

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Town of North Hempstead  
Board of Zoning Appeals  
PUBLIC HEARINGS

Wednesday, March 6, 2024  
10:26 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

## Proceedings

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

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

CHAIRMAN MAMMINA: Good morning, ladies and gentlemen, and thank you for your patience. Welcome to the Town of North Hempstead Zoning Board of Appeals. What I would like to do is just kind of go through the way we do things here in the Town in case you have never appeared before a Zoning Board before. And if that is the case, we will just ask you -- it's okay, it's easy. We are talking to each other, having a conversation. Or, if you have, we may do things differently in North Hempstead than other municipalities; there is a slight difference.

So what will happen in terms of the proceeding is the calendar will be called, I think, today in the order that we have it. And, you know, our Secretary, Ms. Wagner, will call the case and I will then repeat the calling of the case. Then I will ask if anyone has interest in the case, so that would be for or against. Now, obviously, I am assuming, based on the size of the crowd and a very unusually short calendar, that everybody here is the applicant. But if there is someone who isn't and you would like to speak in favor or against the application, we just ask for hands to come up so that we know

## Proceedings

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

there is someone else who wishes to speak. Everyone who wishes to speak will have the opportunity to do that.

So at that point, the case is officially called. The applicant will be up here at the microphone and they will give their name and address to our stenographer. And we do have a transcript. This is a quasi-judicial hearing, so there is a record, you know, for it. And at that point, then the microphone belongs or the podium belongs to the applicant, and you will put your case on the record. Then the Board will ask whatever questions we feel that we would like to put out there to support the case or to point out things that, you know, by points of law, should be part of the record.

And at that point, if there is no one else who wishes to speak either for or against the application, the Hearing is done. Then the Board will do one of four things: We will either approve the application; we will deny the application; we may continue the application, or we may reserve the application. If we continue the application, it's because we may want to get another piece of information. We may want to go and see the properties again. The Board goes to visit the properties on a drive-by basis. You know, it could be any number of reasons for us to continue it. We may ask the applicant for a document or something. And then when we are handling it in that way, that would be submitted to the Secretary, and that would then be distributed amongst the

## Proceedings

1

2

Board. So, obviously, that decision would not be made today

3

and it may be made at the next meeting or the meeting after

4

that. The Board, essentially, has, roughly, two months to make

5

a decision. We try not to do that in that length, but

6

sometimes it's just necessary. So then we would make a

7

decision.

8

Everything is done in public. So you can come after,

9

you know, any meeting that you would like to and sit in.

10

Unfortunately, you have to sit to the end of the Hearing or we

11

are televised, so you can watch it on TV. At that point, when

12

the Board is deliberating, there is no comment from the public.

13

Now, if we are not continuing and we are just reserving, then,

14

at that point, you don't have any obligation to come back.

15

And, you know, we will then deliberate maybe today. We got all

16

the information, you know, that we need, maybe we make a

17

decision today, maybe not, but there is no reason for anybody

18

to come back for another Hearing in either one of those cases,

19

okay. So I just want to get that on the record.

20

One other thing that I want to put on the record is

21

that if there is someone who has interest in the case, either

22

in support or in opposition, we have a three-minute time limit,

23

you know, on that. And as I like to say, we are not going to

24

cut anybody off, you know, straightaway, but we do like to kind

25

of control the Hearing. And in the length of the Hearing

26

today, we have, obviously, a very short calendar.

## Proceedings

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

So I think with all of that said, do we have any  
modifications to the calendar?

SECRETARY WAGNER: We do not, Chairman.

CHAIRMAN MAMMINA: So then maybe we can call the first  
case, please.

1 Appeal #21508

2 SECRETARY WAGNER: The first Appeal is Appeal #21508 -  
3 Lijo Thomas; 31 Kingston St., New Hyde Park; Section 8, Block  
4 345, Lot 25; Zoned: Residence-C.

5 Variance from § 70-51.A to legalize a  
6 roofed-over deck that is too close to a side property  
7 line.

8 CHAIRMAN MAMMINA: You have heard Appeal  
9 #21508 - Lijo Thomas. Is there anyone other than the  
10 application who would like to speak? Seeing no one.  
11 So if we could have the applicant come up front and  
12 just give your name and address

13 MR. ARATO: My name is Michael Arato, Captain Permits;  
14 245 Route 109, Suite D, West Babylon, New York 11704.

15 CHAIRMAN MAMMINA: Okay. So the podium is yours.

16 THE REPORTER: Could you spell your last name?

17 MR. ARATO: A-R-A-T-O.

18 THE REPORTER: Thank you.

19 MR. ARATO: Do I have to swear in?

20 CHAIRMAN MAMMINA: No, we don't swear in.

21 MR. ARATO: All right. So we are asking relief of 9  
22 inches on a side yard setback for a roofed-over deck.

23 So when the owners built the roofed-over deck, they  
24 just followed the line of the house. So the deck is in line  
25 with the actual foundation of the home. As far as we know,  
26 there has been no opposition to this application. The

## Appeal #21508

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

structure doesn't encroach on the neighbor's property and has been built to code. The owners have no plans to increase the size of the deck, nor the roofed-over, and they also have no plans to enclose the structure.

CHAIRMAN MAMMINA: Not that it bodes in your favor or against you, but the deck is already constructed and the roofed-over --

MR. ARATO: It's existing.

CHAIRMAN MAMMINA: They bought the house and it was there?

MR. ARATO: I believe they constructed it. They built it.

CHAIRMAN MAMMINA: All right. So it was constructed, just for the record, without a permit.

MR. ARATO: Correct. Well, we filed for one.

CHAIRMAN MAMMINA: Then why is it constructed?

MR. ARATO: No. I am saying we filed for it. So they are taking the proper steps. They got in trouble for building without a permit.

CHAIRMAN MAMMINA: Yeah, so that's what I am saying. It's after the fact.

MR. ARATO: Yeah. Yeah.

CHAIRMAN MAMMINA: Okay. It's not the first case that we have things built after the fact, but you are not penalized and you are not rewarded because it's there.

