are 25, and these are not standard sizes. Because they're
13 setup for foam work and then the liner is made. I am assuming
14 it is a vinyl liner.

15 MRS. ANDRE: Yes, it is.

16 CHAIRMAN MAMMINA: Yes, it's a vinyl liner pool. So it
17 doesn't seem to be any horrible hardship if it becomes 27, you
18 know, and then complies. Because, you know, as Mr. Donatelli
19 had said, you know, and more for you, Mrs. Andre, is that when
20 we give you the 8 feet, we have to give the next person the 8
21 feet, you know, if it's a backyard pool. And if there is
22 nothing there that differentiates it from anybody on the block
23 here, you know, or in Port Washington or whatever, and then
24 attorneys, like Mr. Browne doing his job, would then pull out
25 all those others ones that are 8 feet and say, well, you
26 granted it here, you granted it here. So, that, I think puts

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us in a little bit different situation on that. It's not like you are going to end up with a pool that's 16 feet by 18 feet. The 25 is a pretty standard size. You only need to go to 27, you know, on that. So it would seem to be -- we have to do a balancing test, as has been probably explained to you. So as we balance it, we might say, okay, that's reasonable to the applicant and, you know, then you get half the piece of pie.

MRS. ANDRE: Of course, yes. It's all about compromise. I totally understand.

MR. BROWNE: So we can submit an amended plan with a letter on the pool equipment. Then we can submit that for your decision.

CHAIRMAN MAMMINA: Great.

ATTORNEY ALGIOS: So Mr. Browne, do you want to withdraw the variance request for the pool setback?

MR. BROWNE: Yes. We can withdraw that, amend the plan, and then we will submit the amended plan directly to your office with the letter on the pool equipment.

CHAIRMAN MAMMINA: Excellent.

SECRETARY WAGNER: And also, you said you had consent letters?

MR. BROWNE: Oh, I do, yes.

SECRETARY WAGNER: Do you want to submit those now?

MR. BROWNE: Yes.

CHAIRMAN MAMMINA: So you will ask your engineer to

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modify the 29 to the 27.

MR. BROWNE: Yes.

CHAIRMAN MAMMINA: Yes. So we will continue this because there are other additional documents, but I think you can see which way the Board is moving.

MR. BROWNE: And we would not have to come back, if we submit everything?

CHAIRMAN MAMMINA: No. You would submit that to Ms. Wagner and then it would probably move through the next.

SECRETARY WAGNER: This will be Exhibit 1.

MR. BROWNE: Thank you very much.

MRS. ANDRE: Thank you so much for your time. I really appreciate it.

CHAIRMAN MAMMINA: Good job.

MRS. ANDRE: Thank you so much.

SECRETARY WAGNER: So we are continuing that?

CHAIRMAN MAMMINA: Yes, we will continue.

1 Appeal #21496

2 COMMERCIAL CALENDAR

3 SECRETARY WAGNER: Appeal #21496 - Starry Stone, LLC;
4 66 Bayview Avenue, Manhasset; Section 3, Block 43, Lot 11;
5 Zoned Business-B/Residence-C.

6 Conditional use 70-126.H for an expansion of parking
7 into a Residence-C District, requiring a modification to an
8 existing conditional use.

9 CHAIRMAN MAMMINA: You've heard Appeal #21496 - Starry
10 Stone, LLC. Is there anyone in the room interested in the
11 application other than the applicant? Okay. Thank you. So
12 you will have the opportunity to speak, if you choose to, after
13 the presentation. Thanks for coming down.

14 MS. TSOUKALAS: Good morning, Chairman, Members of the
15 Board. For the record, Andrea Tsoukalas with the firm of
16 Forchelli, Deegan, Terrana; 333 Earle Ovington Boulevard,
17 Uniondale, New York. Here on behalf of the applicant, Starry
18 Stone, LLC. With me today is CC Chi, she is a managing member
19 of the LLC (phonetic).

20 This is an application for a conditional use permit
21 pursuant to Section 70-126.H, which allows for accessory
22 parking in a greater restricted district. This application
23 really should have been categorized as a maintain application
24 because the back portion of the premises that's situated in the
25 Residence-C District has been used as a parking lot since 1961.

26 We reviewed the Building Department files, and although

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a CO was issued for a bank in 1961, a conditional use permit was not obtained at that time. The CO does note that it's a split zone of Residence-C and Business-B even at that time, but, for whatever reason, either it was obtained and it wasn't in the file or it was never obtained. We couldn't really figure that out. But the plan's examiner did confirm that a CUP would have been required at that time.

I did want to submit Applicant's Exhibit A as an exhibit packet, and it does have historical documentation in there. So when it was originally approved, it was a Franklin National Bank in 2005. The Building Department approved plans for a new tenant, which is the Citibank, which was the tenant that you still see signs for now that has vacated the building. So those plans, stamped approved plans, are also in the exhibit packet as Exhibit 3. And the 1961 CO and approved plans for Franklin National Bank are in there as Exhibit 4. Aerial of the subject premises is Exhibit 1 and photos of existing conditions are Exhibit 2 within the packet. I just wanted to give you reference to what you are looking at.

So we are before this Board today because the current owner seeks to convert the existing bank to a dance studio and also because the parking lot configuration is being changed. We are adding additional parking on the south side of the premises, additional four parking stalls on the Residential portion, and then an additional three stalls on the Business

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portion. That area was always paved, but it was used as an access aisle for the bank in connection with the drive-through. And that's why they didn't have parking there, because they needed it for the drive-through bank teller, and that was previously there. That, obviously, is going to be removed now because there is no need for it. So both the booth and the canopy will be removed on the south side of the premises.

The proposed use is permitted as-of-right and there is no parking variance needed. The studio space requires a total of fourteen stalls. The office space and dressing rooms, vestibules, all of that additional space that's not part of the actual studio that's not part of public assembly, that requires an additional four stalls. And then storage areas, we needed an additional one and a half parking stalls for that. The total is nineteen and a half stalls, but you have to round up. So twenty stalls are required and twenty stalls are provided.

Access to the site will not be changed. There is one-way access into the site off Locust Street. And then we have egress off Bayview and Linden Street, and that's going to remain, as well.

A little background regarding the premises. The premises is located on the southeast corner of Bayview Avenue and Linden Street and on the southwest corner of Bayview Avenue and Locust Street. I'm sorry. Southeast corner of Bayview Avenue and Linden and southwest corner of Bayview Avenue and

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Locust Street. It has a lot area of 20,000 square feet and has frontage on three streets; 200 feet of frontage on Bayview Avenue, 100 feet of frontage on Locust Street, and 100 feet of frontage on Linden Street. As mentioned, the premises is split-zoned. The first 100 feet is situated in the Town's Business-B District and the remaining 100 feet is situated in the Town's Residence-C District. The plan shows the zoning district line, in case you don't know where it is.

So a little bit about the character of the neighborhood. I am sure you are all familiar, but for the record. On the north side of Bayview Avenue directly opposite the premises is an auto repair and collision shop. Further east on Bayview Avenue is the Manhasset-Lakeville Fire Department and American Legion Hall, and further east is a strip mall. On the east side of Locust Street, directly across the street from the premises is an office building, and the parking lot runs along Locust Street. South and west of the premises are residences.

Turning to the relief sought, the conditions precedent that you have to satisfy. I did provide deeds, Exhibit 4. Lots 11 through 14 were always under the same ownership. Exhibit 4 provides deeds dating back to 1960 when the bank took ownership of the premises. The accessory parking extends 200 feet from the property line, and therefore it complies with the requirement that it doesn't extend beyond a depth of 200 feet,

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because that's one of the requirements. And then the rear boundary line, depending on which rear, but I believe it's Linden Street. So because we have three frontages, it's a little strange. But on that side, we abut streets and not residences, so there is no issue there.

Turning to the operation and what is being proposed. There is no set schedule yet for these classes, but we are giving you an overview of what they would like to do and what they intend to do. So proposed hours of operation are 10:00 a.m. to 9:00 p.m. They want to offer ballroom and Latin dance classes. The owner is a dancer. This is the daughter, who is with me today. And she explained to me that there is no caliber of dance studio that she is used to here near her home where there is world-renowned, you know, dance instructors. So she wants to create something very special here for the community where people can come and have an experience. These are world-ranked instructors that have danced all over the world. So this is her concept and her idea, you know, where couples come in and they learn how to dance all different types of ballroom and Latin dances.

There is going to be one to fifteen people per class, it just depends on the type of class, you know. They may have a one-on-one. They may have two or three couples and they may have a full class, but, again, not sure, but that's what they are averaging. It's about one hour for each class and it would

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only be one class at a time because it's just a studio upstairs. They are going to be hiring, approximately, five instructors, but, again, only one instructor is needed per class.

With respect to the community, the proposed use is less intense, we believe, than the prior bank. The prior bank did have that drive-through adjacent to the residents with no buffer. We are proposing an evergreen buffer along the southern property line, which was not there before, and also along Linden Street in between the curbs. So the disturbance with respect to that drive-through teller is no longer going to be there. We do have other commercial uses in the area, as I mentioned. So we believe this will be in harmony with other uses. People will be coming in, parking their car, going in for their class, and leaving. So it should not be a burden on the community. So I know there are people here, so before I conclude --

CHAIRMAN MAMMINA: Let me ask. If you are concluding, then --

MS. TSOUKALAS: No, before I do so.

CHAIRMAN MAMMINA: I guess, Mr. Hernandez, as a real estate developer on the Board, and myself, as the architect on the Board, we were looking at it and saying maybe there is a solution here that will greatly benefit the community where potentially your architect might be able to eliminate both of

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2 the entrances from Linden coming in through Locust and going
3 out through Bayview. Then, essentially, leaving the parking
4 and the setbacks that you have now. Because you have a
5 conditional use, you know, already, so we are just looking at,
6 okay, you need to move it a bit to improve the situation.
7 That, would enable more landscaping to be in the area, where we
8 come in from Linden all the way to the south and making that
9 one way, as I said, in Locust, out Bayview. And, you know,
10 from my own perspective, it's always meritis to provide the
11 amount of parking that is required, you know, but I am just
12 saying it. And again, everyone will have a chance to speak. I
13 just like to try to put out an idea, which I can explain
14 further, if it's not fully understood, you know. And right
15 now, Ms. Tsoukalas might not understand exactly what our idea
16 is there, but even if you came up to me, anyway, with 18
17 parking spaces. I think even if it was felt necessary to have
18 a little traffic study done there, my gut tells me that it's
19 essentially what you have going on now. And if this were an
20 active bank and your drive-through machines were there, and at
21 2:00 in the morning when someone wants to get cash before they
22 go home or whatever, you can eliminate all of that. And that,
23 as we explained in the previous case regarding the swimming
24 pool -- and I know the two records don't come together, but
25 it's a balancing test that we do here in order to try to find
26 the thing that's best. And if we can't, it gets denied. And

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2 if we can, it can get approved with conditions and things on
3 it. So why don't we do this. Oh, go ahead. I'm sorry.