1 Appeal #21508

2 MEMBER GOODSSELL: In all other respects, Mr. Arato, the  
3 client does meet the setback requirements on the other side  
4 yard and the rear yard.

5 MR. ARATO: Yeah.

6 MEMBER GOODSSELL: There are no other setbacks. There  
7 is no GFA issue. There is no other issue raised other than, as  
8 you say, the 7 or 9 inches that it's short.

9 MR. ARATO: Yeah.

10 MEMBER GOODSSELL: And they dog-legged it, but, again,  
11 it's not really necessary.

12 CHAIRMAN MAMMINA: I do also see, which, again, you  
13 don't get any benefit, you don't get any penalty, either, but  
14 the deck is built crooked. So it's not perpendicular to the  
15 house, so therefore at the house, your setback is 4.8 feet.  
16 And then as it continues to move to the west, it then becomes  
17 4.3 feet in there. So its initial line that lines up directly  
18 with the house, you know, is extremely de minimus, but I do  
19 think even at the 4.3, you know, it's still a very, very small  
20 encroachment.

21 MEMBER GOODSSELL: I don't have any objection to this.  
22 I feel for them because the house is pre-existing  
23 non-conforming with respect to the setback. And any layperson  
24 would think, okay, if I am adding, then I would want to make it  
25 even with the house.

26 MR. ARATO: That's what I said in the beginning. They



1 Appeal #21508

2 followed the house line as best as possible not realizing that  
3 what they did, they were out of compliance.

4 MEMBER GOODSSELL: And there was no objection?

5 MR. ARATO: No. We didn't receive anything, as well.

6 MEMBER GOODSSELL: It's interesting. It is a little  
7 crooked.

8 CHAIRMAN MAMMINA: Can you tell us a little bit about  
9 the parameters of the deck in terms of its size? How high  
10 above the ground it is?

11 MR. ARATO: Yeah, I do. I have all that. It's  
12 actually 3 feet in height.

13 CHAIRMAN MAMMINA: How big is the deck?

14 MR. ARATO: I will give you square footage. Just one  
15 second.

16 MEMBER DONATELLI: It looks like it's on your sheet A2.

17 CHAIRMAN MAMMINA: I have the sheet A2 in the  
18 application submitted. I don't think sheet A2 was part of it.

19 MR. ARATO: Just give me one second.

20 CHAIRMAN MAMMINA: For the record, can you give us the  
21 dimensions of the deck?

22 MR. ARATO: Yes, I am going to. So the height is 30 --  
23 oh, no, that's the house. I'm sorry. The height I have is 3  
24 feet.

25 CHAIRMAN MAMMINA: Have you looked at these plans  
26 before? And you are coming in to represent the application.

## Appeal #21508

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MR. ARATO: I was just coming for the side yard setback. I didn't realize we were going into the whole --

CHAIRMAN MAMMINA: But all those things, you know -- and I am assuming, because the name of the company is Captain Permit, that this is something that you do.

MR. ARATO: I do. I never had --

CHAIRMAN MAMMINA: So you should know those kinds of things.

MR. ARATO: Like I said, I know the deck is 3-feet high. I don't have the dimensions.

CHAIRMAN MAMMINA: So you don't have the drawings?

MR. ARATO: I didn't bring them with me. Like I said, I was just going off the side yard setback. I mean, that's what we are arguing about.

CHAIRMAN MAMMINA: It's not my job to scold people, but, you know, I think you should go back to the office and tell them the Town of North Hempstead is going to be tougher than other municipalities. I am an architect. I appear before Zoning Boards, you know, regularly. And understanding the parameters of the law is part of going to a Zoning Board. And the next person who comes in, this might be a 2-story-high enclosure over it and they say, oh, you gave it to that guy. It's here, but I am just making a point that how can he not know about the application before coming in, just my personal feeling.

## Appeal #21508

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MEMBER DONATELLI: And I understand your point, Chairman. Let me just say that looking at page A2, I see that the rear-deck elevation has a landing height of 3 feet 1 inch and the handrail height is 6 feet 1 inch.

CHAIRMAN MAMMINA: And I don't know if you are prepared to testify to it, but do you want to talk about how the height of the roof and things are arrived at here? Because a big part is, especially on the side yard variances, what is the affect on the neighbor next door? So again, I am just making a point to not know what the bulk of this is. That's part of your side yard variance. It's in your denial. It's a roofed-over deck that is too close, roofed-over.

MR. ARATO: Okay.

CHAIRMAN MAMMINA: It's all there built without a permit.

MR. ARATO: Understood.

CHAIRMAN MAMMINA: And all of that would have been looked at by the Building Department. So I am just saying, I don't think it's fair, that's just my feeling.

MR. ARATO: The roofed-over, like I said, it's not an encroachment on the neighbor's property. We are not dealing with any runoff that's going to affect the neighbor's property with the way the roof is pitched. I don't have the dimensions of the pitch on it. I have looked at it. I have been there. I saw the distance between the two yards. You are not going to

1 Appeal #21508

2 get any runoff going onto the neighbor's property.

3 CHAIRMAN MAMMINA: I am not in charge of runoff. The  
4 Building Department is runoff.

5 MR. ARATO: But I am just saying that you're asking me,  
6 like, what is it doing to the neighbor's properties. This deck  
7 has no interference with the neighbor's property.

8 CHAIRMAN MAMMINA: Visual impact, that's what we look  
9 at. Drainage is what is looked at next door.

10 MR. ARATO: But I am saying the runoff is not --

11 CHAIRMAN MAMMINA: I am saying it's not what this Board  
12 does. And understanding what a Zoning Board does, we don't  
13 zone rain, you know, that's not part of what we do. Look, I  
14 will help you and I will make the point. And I will make the  
15 point only because if somebody else comes in with a similar  
16 application --

17 SECRETARY WAGNER: I just gave him the list of the five  
18 criteria so he can go over that. If you can just address how  
19 the project --

20 CHAIRMAN MAMMINA: What you are looking at is what is  
21 the law. This is a legal proceeding.

22 MR. ARATO: Okay.

23 CHAIRMAN MAMMINA: You know, if somebody doesn't like  
24 our decision, they have a right to take a legal action against  
25 the Board. If a member from the community doesn't like our  
26 decision, they have a legal right to take an action against the

## Appeal #21508

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Board and it will go through a legal process. So just my opinion, I am not telling Captain Permit what to do, but I think you should know what those five factors are in order to put those on the record.