4 MEMBER HERNANDEZ: I just have one question. I know
5 what the code requires in parking.

6 MS. TSOUKALAS: Yes.

7 MEMBER HERNANDEZ: I am assuming that this is not your
8 client's first studio.

9 MS. TSOUKALAS: No, it's her first studio.

10 MEMBER HERNANDEZ: Okay. Fine. So you will get your
11 experience. So how accurate would the 19 and a half or 20
12 parking spaces be for the size of the studio?

13 MS. TSOUKALAS: Are you saying actual demand?

14 MEMBER HERNANDEZ: Yeah, the actual demand.

15 MS. TSOUKALAS: Well, we are saying that there is going
16 to be fifteen people, plus an instructor, so that's sixteen
17 right there, if everyone is driving together. Couples might be
18 coming together. I don't know for sure. People might be
19 getting dropped off or walking to the site. I didn't really go
20 through that analysis because we didn't need a parking
21 variance.

22 CHAIRMAN MAMMINA: And I get that. And without
23 speaking for the neighbors -- and I am sure you know, as well.
24 You have been here many, many times. You are very good at what
25 you do. Clearly -- and I am not predicting what the community
26 is saying or will say, but I come here through my local civic

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2 association and, I think, basically, everyone here does.

3 MS. TSOUKALAS: Understood.

4 CHAIRMAN MAMMINA: And if we can leave that landscaping
5 pretty much the way it is and enhance it by taking those
6 driving spaces away, maybe another drawing could be developed
7 to show that or even if you chose to, to create a simple
8 analysis, you know, without having to come back or to have a
9 traffic engineer testify, but a document that would say, yes,
10 based on the use, you know, this is adequate.

11 MS. TSOUKALAS: Like a letter stating that?

12 CHAIRMAN MAMMINA: Yes.

13 MS. TSOUKALAS: I mean, I would love to hear from the
14 neighbors to see what their concern is and then I will address
15 again.

16 CHAIRMAN MAMMINA: Yes, I agree.

17 MS. TSOUKALAS: Thank you.

18 CHAIRMAN MAMMINA: Because I also don't want anyone to
19 think we made a decision. I am just one person speaking, okay.
20 Everybody, one at a time. And as I said, we try not to repeat
21 each other. It's not always easy.

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2 PUBLIC COMMENT

3 MS. MURRAY: I am Doris Murray. I live on 87 Bayview
4 Avenue.

5 CHAIRMAN MAMMINA: What is your last name? I'm sorry.

6 MS. MURRAY: Murray, M-U-R-R-A-Y. I live on Bayview
7 Avenue within the 300 feet of the facility.

8 CHAIRMAN MAMMINA: Sure.

9 MS. MURRAY: I am also a former president of the
10 Bayview Civic Association, current member, and sit on the
11 committee. I have spent most of my life in Manhasset and
12 working to improve the character and harmony of our area. And
13 part of that effort is to deal with traffic issues and enhance
14 the area. Now, I am not speaking for everybody, but for
15 myself, I have no problem with a dance studio, but there are
16 issues with the hour parking, egress, and how it affects the
17 traffic, the pedestrian traffic, as well. So as it stands now,
18 there is four egress curb cuts. And the outlet of traffic has
19 often interfered with students crossing Bayview Avenue. I
20 personally had to usher my own children across the street so
21 that they can get across the street and get up to the middle
22 school and high school, which is on Linden Street. And if you
23 know Linden Street at all, it is already busy with traffic with
24 cars dropping off their children at the high school. And there
25 is no option to that, for people that live within a certain
26 distance that have to drive or the children have to walk. I

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have also ushered other children across the street, especially the middle school. They have never done this before and it's a dangerous street to cross. Linden Street is a dangerous street to cross during, I would say, the busier hours and, of course, after-school activities. The children are being let out coming down Linden Street. The track team runs right down that street and pass there. In addition to that, after-school activities, these children are still migrating down this street. And then you have evening activities at the school, as well. So you've got that traffic, pedestrian traffic coming up and down Linden.

I personally walk across Bayview Avenue and I have encountered lots of trouble crossing the street. I work from my house. I work remotely from this location. So I myself and others have that same issue with extended traffic. The more parking spaces you put in -- and I know you all know this -- there is an increase in traffic incidents. And we know our area when it's commercial, that hazard increases, as witnessed just a few weeks ago, the fatality on Plandome Avenue. There has been incidents on Locust, as well. I don't have the records. They are impossible to get from the police department without FOIL and waiting months for that information.

But I personally have been here 30 years, plus spent most of my life here. But beyond that issue, we know that our area is constantly under assault by commercial properties trying to encroach on to our areas. So we want to protect

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whatever residential-zoned area is currently there. So whether that is refiguring their parking spaces, which, in my opinion, some are too wide. They are going to 10 feet. I don't think that's necessary.

MEMBER HERNANDEZ: The code requires that.

MS. MURRAY: Oh, okay. I am glad because this is why I am here. But I do kind of dispute where the residential zone is. Because while I was away visiting family in California when the so-called letters came through, I called the Town to confirm because the online map was very unclear as to where that would be. And it was told that it was along the Linden Street side grassy knolls that are there. But where ever it is, that residential zone needs to be protected and we cannot pay. The Bayview area cannot pay for the lack of permitting that happened prior to '61, after '61. If it's a residential area, we would like to keep it that way. It is a buffer, whether it's in the back. It's a buffer to the two homes that abut that property. If it's on the side of Linden, it's a buffer to all the homes that are along Linden or across Bayview Avenue, all the homes that are there.

ATTORNEY ALGIOS: Ms. Murray, I'm sorry. Your time is up. I gave you some additional time, so if you could just wrap it up.

MS. MURRAY: Sure.

ATTORNEY ALGIOS: Thank you.

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MS. MURRAY: So I have spoken to the hazards and the business has already been less than neighborly. Construction or demolition was performed under the cover of night prior to the permit being assessed. We had to go out there. Neighbors were out there like, what is going on? It was near midnight, between 10:00 and 12:00 and on a Sunday. So I find it hard for the owner not to know about this. I understand there is an additional issue because the facility doesn't have --

CHAIRMAN MAMMINA: Are you saying that they weren't notified? When you say if the neighbor doesn't know about this?

MEMBER HERNANDEZ: The owner. She said owner.

MS. MURRAY: The owner. I find it difficult that the owner didn't know about it.

CHAIRMAN MAMMINA: I'm sorry, maybe I am missing it. Which owner?

MEMBER HERNANDEZ: The owner of the building.

MS. MURRAY: The owner of the building didn't know that their construction crew was doing this.

CHAIRMAN MAMMINA: I get it now.

MS. MURRAY: The Town was called. It's on the record, 311. And I have no idea if anything has been done about it. I also know now that there are additional issues with public urination on the property and debris being left on the

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property. Again, left to the builder or whoever it is not taking responsibility for that. Again, I can't believe that the owner doesn't know about this, spent millions of dollars, and hasn't visited the property to make sure things are on the up and up. Or, that they didn't reach out to the community knowing that they were going to do something with the residential property.

My concerns about the hours, 9:00 p.m., a little late for a residential area.

CHAIRMAN MAMMINA: Maybe one of your neighbors can ask some of those questions, as well.

MS. MURRAY: So in closing, I want to support the business, but they have to be fair to us. They cannot profit while we get hurt by the decisions that they are making. So thank you so much.

CHAIRMAN MAMMINA: We agree. Thank you very much.

MS. MURRAY: I appreciate it.

MS. DIGANGI: Good morning. I cut my morning walk short to make it here. My name is Anita Digangi. I reside at 11 Locust Street in Manhasset. I look out my bedroom window right at the ATM. Our family has been in that house for over a 100 years. We have been in this Town before it was commercial.

I am in agreement as far as the hours. Right now, I am struggling with the problems that are going on right now. I have notified the Town. Now, I walk a lot around this town. I

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2 know there was a fatality that they talked about. My concern
3 is the increase in traffic. Already it is cluttered with the
4 school buses, people blowing stop signs. Right now, there is a
5 business across the street. Their employees are still parking
6 on Locust Street. I am against this additional encroachment
7 for the parking because it's affecting residential and it's
8 going to be affecting our family. We have no peace of mind
9 whatsoever with a business right next to us. I fought this
10 town 20 years ago to get that privacy fence put up because of
11 the problems with the ATM at 2:00 in the morning. And if need
12 be, I will fight again for this. I was up every day when Wayne
13 Wink was -- I don't know what he was in charge of, but I am
14 very persistent. I was up every day for three months until the
15 Citibank put up that sound barrier. And that's my main
16 concern, is the sound, especially with this closing at
17 nighttime. I know how people like to hangout and talk and
18 congregate.

19 Right now, this business, the contractors are not
20 abiding by the Town Code as far as the hours. We are senior
21 citizens. I have a family member at home who he is, basically,
22 cancer on oxygen. We don't need this additional noise and
23 stress, and that's, basically, what it's going to come down to,
24 is stress on us. The fact that we are abutted right up against
25 that ATM.

26 MEMBER GOODSSELL: May I ask you about that? You are a

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long-time resident.

MS. DIGANGI: Yes, ma'am.

MEMBER GOODSELL: What was the noise like when Citibank was there?

MS. DIGANGI: The bank itself was fine because it was regular hours. What we had the problems with was the drive-through ATM because it was 24 hours. Initially, when that bank was built, they just had the teller window. There wasn't the ATM on this side. I don't even think ATMs were invented back then. And then when they did have the ATM, they closed the teller window and opened up the ATM.

MEMBER GOODSELL: You did find cars going through after-hours coming out on to Linden Street?

MS. DIGANGI: Coming out on to Locust Street because it's one way. It's one way.

MEMBER GOODSELL: Okay.

MS. DIGANGI: And I am sure the same thing is going to happen here. After their hours are open, the kids love to party. It's quiet. The police nowadays do absolutely nothing. Even now there is high school kids hanging out there on the weekends, Friday and Saturday night. We just want to be able to live our life quietly, peacefully, and not have to put up with the stress that it's going to bring. Thank you so much. I appreciate everything.

CHAIRMAN MAMMINA: Thank you for all of your points.

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2 MS. DIGANGI: Thank you, sir.

3 MEMBER DONATELLI: Anyone else?

4 MS. ROBINO: Okay. Hi. I am Chris Robino. I live at
5 1 Bayview Terrace, Manhasset, diagonally across from the dance
6 studio. You crack me up about that ATM thing. I can't get
7 over it. Basically, again, I am just going to reiterate. We
8 don't have a problem with the business coming into the area.
9 When you hear about it, a dance studio, it sounds very nice.
10 It sounds great. At first, I thought it was a kiddie dance
11 studio with little ballerinas going in, like my granddaughter.
12 Now we found out that it's an adult studio, which is fine.
13 However, when you think about it, since we do live in the
14 residential section part of Bayview, what is the sound going to
15 be like? Is this going to be soundproofed? What are the
16 hours? Again, what is normal Town ordinance hours that allow
17 businesses to be open and have music? I know when the
18 firehouse has parties, I hear it. I hear the music coming. Of
19 course, they have it cranked up. I don't know how cranked up
20 their music is going to be or what kind of dance it's going to
21 be.