MR. ARATO: Okay. Do you want me to --

SECRETARY WAGNER: If you just --

CHAIRMAN MAMMINA: Make your case. Make your case.

MR. ARATO: Just what we initially said, we were asking for a 9-inch setback. The structure is not encroaching on the neighbor's property. It has no harm on the neighbor's property. The deck is built properly, it has footings, it has railings.

CHAIRMAN MAMMINA: We don't look at that, either.

MR. ARATO: I am just saying.

CHAIRMAN MAMMINA: That's what the Building Department is for.

MR. ARATO: It has no impact.

CHAIRMAN MAMMINA: We can go over the five factors, but, okay, enough. Does the roof of the deck align with the roof of the house?

MR. ARATO: The whole structure does. I mean, the roof line --

MEMBER GOODSELL: Well, the survey says it's a one-and-a-half-story house. Is this a one-and-a-half-story roof?

1 Appeal #21508

2 MR. ARATO: No, it doesn't go to the top of the roof.

3 CHAIRMAN MAMMINA: But that's the point. See,  
4 understand, that's the point. If you were going up to the top,  
5 how much more bulk do you present to the neighbor next door?  
6 Part of what you are doing, if you read the five factors, is  
7 what is the impact, you know, of this?

8 MR. ARATO: There is no impact on the neighbor's  
9 property.

10 CHAIRMAN MAMMINA: Okay. Now you are hitting the five  
11 factors. And why?

12 MR. ARATO: Because the way the roof is pitched and the  
13 length of the pitch, it does not encroach onto the neighbor's  
14 property. It won't have any runoff. I am just saying, you are  
15 saying what's the impact on the neighbor's property.

16 CHAIRMAN MAMMINA: Can we make a motion on it? I just  
17 think we should stop. I suggest that --

18 MEMBER GOODSSELL: I looked at this property. I live  
19 not too far from there. If we grant your application, will it  
20 create an undesirable change in the neighborhood?

21 MR. ARATO: No.

22 MEMBER GOODSSELL: Can the benefit, which is sought by  
23 this applicant, be achieved in some other way?

24 CHAIRMAN MAMMINA: So understand that not meeting all  
25 five does not deny you.

26 MR. ARATO: Without cutting the deck back and ripping

1 Appeal #21508

2 it a part to meet the setbacks, that's the only way in order to  
3 do this. So it would be, like, a financial hardship for the  
4 owner to do that.

5 MEMBER GOODSELL: In your opinion, is the requested  
6 variance substantial?

7 MR. ARATO: No, it's minor.

8 MEMBER GOODSELL: And it's minor because it's how many  
9 inches?

10 MR. ARATO: 9 inches.

11 MEMBER GOODSELL: Will the proposed variance have an  
12 adverse impact on the environmental conditions of the  
13 neighborhood?

14 MR. ARATO: No, it will not.

15 MEMBER GOODSELL: And was this difficulty self-created?

16 MR. ARATO: Yes.

17 MEMBER GOODSELL: Thank you.

18 CHAIRMAN MAMMINA: Okay.

19 MEMBER GOODSELL: Mr. Chairman, in my opinion, looking  
20 at the plans and looking at the property, I find the variance  
21 to be de minimus, and therefore I make a motion that we grant  
22 the application.

23 CHAIRMAN MAMMINA: Okay. We have a motion. Do we have  
24 a second?

25 MEMBER HERNANDEZ: Second.

26

1 Appeal #21508

2 CHAIRMAN MAMMINA: I'm sorry. He beat you to it. We  
3 have a motion by Member Goodsell and a second by Member  
4 Hernandez. Please poll the Board.

5 SECRETARY WAGNER: Member Hernandez.

6 MEMBER HERNANDEZ: Aye.

7 SECRETARY WAGNER: Member Donatelli.

8 MEMBER DONATELLI: Aye.

9 SECRETARY WAGNER: Member Goodsell.

10 MEMBER GOODSSELL: Aye.

11 SECRETARY WAGNER: Chairman Mammina.

12 CHAIRMAN MAMMINA: Aye. The application is granted.

13 MR. ARATO: Thank you.

14  
15  
16  
17 SECRETARY WAGNER: And just for the record, the Vice  
18 Chairman is absent, at least for the beginning of this Hearing.

19

20

21

22

23

24

25

26



1 Appeal #21503

2 SECRETARY WAGNER: Next Appeal is Appeal #21503 - Kenny  
3 Lin; 121 Sigsbee Ave., Albertson; Section 9, Block 656, Lot 44;  
4 Zoned: Residence-C.

5 Variance from § 70-100.2.A(4)(B) to legalize  
6 fences on side property lines that are too tall.

7 CHAIRMAN MAMMINA: You've heard Appeal #21503  
8 - Kenny Lin. Is there anyone in the room interested  
9 in the application other than the applicant? Okay.  
10 So we have two hands up and you will have the  
11 opportunity to speak after the presentation.

12 So give your name and address. Just deep  
13 breath, that's all.

14 MR. LIN: First name Kenny, last name Lin, L-I-N.  
15 Address is 121 Sigsbee Avenue, Albertson, New York.

16 CHAIRMAN MAMMINA: Okay. Thank you. So why don't you  
17 tell us a little bit about the application and what it is that  
18 you are looking for.

19 MR. LIN: Yes. The application for the variance is for  
20 the 6-foot fence on the rear yard of the right and the left  
21 side of the property between 125 and 111 address. Instead of 5  
22 foot, it being 6 foot, just for the safety of young children  
23 and large pets.