22 One of the other questions we have here is, is it going
23 to be -- one of my things is, it's a dance studio now. Will it
24 be a dance social? Will it be a dance hall? Naming this, I
25 have a problem with. Like, each one of these things requires a
26 different code, I assume, but if this business doesn't work as

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2 a studio, are they going to be able to just change what they do
3 in the building going down the road?

4 Again, I have lived here for 44 years. I was only 20
5 when I moved here. No. 44 years in Manhasset and I am still
6 here. So we do want to preserve the Town. We do want to keep
7 the character and we do want to see businesses come in, but it
8 shouldn't be at the detriment and it shouldn't have a negative
9 impact on the neighbors.

10 As you know, it was brought up. 55 Bayview started out
11 -- and I put it in my letter -- as a gas station, then it was a
12 service station, then it was an auto repair station, and now
13 they want to turn it into a collision shop. So names do
14 matter.

15 CHAIRMAN MAMMINA: We are well-familiar.

16 MS. ROBINO: And then the signs. Just going off my
17 neighbor's notes here. The other question I have is like, how
18 do you determine parking spots? Isn't it by the square footage
19 of the building? It's a question I have.

20 CHAIRMAN MAMMINA: Yes. It's by the square footage and
21 the use of the building.

22 MS. ROBINO: And the use?

23 CHAIRMAN MAMMINA: Yes. And that was gone through by
24 the applicant. I am sure she will go through it again.

25 MS. ROBINO: So when the Citibank was there, they had
26 twelve, and they are proposing sixteen spots. I mean, going

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for sixteen, but twenty. So I am not clear on that. Because people are going to ask me, what happened at the meeting.

CHAIRMAN MAMMINA: She can supply that. And the other thing that I will say, because I have been at this architect thing coming on 50 years, but in 1961, I was in first grade, I think.

MS. ROBINO: Oh, you were not.

CHAIRMAN MAMMINA: Maybe 3rd. The rules were different then. It was a different time in history. Zoning was different. Zoning gets amended by the TOWN Board.

MS. ROBINO: Exactly. So other businesses then, if it's amended in 1999 -- bringing up Bayview again -- then the rules don't apply to that. It's very confusing. As a citizen, not an architect, not a zoning person, it's very confusing that one business gets a variance or gets permission to do something and the building right next door does not.

CHAIRMAN MAMMINA: Well, in this case, understand they are not asking for a parking variance. They have compliant parking based on the Building Department's review of the drawings and their disapproval. Their disapproval is sent for modification to an existing conditional use. So a conditional -- I am not going to explain conditional use. I will ask the attorney to explain a conditional use. Plus, we have people over here who can explain the conditional use. But what I have been made to understand is that it's something which has been

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deemed to be, essentially, a permitted use, but it needs conditions to be put on it. Like what the hours of operation might be, you know, or where you can come into the building or that sort of thing.

MS. ROBINO: Okay. So what you had proposed as a change to where the parking line should be, would be where? Because we didn't really hear where you want to change maybe the driveway?

MEMBER HERNANDEZ: Maybe I can address it a little differently. Because I live not in that neighborhood, but I've lived in Manhasset over 30 years myself. So I am very familiar with these streets. Bayview Avenue gets a ton of traffic with everybody trying to avoid Plandome Road.

MS. ROBINO: I don't leave my house between 5:00 and 7:00.

MEMBER HERNANDEZ: Okay. Linden Street gets a lot of traffic for anybody back in that area. Because to get to the high school, you have to go through there and there is no other way.

MS. ROBINO: Right, there is no other way.

MEMBER HERNANDEZ: Unless you go all the way around by Plandome Road. So that's why I said, why do you have four entrances into this parking lot? If we can find a way of reconfigure the space so that you eliminate the Linden Street entrances, then you have a lot less traffic on the street or at

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2 least, you don't have their traffic on the street.

3 MS. ROBINO: Okay.

4 MEMBER HERNANDEZ: So that other lady, Ms. Murray,
5 mentioned that getting on Linden Street is very difficult,
6 crossing it. So it gets rid of some of that traffic and maybe
7 it will free up some of those lanes that are not used for
8 traffic and can be used for parking instead.

9 MS. ROBINO: So where would the entrances to --

10 MEMBER HERNANDEZ: Well, right now there is an exit,
11 which they are proposing they are going to use on Locust Street
12 right across from the business.

13 MS. ROBINO: Milbrook, right.

14 MEMBER HERNANDEZ: So business to business. So there
15 will be an entrance through there and the exit through there,
16 it can remain, so you can go left or right.

17 MS. ROBINO: So that will give them more parking on the
18 Linden side.

19 MEMBER HERNANDEZ: At least you can create barriers.
20 So instead of having -- that's what the residential part of the
21 zoning is, by the way. So you can create green space there.

22 MS. DIGANGI: Did you say the entrance would be on
23 Locust Street?

24 CHAIRMAN MAMMINA: Ma'am, I am sure you understand.

25 MS. DIGANGI: Okay. I didn't hear that.

26 MS. ROBINO: And again, the soundproofing has an issue.

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Once you grant this, then it's like tough on us.

MEMBER DONATELLI: I'm sorry to interrupt. But let me just suggest this, because what you heard from the Chairman and from Mr. Hernandez were suggestions. The application before us is what the application is. So that is one suggestion and there may be other suggestions. We are trying to hear from the community now. Part of what we do as a Board is we listen to everyone and then we try and come up with some sort of a balance. So I think at this point, we should probably hear from the rest of the community.

CHAIRMAN MAMMINA: Unless there is anyone else.

MEMBER DONATELLI: And then the applicant can get up again and indicate whether there is another suggestion.

MS. ROBINO: Okay. Thank you so much.

MS. ROWE: Good morning. Good morning. My name is Renne Rowe, R-O-W-E. I live at 8 Bayview Terrace. It's a dead end street. I agree with all of the traffic issues that have been brought up. Every evening it's very difficult for me to escape my street. The intersection is blocked with people coming up Bayview Avenue all the way down to the bay. They do not follow the stop signs. The intersection is not flush. It's like this (indicating). It's never my turn. It's never my turn. And the only place that I have had an accident is coming out of that bank, turning on Locust, and trying to get on Plandome Road because the people do not -- there is no stop

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2 sign. There is no way to stop the flow of traffic. It's a
3 very dangerous place.

4 I also wonder, once this use has been granted, will
5 there be socials? Will there be Sunday hours? Will there be
6 weddings there? You know, I hope none of that can go on. And
7 the traffic, the parking in our neighborhood is so dear, it's
8 so dear that people from Port Washington buy a station just to
9 park 30 cars, which they are still doing.

10 Now, I would like to ask a procedural question now.
11 When you were explaining how you are operated, you said this
12 morning that all discussion was public and that we would have
13 the ability to listen to it. How do we find out when you are
14 publicly going to discuss 55 Bayview Avenue?

15 ATTORNEY ALGIOS: 55 or 66?

16 MS. ROWE: 55. How do we find out so we can listen?

17 CHAIRMAN MAMMINA: Deborah, I will give my response and
18 you can correct me or Ginny, you can correct me. Essentially,
19 we have a calendar. And if you are reserved or continued, it
20 goes onto that calendar and then there are different things
21 that the Board may have to have handle. Sometimes we don't
22 have Nassau County Planning Commission. When that comes in, we
23 can look at it. Some of them, we say we need to go look at the
24 property again. We are not ready to decide on it. What it
25 would mean is, essentially, listening to each one of our
26 deliberations after the Hearing. Because we are not

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necessarily certain of which ones that we are going to be talking about. Again, based on the age of the building and the parking and whatever, we may want to see something from the Building Department that says, hey, you know what, let's see what was approved initially. So I can't say it's going to be at the next Hearing, and for sure that's when this will be looked at.

ATTORNEY ALGIOS: So maybe I will just add something to that. So legally, the Board has 62 days to decide an Appeal. But, however, sometimes the Board is waiting for information from an applicant. Sometimes the applicant just consents because the Board is still with a bigger case and the Board is still analyzing it, and the applicant consents to the Board taking additional time to make its decision. The Board can only decide matters at a public hearing. So you can look at the dates of the Board meetings that are scheduled. The Board will never decide something, unless it's on one of those dates.

MS. ROWE: Okay. I am glad to hear.

ATTORNEY ALGIOS: So on those dates of the public meeting -- so for instance, today is a public meeting. After the Board hears its regular calendar, it will then take a break, and it will look at the cases on the reserve calendar. It may or may not decide a case on the reserve calendar. There are cases where we are still waiting for outstanding information. There are cases where the Board wants to still go

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2 back and take a second look at the property. Sometimes Board
3 Members have to leave and we don't have a quorum so we can't
4 get to every case on the reserve calendar. So it depends.

5 MS. ROSE: So the reserve calendar can be seen on the
6 website? Because I have not seen that.

7 SECRETARY WAGNER: No. We don't publish the reserve
8 calendar.

9 MS. ROWE: That was my question.

10 SECRETARY WAGNER: But you can always call our office
11 and we can give you an idea. For example, we are waiting for
12 information, we haven't gotten information. If we get
13 information from the applicant, then we would say it's a
14 possibility that they will discuss it. And if we don't have
15 the information from the applicant, there is not a possibility
16 because we don't have it.

17 MS. ROWE: Well, in my interest, it's been 90 days
18 since the continuation was granted.

19 SECRETARY WAGNER: I am saying we are not going to
20 discuss it because we haven't gotten the information.

21 MS. ROWE: But how long do we wait for the information?
22 90 days have gone by. Is there a limit to how long we wait for
23 information to be provided by the applicant?

24 ATTORNEY ALGIOS: That's a fair question, and that
25 would have to be decided on a case-by-case basis. Obviously,
26 we would not wait forever. There does have to be some type of

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reasonable time.

CHAIRMAN MAMMINA: We really need to bring it back to this application.

MS. ROWE: Well, this application is directly across the street. Neighbors have their driveways blocked by tow trucks dumping off more wrecks.

CHAIRMAN MAMMINA: Again, we really have to limit it to what is in front of us.

MS. ROWE: My point is there already is traffic is my point. And children wait for their buses there. They walk down the street, and the neighbors said that so I won't go back into that. But it is a very bad spot of traffic. And there is no stop signs coming out of Locust, and that is a very bad place because nobody is ever going to stop for you to come out of Locust, you know.

CHAIRMAN MAMMINA: And, of course, just understanding the building itself is in the Business zone and the use is permitted.

ATTORNEY ALGIOS: Just so you understand that. The use is permitted. The dance studio is permitted. The conditional use is for the parking that extends into the Residential zone, that's what they are here for. But the use of the dance studio is permitted in this zone.

MS. ROWE: And what are the hours that they are permitted?

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2 ATTORNEY ALGIOS: What are the hours?

3 MS. ROWE: I mean, Counsel mentioned 9:00 at night.

4 Does the Town allow a partially residentially place to go till
5 9:00 at night?

6 MS. TSOUKALAS: She is looking at me, so I wanted to
7 address the Board.

8 SECRETARY WAGNER: Do you want to just wait?

9 ATTORNEY ALGIOS: You have expended your time. So
10 unless you just want to wrap something up? But otherwise, if
11 you want to sit and then Counsel can get up and address some of
12 the residents.