24 MEMBER DONATELLI: Sorry to interrupt, but I think you  
25 said rear yard, but it's your side yard.

26 MR. LIN: Side yard of the house.

1 Appeal #21503

2 MEMBER DONATELLI: But the fence that you are seeking  
3 the variance for is on the side yard lot, right?

4 MR. LIN: Yes.

5 SECRETARY WAGNER: You are allowed to have 6 in the  
6 rear. It's the side yard that you are not allowed to have 6.

7 MR. LIN: Yeah, it's the side yard.

8 MEMBER DONATELLI: So can you tell us why? And as the  
9 Chairman was beginning to mention, 5 feet is allowed in the  
10 side yard. Can you tell us why you need a 6-foot-high fence on  
11 your side yard lot?

12 MR. LIN: Mainly for three reason: For my young  
13 children, and large pet, and privacy.

14 MEMBER DONATELLI: Okay. Well, let's start with your  
15 children. How old are your children?

16 MR. LIN: 7 and 12.

17 MEMBER DONATELLI: Do your children have any kind of  
18 disability or issue?

19 MR. LIN: No. I mean, it's mainly for playing ball and  
20 stuff.

21 MEMBER DONATELLI: And you mentioned a pet, what kind  
22 of a pet do you have?

23 MR. LIN: Well, the current pet is 15, 16 years old,  
24 but we are planning to get a larger pet for security purpose,  
25 like a German Shepherd, you know.

26 MEMBER DONATELLI: Is there a reason why you need a

## Appeal #21503

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

6-foot-high fence as opposed to a 5-foot-high fence?

MR. LIN: That's only three reasons: For the kids, pets, and privacy.

CHAIRMAN MAMMINA: I guess, the question is -- and excuse me, Member Donatelli -- why doesn't 5 feet work and it must be that extra foot?

MR. LIN: Well, as the building code changes for the exterior fence, you know, you should be a 36-inch code. Now they kind of correct it to a 48 inch. So I think 5 feet is enough, but --

CHAIRMAN MAMMINA: But that's not correct, though. The Town Board modified it again to a 5-foot fence on the side yards and 4 feet facing the street.

MR. LIN: Yes.

CHAIRMAN MAMMINA: You are not here for anything that faces the street. You are 6 feet in your rear yard, and it's permitted also. So you are allowed 6 in the back, 5 on the sides, 4 facing the front. So just to make your record, I am not looking for the five factors, that's okay, but why wouldn't 5 feet work? Because we get a lot of fence applications, and that's the reason why. Because the Zoning Board went to the Planning Department and said, hey, maybe you want to talk to the Town Board about making a modification to the Zoning. So we call it -- it's not official -- the 4-5-6 rule: 4 in the front; 5 on the side; 6 in the back. So the question becomes

1 Appeal #21503

2 -- I mean, I am 5 foot 6. So 5 feet is about up to here, so  
3 that's a good size. So why doesn't 5 work and you need 6?  
4 Because 6 does present more of a fence to the neighbors.

5 MR. LIN: Okay. Well, the location of the fence is  
6 more towards the rear yard. Because our elevations are higher  
7 than one of our neighbors, which has, I believe, a 6 to 10-foot  
8 drop on one side of the neighbor. So for a safety concern,  
9 that would be the reason on that end of the neighbor, which is  
10 111 Sigsbee Avenue.

11 CHAIRMAN MAMMINA: Again, you are allowed to have the  
12 6-foot fence --

13 MR. LIN: But for a side fence.

14 CHAIRMAN MAMMINA: -- in the rear yard.

15 MR. LIN: The side fence. The rear side fence.

16 CHAIRMAN MAMMINA: I see where you are. One thing, you  
17 know, and I am not saying you should have brought the surveyor,  
18 but I really don't quite understand the elevations that he has  
19 on there because he is at 135 in the center of the property and  
20 then it goes down to 131. So I mean, does that severely slope  
21 at the back?

22 MR. LIN: Well, the back, yeah. We have another  
23 application building a retaining wall that's complete already.

24 CHAIRMAN MAMMINA: And that retaining wall is built  
25 very nicely.

26 MR. LIN: Thank you. It's the side yard against the

Appeal #21503

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

neighbor that's lower.

CHAIRMAN MAMMINA: But even that, you know, in there, you know, it, basically, starts off kind of level with what that is, but is your German Shepherd going to jump over a 5-foot fence or are your kids at 7 and 12 going to jump over a 5-foot fence?

MR. LIN: I mean, mainly for security purpose. Security and safety.

CHAIRMAN MAMMINA: But it's in the back of the house, so who is that security for? I am not trying to be a wise guy.

MR. LIN: No, I understand.

CHAIRMAN MAMMINA: I am not. I mean, the fence is open. From a security perspective, I can walk around your house still. So I don't understand the security part.

MR. LIN: Well, looking at the survey, at the application --

CHAIRMAN MAMMINA: Looking at your submitted survey that's marked up in red.

MR. LIN: Okay.

CHAIRMAN MAMMINA: The 6-foot fence that you are asking for goes, you know, about halfway to, you know, where the house is. It's open facing the street. So I could -- based on this drawing, I could walk, you know, into your backyard. Your dog could run out of your backyard.

MR. LIN: Which side are you indicating?

1 Appeal #21503

2 CHAIRMAN MAMMINA: I am looking at both sides. It's  
3 even shorter on the other side.

4 MR. LIN: Well, the short side is this bush wall filled  
5 with trees, so that's like 8-foot trees.

6 CHAIRMAN MAMMINA: But then why is the German Shepherd  
7 going to jump over the 5-foot fence? I am saying if you are  
8 doing it because you have a pet, that you are concerned about  
9 the height of the fence? And again, I am just asking because  
10 the Town Board looked at this and they looked at it and decided  
11 to make a change, because people want fences. So as I said, we  
12 get a lot of fences. So we need to have good reasons to give  
13 that, to give a fence that modifies that.

14 MEMBER GOODSSELL: So Mr. Lin, what we are looking at is  
15 the Town Board gives you, as of right, 4 feet in the front, 5  
16 on the side, 6 in the rear. We are looking to see if there is  
17 a reason, because we don't normally grant fence applications  
18 like this. Is there a legitimate reason why you need 6 feet on  
19 either side? And we are not coming up with the answer. You  
20 are not a corner property. You are not on a main road. You  
21 are not on a slope. You seem to have a normal neighborhood. I  
22 drove past your house, it's lovely. Why can't that side fence,  
23 both side fences be 5 feet?

24 MR. LIN: On one side, there is a huge slope. If you  
25 look at the plan, on the right-hand side, it's a 10-foot drop.

26 MEMBER GOODSSELL: That's in the back?

1 Appeal #21503

2 MR. LIN: Yeah, in the rear on the right side. On the  
3 right side of the adjacent property. And on the left side,  
4 which is Thomas, he is the next case over. We both agreed. We  
5 don't mind the privacy. We do like the privacy. He has a pet.  
6 I have a pet. We want to the keep it visually, you know,  
7 blocked off.

8 MEMBER HERNANDEZ: Here is the problem that we are  
9 running into. We need to have a very specific reason why we  
10 vary the code. You say that you have a drop between your  
11 property and the neighbor's property?

12 MR. LIN: Yes, one side.

13 MEMBER HERNANDEZ: But the code only requires a 48-inch  
14 guardrail for that drop. So if that was in your front yard,  
15 for example, you would be required to have a 48-inch guardrail  
16 separating your property from your neighbor's because of  
17 someone falling over. Because there is a fence in the  
18 backyard. You are allowed to have 5 feet, 60 inches, in the  
19 back. But you are not asking for 60, you are asking for 72.  
20 You are asking for 6 feet. So if the code only requires, for  
21 safety, 48 inches, we can't give you, for safety, 72, because  
22 the code only requires 48.

23 MR. LIN: Okay. I understand, but if you physically  
24 look at the plans, they allowed me to do 6 foot in the rear.  
25 And this return, I dropped it down to 5 foot and the drop is  
26 about 10-foot tall. Isn't that a concern?

## Appeal #21503

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MEMBER HERNANDEZ: No. Because, again, that code only requires for that 10-foot drop, 48 inches. If you are looking at your balcony in a three-story, four-story house, the balcony is not 6-feet tall, right? The balcony is 42-inches tall and it's multiple stories up.

MEMBER DONATELLI: Sir, maybe I can help you.

MR. LIN: Sure.

MEMBER DONATELLI: Everything that you have heard from my fellow Board Members is accurate as a matter of law. But more importantly, everything that we do potentially creates precedent for other properties that are similarly situated in the Town of North Hempstead. So then we have to be very careful in what we grant and what we deny. Because next month, somebody else might come up with a similar situation, and we can't just vary things because we like the application or we don't like the application. We are actually setting precedent. And so when you hear that the Town has the 4-5-6 rule, we try to stay with that, not because we are trying to give you a hard time, but because that is what the law says absent some extraordinary circumstances. And what you are hearing from this Board is that none of us hear any extraordinary circumstances why you need to vary. If you want privacy, we suggest this to many people, you can plant trees, Arborvitae, bushes. You can plant things without any limitation to height, which will give you your privacy, but will also be in



1 Appeal #21503

2 compliance with the law. But again, we just can't vary  
3 something because we want to, because we are setting precedent  
4 potentially with every decision we make.

5 MR. LIN: Fair enough. But again, as the Chairman  
6 said, you guys get tons of these fence applications. So it's  
7 not a consideration depending on where the variance is that I  
8 am asking. If I am over to the front of the street and I am  
9 building a 6-foot fence, that kind of visually kills the whole  
10 look or disturb other people, neighborhood sightseeing. I  
11 totally understand. I am all the way in the back of my yard, a  
12 130 feet away from the sidewalk. And I am doing for my safety,  
13 for my purpose of my pets and kids. And both my neighbors,  
14 they are okay with it.

15 MEMBER DONATELLI: You haven't established why a 5-foot  
16 fence would not work along the side yard.

17 MR. LIN: 6 foot is better, it's safer.

18 CHAIRMAN MAMMINA: 8 foot is better than that. And we  
19 have had people come in and ask for 8 feet.

20 MR. LIN: Again, an average male these days is about  
21 6-foot tall, so, you know, 8 foot is out of range, obviously,  
22 you know. The code keep changing.

23 CHAIRMAN MAMMINA: And at the same time, as Member  
24 Hernandez said, if I am designing a building that's 30-stories  
25 high and I have a deck, a balcony coming off of that building,  
26 it only needs to be 42 inches.

## Appeal #21503

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MR. LIN: This is a private property, you know. There is a lot of crime rate going on in Long Island, as well, or starting, right. So we are becoming like New York City. We are like two towns over. I came from Queens. So it's changing. So you want to keep things the old way? I am pretty sure you are going to get more applications. I am just saying from my point of view, I am already setback. I have a high elevation, that's it. It's for safety reasons.

CHAIRMAN MAMMINA: And this is not our point of view, these are points of the law.

MR. LIN: We can go back and forth. Yup, no problem. I am done.

CHAIRMAN MAMMINA: And we regularly deny 6-foot fences.

MR. LIN: Because there is a high requirement, right?

CHAIRMAN MAMMINA: Yeah, there is a high requirement, exactly.

SECRETARY WAGNER: High desire. Desire. There is a difference between requirement and desire. The Town Board is the one who establishes these requirements for fences. And the Board of Zoning Appeals can only vary in certain circumstances, which is, you know, basically, the criteria that you see in front of you.

MR. LIN: Well, I stated my reasons, but the code says 5 and I can't prove why 6 is better, right?

CHAIRMAN MAMMINA: Yes.

1 Appeal #21503

2 MR. LIN: Okay. That, will be all for me.

3 CHAIRMAN MAMMINA: Yes. We had two women who wish to  
4 speak. Come on up and give your name and address. It's really  
5 okay, especially we don't have a crowd today.