13 MS. ROWE: RIGHT.

14 SECRETARY WAGNER: Is there anyone else?

15 CHAIRMAN MAMMINA: I really think that's the direction
16 you should go in. Again, I am always very respectful of
17 everybody.

18 MS. ROWE: You have been very patient, and I appreciate
19 it.

20 CHAIRMAN MAMMINA: But I think we need to go back to
21 Counsel on this so that she can answer those questions and then
22 we move it all along.

23 MS. TSOUKALAS: So a lot of issues came up, but let me
24 start with the most recent question regarding the hours of
25 operation. As was mentioned, the conditional use permit does
26 not pertain to this use itself. So with all due respect, I

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don't think you should be placing any conditions on the operation of the business, that's number one. Number two, with respect to traffic, an existing condition. We want to be good neighbors and we will try and do whatever we can to eliminate some traffic off these residential streets. However, with respect to these morning issues with the children, we are not opening up until 9:00. So there is not going to be a peak issue where there is going to be an influx of people coming in and out of this site and having an issue with children crossing the street trying to get to school.

With respect to egress. You know, I have to speak to my client, that's a big ask. You know, maybe we close one curb cut, not two. Maybe we can close both. I just can't make that decision without speaking to them first. Additional landscaping, not an issue. I am sure we can incorporate that. With respect to the parking, I did explain before, you know. The Building Department breaks it up with respect to use. The dance studio itself requires twelve parking stalls, plus an additional two for employees, that's fourteen for the dance studio. One and a half spots for storage, because it's one per 600. And then we need an additional four stalls for the office space, you know, the dressing rooms downstairs. All of that space is accounted for with respect to parking. They were asking me that question outside and I tried to explain that we comply with the parking regulation and that it's broken down

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with respect to use.

Again, if you are asking me to eliminate parking, now I have to revise my Notice of Disapproval, come back, and ask for an additional variance. So again, that's another -- now there is more planning involved and I have to not only speak to the client, but speak to the architect and see what makes sense. If that's something that makes more sense and we don't need the parking, then it's something we can consider. But again, I can't make that determination right now.

Sound barrier, I will speak to them about putting additional soundproofing. I understand that that could be a concern. I get it that the use is permitted, but, look, we want to be good neighbors. So I will speak to my client about that, as well. I think I hit the major points. Again, I don't think we can make any determinations today. I will be in touch with the neighbors, have discussion to the extent that I can. We should speak and exchange numbers. I did give them my card, but I don't have their phone numbers. I think it's best that we continue the Hearing and then I can have an opportunity to resubmit plans. I may need to come back for an additional variance. I don't know.

ATTORNEY ALGIOS: Andrea, I think it's important that you just run through the factors for a conditional use on this.

MS. TSOUKALAS: I did. I did go through the conditions precedent for accessory parking in a greater restricted

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district, but I can also go through just what a conditional use permit is.

SECRETARY WAGNER: Did you do it in the exhibit packet, by any chance?

MS. TSOUKALAS: No, I did not.

CHAIRMAN MAMMINA: Maybe just run through it one more time. I mean, I am not an attorney. I don't know if that's a good thing or a bad thing.

MS. TSOUKALAS: Well, I explained that the proposed use is in harmony with other uses in the neighborhood. I explained that it's less intense than the prior bank use because we are eliminating ATM use. I didn't go through the seven factors or a conditional use. What I did was go through the conditions precedent for the conditional use permit that is requested here, which is 70-126.H, it's a different type of conditional use permit. It's dealing only with parking and not use, which is a little different. And there is existing parking, as you mentioned. We are not repaving. We are not adding additional pavement. We are just removing an access aisle and putting parking where there used to be cars going back and forth. So if anything, we are decreasing the amount of people going in and out of the site because there is no longer going to be that access aisle and there is no longer that ATM. And it's not in the same nature, right. You are not going to have people coming there at 2:00 in the morning. So I think in that

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respect, it is a better use.

So the four issues -- the four conditions that I went through were that lots 11 through 14 were always under the same ownership, and that's Exhibit 4, which provides deeds dating back to 1960. That the accessory parking extends 200 feet from the property line, and therefore complies with the requirement, that it doesn't extend beyond the depth of 200 feet. And then the accessory parking does not extend to a point where the rear boundary line will be less than a 100 feet from the front parking of an adjoining plot fronting on a residential street and situated in a residential district. So in this case, the rear boundary line, Linden Street, there is no adjoining property per se, it's a street. So it's a unique situation. Usually, what you have is like, for example, on Glen Cove Road or Jericho Turnpike or any of those major streets, you have the 100 feet, then you have either 50 or a 100 feet more of residential that you can encroach into to use for parking. And then right behind that, there is residential, right. So that section really deals with that situation. In this case, we have three frontages and then residential and, like, almost like what is considered the side yard. So it's a little different in this case. But, yeah, I did provide documentary evidence.

ATTORNEY ALGIOS: So are you saying, though, that the factors in 225 don't apply to this conditional use?

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2 MS. TSOUKALAS: It's a conditional use permit pursuant
3 to Section 70-126.H, which deals with -- right, but it deals
4 with parking only.

5 ATTORNEY ALGIOS: Right, but it's still a conditional
6 use.

7 MS. TSOUKALAS: Right, and that section specifically
8 provides the conditions precedent for a conditional use. So
9 conditional use permits have to be in harmony. They can't
10 increase traffic. They have to not have a negative impact on
11 character, similar to an area variance. And I don't have all
12 the factors in front of me right now, but --

13 ATTORNEY ALGIOS: I am just looking. So 126,
14 conditional uses, and this is H. And I mean, Section 225 is
15 applicable. I mean, if you look at the beginning of 126, it
16 does relate 225 to all of those uses.