6 MS. ZWIEBEL: Mary Zwiebel, Z-W-I-E-B-E-L. I live  
7 behind Mr. Lin on the William Street side. And our issue is,  
8 probably, not so much for what he is asking for this variance  
9 on the side, but that retaining wall that was there. Number  
10 one, we never -- there was no -- we never knew about the  
11 retaining wall. The Jersey wall just went in. And I don't  
12 know if you are aware of the property. The property is  
13 actually, where his retaining wall is and it's in my yard, as  
14 well, is the old Motor Parkway. So it's at the base for the  
15 incline of the Motor Parkway. So the retaining wall is there.  
16 And then that side fence comes down. I guess, it must meet the  
17 top fence. He has two fences. He has a fence on top of the  
18 retaining wall, which is 6 foot, and then he has another 6-foot  
19 fence on the top of the property somehow. I don't know. He  
20 has filled in a lot of the slope in the back. So from my  
21 house, it looks like a 12, 15-foot fence. And, you know, mine  
22 is more of a visual type of thing. And we wouldn't have any  
23 issue with any of it if it was landscaped and looked good, but  
24 the reverb from the stuff in the neighborhood. If the dogs are  
25 barking, it bounces off the wall. And besides the fact, you  
26 look in the backyard and all you see is white fence like we

1 Appeal #21503

2 were living next to an apartment building, so.

3 CHAIRMAN MAMMINA: I think the unfortunate, you know,  
4 on that, as well, is that what he has done, at least in terms  
5 of what is presented here and what you are saying, is  
6 permitted. And certainly, on that down-sloped area that's in  
7 the back, that's a pretty substantial drop-off. I mean, that  
8 has to be protected in that area.

9 MS. ZWIEBEL: Right.

10 CHAIRMAN MAMMINA: And I am not saying you don't have  
11 common sense, not for one second. And also, personally, I  
12 despise white vinyl fences.

13 MS. ZWIEBEL: It's that it's very, very big. And the  
14 next variance for Mr. Varghese, I believe, his has the  
15 retaining wall and then the fence. So you don't have this  
16 15-foot white.

17 CHAIRMAN MAMMINA: I understand totally, but that more  
18 conforms.

19 MS. ZWIEBEL: But, anyway, that's it.

20 CHAIRMAN MAMMINA: And we do thank you for coming out  
21 because it is important to hear perspectives. For the record,  
22 Secretary Wagner has verified with the Building Department that  
23 the retaining walls were built with permits and are in  
24 permitted locations. And our denial has -- we were just  
25 questioning, what is the space between it, but it's not part of  
26 the denial. It does appear that the retaining wall is built in

## Appeal #21503

1  
2 conformance. Because just speaking to the young lady's point  
3 is, before the Town Board created the ordinance that says you  
4 can't just build a straight wall up for the exact reasons that  
5 you are saying, that you have to step it down. And an  
6 assumption is that somebody would put landscaping on it, but,  
7 in this case, they don't see the landscaping. If it were going  
8 in their backyard, they would probably be landscaping terraces  
9 so that way you wouldn't be looking at 12-foot-high wall with a  
10 fence on the top of it. So that is all compliant with the  
11 zoning.

12 MEMBER DONATELLI: So Mr. Chairman, I would suggest  
13 that we reserve decision on this and, perhaps, we will decide  
14 this at the end of our calendar today with the other reserved  
15 cases.

16 CHAIRMAN MAMMINA: Okay. I think that's good wisdom.

17 SECRETARY WAGNER: Did you get that, Mr. Lin?

18 MR. LIN: Yes.

19 SECRETARY WAGNER: So during our reserve calendar  
20 later, they may make a decision, but they are not going to make  
21 a decision now.

22 CHAIRMAN MAMMINA: Thank you. Thanks for your  
23 presentation. We appreciate it. So we will move on to the  
24 next case.

25

26 SECRETARY WAGNER: Next Appeal is Appeal #21504 -

1 Appeal #21504

2 Thomas Varghese; 125 Sigsbee Avenue, Albertson; Section 9,  
3 Block 656, Lot 114; Zoned: Residence-C.

4 Variance from §70-100.2(A)(4) to legalize  
5 fencing that is too tall.

6 CHAIRMAN MAMMINA: You have heard Appeal  
7 #21504 - Thomas Varghese. Is there any opposition or  
8 support for the --

9 MEMBER GOODSELL: We will let you speak.

10 CHAIRMAN MAMMINA: Recognize your point is  
11 well-taken. It may be that after you hear the  
12 presentation, you may like it or hate it, one or the  
13 other. Please give your name and address.

14 MR. VARGHESE: Thank you for the opportunity. My name  
15 is Tom Varghese. My address is 125 Sigsbee Avenue, Albertson,  
16 New York 11507.

17 CHAIRMAN MAMMINA: It's all yours, sir.

18 MR. VARGHESE: Thank you. I am requesting a variance  
19 for a 6-foot-high fence on the west side of the property.  
20 Actually, it's near the rear side house line. And also,  
21 requesting a variance for a 5-foot-high gate on the east side  
22 of the property on the rear house line facing towards the  
23 street, Sigsbee Avenue. So the side fence is -- my back fence  
24 is, like Kenny said, it's a 6-foot fence, which is allowed.  
25 What I am asking is a variance to mandate a 6-foot fence on the  
26 side, which is coming about 29 foot from the rear and it stops

## Appeal #21504

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

at the house line. And the fence ends -- the house -- the rear of the house line is, probably, I would think, about 70 feet from the street, from the curb. So there is no visual issues with the fence on the side. Same thing for the door -- I mean, for the gate on the right side of the house facing Sigsbee Avenue. That gate is located, approximately, it's about 30, 40 feet from the curb. So there is no visual issues with that. So I am requesting the 6-foot fence for, like Mr. Lin said, for privacy and security. And I have a pet and I have grandchildren who come to the house. So I would appreciate if you can allow a 6-foot fence on the side and the door, which is also 6 foot.

MEMBER GOODSSELL: Mr. Varghese, when did you first learn that the Town has height requirements for fences in your area?

MR. VARGHESE: After the permit was -- I gave the work to the contractor, the fence contractor, and he took care of the permits.

MEMBER GOODSSELL: And did he explain to you -- when he got the permits, did he explain to you what the height requirements were?

MR. VARGHESE: No. I was not involved in the construction. He did the work and then I realized.

MEMBER GOODSSELL: So did you tell him this is what I want, I want a 5-foot gate and I want a 6 foot on the side?