17 MS. TSOUKALAS: Okay. So if you want to go through
18 each of the points, I can go through it. I don't have the
19 section in front of me right now. For me, it's different
20 because we are not talking really about the use here. We are
21 talking about the parking. We are extending parking into a
22 greater restricted area, which is a residence area, which
23 exists, which has existed since 1961. Really, what we are
24 doing is legalizing.

25 MEMBER HERNANDEZ: Actually, if I read your plans
26 properly, you mentioned that there is no additional asphalt,

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2 and you are right. The parking lot is asphalt already.
3 However, the configuration of the parking lot has changed.

4 MS. TSOUKALAS: Yes, it has.

5 MEMBER HERNANDEZ: And as a result, there is very minor
6 encroachment in that now you are making it a true rectangle
7 because you are making head-in parking versus angled parking.
8 So you have little triangles that are being paved over, and
9 that's why you're here, because of those little corners.

10 MS. TSOUKALAS: Yes, we added.

11 MEMBER HERNANDEZ: Just for clarity sake.

12 MS. TSOUKALAS: Yes, very small issues. Yes, you are
13 right. But four additional parking stalls in a residential
14 district on that south side.

15 MEMBER HERNANDEZ: The four stalls are on a driveway,
16 if you will.

17 MS. TSOUKALAS: Yes, it was a driveway.

18 MEMBER HERNANDEZ: But the shape of the asphalt has
19 changed.

20 MS. TSOUKALAS: Okay.

21 MEMBER HERNANDEZ: So before, it was a rhomboid or
22 whatever.

23 MS. TSOUKALAS: It was a little rounded.

24 MEMBER HERNANDEZ: You have curb cut corners.

25 MS. TSOUKALAS: Correct.

26 MEMBER HERNANDEZ: And you are filling in those corners

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2 with asphalt to increase your parking.

3 MS. TSOUKALAS: Correct.

4 MEMBER HERNANDEZ: That's really what is causing the
5 increase encroachment.

6 MS. TSOUKALAS: Correct.

7 MEMBER GOODSSELL: It would also be fair to say that by
8 leaving the parking configuration the way it is, you would be
9 in front of us because instead of being able to contain twenty
10 parking spaces on this property, there would be four, five, six
11 more cars on the street.

12 MS. TSOUKALAS: Correct. That's correct. So what we
13 are doing helps the community because we are taking cars off
14 the street, that's correct.

15 MEMBER DONATELLI: Let me also just suggest this.
16 Listening to the community, I mean, obviously, there was some
17 opposition to the ATM. The ATM is now being removed. Well,
18 the bank is closed, and so it seems to me like that is a good
19 thing. From the other Hearing this morning, you may have heard
20 that what we are required to do, of course, is a balancing
21 test. So speaking for myself, what I have heard today from the
22 community, as well as from the applicant, is very helpful. As
23 the Chairman said, many of us have civic associations in our
24 background. And as one Board Member, I have always encouraged
25 applicants and community members to speak and to see if there
26 is in some way that we can make this application better. And I

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2 do think that whether it's the suggestion that you heard today
3 from Mr. Hernandez and from the Chairman or whether it's some
4 other solution, maybe there is a way to make this a little bit
5 better. So I encourage that dialogue.

6 ATTORNEY ALGIOS: And I think with respect to 225,
7 instead of me running through all of these, why don't you just
8 submit something in writing addressing them. And I think where
9 it says the proposed use, they are not referring to the dance
10 studio, they are referring to the parking into the residential
11 zone. So some of these may not apply, but I think you should
12 just note that. And then if any members of the public want to
13 reach out to the Board of Zoning Appeals, they can send you a
14 copy of what Counsel submits.

15 MS. TSOUKALAS: Sure. Not a problem. I will do that.
16 Thank you for your time. Do you want to set a date for the
17 continuation or do you want to wait for me to submit? Can we
18 set it for --

19 CHAIRMAN MAMMINA: Ginny, when is our next?

20 SECRETARY WAGNER: The 24th of January.

21 MS. TSOUKALAS: Do you want me to reappear on the 24th?

22 SECRETARY WAGNER: No.

23 MS. TSOUKALAS: It's just a continuation for me to
24 resubmit and to add the additional?

25 SECRETARY WAGNER: Yes.

26 CHAIRMAN MAMMINA: May I ask another question, because

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2 I am not the attorney? Because the record is continued, would
3 that also give the public, if they wanted to submit anything
4 else.

5 ATTORNEY ALGIOS: Yes. If we are keeping the record
6 open, the record is open.

7 CHAIRMAN MAMMINA: And what I would suggest of Ms.
8 Tsoukalas, as she already said she would do, is stay in touch
9 with you on some level so that you see what is going to be
10 submitted. There is no secret.

11 MS. TSOUKALAS: Right. I can e-mail a copy of a
12 revised plan to them and then we can have a discussion. And
13 then if we need more time, we will talk. Thank you so much for
14 your time.

15 CHAIRMAN MAMMINA: Thank you for the application.

16 SECRETARY WAGNER: And anybody can reach out to the
17 Board of Zoning Appeals Department to see if anything has been
18 submitted. Then you would have an opportunity to look if a
19 plan is revised or additional information.

20 MEMBER HERNANDEZ: Thank you.

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SECRETARY WAGNER: Somebody want to adopt SEQR?

MEMBER DONATELLI: I make a motion that we approve
SEQR.

MEMBER GOODSSELL: And I will second that motion.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Yes. Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

(Time noted: 11:47 a.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

) Ss.

COUNTY OF NEW YORK)

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

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

IN WITNESS WHEREOF, I have
hereunto set my hand this 15th day of
January, 2024.



AMY BOGUSZEWSKI