1 Appeal #21504

2 MR. VARGHESE: That's just how we built. We  
3 coordinated with Mr. Lin.

4 MEMBER HERNANDEZ: When was this fence put up? When  
5 was it built?

6 MR. VARGHESE: Sometime, I would think, last spring.

7 MEMBER HERNANDEZ: And the contractor applied for the  
8 permit first and then built the fence or he applied after the  
9 fact?

10 MR. VARGHESE: After the fact.

11 SECRETARY WAGNER: You know, fence erectors are  
12 supposed to be licensed in the Town of North Hempstead. And  
13 the reason that they require that is so that they know the  
14 applicable regulations and so we don't end up in this  
15 situation.

16 MR. VARGHESE: I believe he is a licensed contractor.

17 MEMBER GOODSSELL: And we are interested in this because  
18 a licensed contractor, before getting a permit, is supposed to  
19 explain to the homeowner what the requirements are. So we will  
20 ask you the same questions we asked the previous application.  
21 Do you have a disabled child in the household?

22 MR. VARGHESE: No, I don't.

23 MEMBER GOODSSELL: Do you have special circumstances,  
24 which you feel would warrant the 6-foot fence? Do you border a  
25 commercial property?

26 MR. VARGHESE: No, I don't.



## Appeal #21504

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MEMBER GOODSSELL: Are you on a main road? These are the exceptions to the Town's rule. So your request for a 6-foot side yard fence and a 5-foot gate is really more personal, is that correct?

MR. VARGHESE: Yes. For privacy reasons and the security of my pet and the grandchildren who come to our house.

MEMBER DONATELLI: And I am going to repeat what I said to the gentleman before the applicant prior to your presentation, which is that there are ways for you to obtain privacy, that by planting of shrubbery or Arborvitae or something like that, which will give you far more privacy than any fence could, especially the difference between a 4-foot fence and a 5-foot fence. And you have the added benefit not only of getting more greenery in your yard, but also sound-deadening, and it can be a very effective and nice way to achieve what you are trying to achieve without seeking a variance.

MR. VARGHESE: But my side fence is actually sitting behind the house. There is no visual impact. I mean --

MEMBER DONATELLI: I'm sorry. There is no what?

MR. VARGHESE: No visual impact from the front. It is not an eyesore.

CHAIRMAN MAMMINA: But your neighbors are looking at it.

MR. VARGHESE: Yeah. And my fence is actually located

1 Appeal #21504

2 about 30 feet from the neighbor's property on the west side.

3 CHAIRMAN MAMMINA: Understood. But I would, I guess,  
4 just put out there supporting what Member Donatelli said, my  
5 house is on a 60 by a 100 lot. I like privacy. I planted  
6 Arborvitae and my neighbor next door said, why are you doing  
7 that? I don't get it. I don't get it. It's 12-feet high now,  
8 and that took about 6 years to reach 12 feet. And we are  
9 friendly. He, across the back of his property, has planted  
10 staggered Arborvitae to his neighbor behind him rather than put  
11 up a 6-foot fence. So I mean, that does give you visual  
12 protection that, I think, far outweighs, you know, the fence  
13 there and privacy from the neighbor.

14 MEMBER DONATELLI: The other thing that I would add is,  
15 I believe, that the Town Board did not want taller fences than  
16 5-foot fences along the side yard lot lines because there is a  
17 certain benefit to having less of a visual impact as one looks  
18 across the side of a block. And so the Town Board did not want  
19 to create these little fenced-in enclaves, and that was the  
20 whole point of this 4-5-6 rule. So again, I think what you are  
21 hearing from this Board is, absent any special circumstances,  
22 we are very, very skeptical of applications like this. Because  
23 whatever we decide in this instance, again, may set precedent  
24 for our future cases, and that is --

25 MR. VARGHESE: I think I said this before. Can I  
26 repeat? Because my fence is sitting to the back of the house

1 Appeal #21504

2 at least 30 to 40 feet from the nearest neighbor.

3 MEMBER DONATELLI: We have that as part of your  
4 application.

5 MR. VARGHESE: Okay.

6 MEMBER DONATELLI: We show that. But even so, it is  
7 showing a 6-foot high fence, when 5 is allowed. So while I  
8 understand your point, that it's not directly on your property  
9 line, it still is impactful for somebody who is looking from  
10 the next yard. And again, if it's privacy that you are trying  
11 to achieve, there are better ways to achieve it. I am not  
12 trying to argue with you. But again, we just can't grant a  
13 variance because we like your presentation or because, you  
14 know, we have personal preferences. We are bound by the five  
15 factors of law that we have to consider, and you do have  
16 alternatives.

17 MR. VARGHESE: That's my case.

18 MEMBER GOODSELL: Once again, I would suggest we  
19 reserve decision on this one and decide the applications  
20 together.

21 MEMBER DONATELLI: I'm sorry. Did we have neighbors  
22 that wanted to speak on this?

23 CHAIRMAN MAMMINA: Again, please, understand that the  
24 rear yard is permitted by the zoning.

25 SECRETARY WAGNER: Could you just come up to the podium  
26 and state that for the record? Give us your name and address.

## Appeal #21504

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MS. LORUSSO: Patricia Lorusso. My name is Patricia Lorusso, L-O-R-U-S-S-O. I am at 151 William Street. I have no concern over the side yard. Thank you.

CHAIRMAN MAMMINA: So this is reserved, as well. So we are going to reserve decision on this application. And again, this may or may not be decided later today.

MR. LIN: Thank you.

CHAIRMAN MAMMINA: Thank you. Please call the next case.

1 Appeal #21519

2 SECRETARY WAGNER: Next Appeal is Appeal #21519 - Jorge  
3 Pariona; 847 First Avenue, Westbury; Section 11, Block 165, Lot  
4 21; Zoned: Residence-C.

5 Variances from 70-100.A(1), 70-103.B,  
6 70-208.F, and 70-202.2(C)(1) to legalize a garage  
7 conversion on an existing non-conforming property  
8 with not enough parking on site, a parking space that  
9 is too small, and an increase in the size of the  
10 driveway and front yard paving without a reasonable  
11 method of retaining additional stormwater on the  
12 property.

13 CHAIRMAN MAMMINA: You have heard Appeal  
14 #21519 -Jorge Pariona. Is there anyone in the room  
15 interested in the application other than the  
16 applicant? Seeing no one. Please come on up and  
17 give your name and address.

18 MR. LATORTUE: My name is Patrick Latortue,  
19 L-A-T-O-R-T-U-E. I am the applicant/architect and this is the  
20 owner.

21 CHAIRMAN MAMMINA: He will have to put his name and  
22 address on the record if he is going to speak.

23 MR. PARIONA: My name is Jorge Pariona.

24 CHAIRMAN MAMMINA: If you could spell that?

25 MR. PARIONA: Jorge Pariona.

26 THE REPORTER: And your address.

1 Appeal #21519

2 MR. LATORTUE: 15 Hunters Lane, Westbury, New York  
3 11590.

4 SECRETARY WAGNER: Are you going to be making the  
5 application mainly?

6 MR. LATORTUE: Yes.

7 SECRETARY WAGNER: So if you want to let him have the  
8 podium. And then when you are ready to speak, you can step up.  
9 We don't like to have two people speaking at the same time.  
10 Just he will make the application. And then if you want to  
11 come up and say something after, you may.

12 MR. PARIONA: Thank you. Can I have a seat?

13 SECRETARY WAGNER: Yes.

14 MEMBER DONATELLI: I'm sorry. We will be right with  
15 you.

16 MR. LATORTUE: No problem. Thank you for hearing our  
17 Appeal today. So we are applying to legalize a garage  
18 conversion, which also created the off-street parking and the  
19 drainage situation. So this is a half created self-created  
20 half-existing condition. When the owner bought the house,  
21 essentially, the driveway and the front paving was as is, and  
22 he didn't know that it did not match what was on file with the  
23 Building Department. So on file with the Building Department,  
24 there is only paving in front of the stairs and paving directly  
25 in front of the garage door. So he, essentially, filled in,  
26 before he bought the house, that area between the driveway and

1 Appeal #21519

2 stairs and a little bit on the sides, about 172 square feet of  
3 additional paving. So that's less than the requirement for  
4 additional drainage, but it was originally non-conforming.

5 So when he bought the house, he tried to do a daycare  
6 and a garage conversion to maximize the square footage of the  
7 house because the garage was really dead space. It's much  
8 better to have that space as a playroom for the kids. It's  
9 just, basically, a financial burden to have the garage as a  
10 useless space within the house. So in doing the garage  
11 conversion, he realized that a lot was non-conforming and he  
12 got the violation from the Town. So he is, basically,  
13 requesting the variance to legalize that additional paving,  
14 which he did not do. That, was pre-existing. And with the  
15 garage, it takes away one off-street parking space. And  
16 because the house is set close to the property line --

17 THE REPORTER: I'm sorry. I have trouble hearing you  
18 when you go over there.

19 MEMBER HERNANDEZ: We are looking on it here.

20 CHAIRMAN MAMMINA: We have the drawings.

21 MEMBER DONATELLI: If you would like, there is an  
22 easel. If you want to use the easel to prop up photographs,  
23 that way you can point at it while you are still at the podium.

24 MR. LATORTUE: I can talk.

25 THE REPORTER: Just talk into the mic.

26 CHAIRMAN MAMMINA: Just address it to us and that's

1 Appeal #21519

2 okay. If we want you to point something out on there or pick  
3 the boards up and bring them up there with you.

4 MR. LATORTUE: So the paving or the garage conversion  
5 took away one of the garage spaces, so particularly one of the  
6 off-street parking spaces. And the driveway, which should have  
7 been the other off-street parking space, is only 17 feet from  
8 the door of the garage to the property line. And then there is  
9 a couple extra feet between the property line and the sidewalk.  
10 So between the sidewalk and the garage, there is actually 20  
11 feet, but on the property line, it's only 17 feet. So the  
12 property line, it's only 17 feet.

13 CHAIRMAN MAMMINA: It has to be on the property. You  
14 can't hang out into the side.

15 MR. LATORTUE: Right. So this condition creates no  
16 off-street parking spaces, where he could kind of fudge one in  
17 the driveway, but now he has technically none per the code.

18 CHAIRMAN MAMMINA: The last test of the area variance,  
19 as that gentleman had read earlier, is, is the hardship  
20 self-created?

21 MR. LATORTUE: Partially, yes.

22 CHAIRMAN MAMMINA: Not partially, fully. He took the  
23 garage out, so how is that partially?

24 MR. LATORTUE: Because the paving and the drainage  
25 situation was there originally, but creating the second  
26 off-street.



1 Appeal #21519

2 CHAIRMAN MAMMINA: Okay. You continue. I apologize.

3 MR. LATORTUE: So that's what I meant. The garage  
4 situation is fully self-created, but only having one off-street  
5 parking space instead of two, and the paving situation was an  
6 existing condition before he bought the house.

7 CHAIRMAN MAMMINA: But why can't he just pave another  
8 section next to the house that has the property width?

9 MR. LATORTUE: So I should have addressed that. So to  
10 add another additional parking space, it would be a large  
11 financial burden because he would have to --

12 CHAIRMAN MAMMINA: How much would it cost? What is  
13 large? What does large mean?

14 MR. LATORTUE: A few things would have to happen. He  
15 would have to, A, because he only has 17 feet to the house, he  
16 would have to pave to the side, and then going to the side of  
17 the driveway and then to the side of the house to create an  
18 additional, at least, 20 feet. And he would probably have to  
19 have enough for two parking spaces, one going towards the side  
20 and then one that goes up towards the side of the house. And,  
21 that, would be over the 250 square feet. We would have to put  
22 in a dry well. There would be the cost for the paving.

23 CHAIRMAN MAMMINA: As one Board Member, I don't really  
24 see that as an issue. Parking in residential communities is  
25 always a major consideration, and on-street parking  
26 specifically is always a major consideration. You know, and

1 Appeal #21519

2 having a property with zero parking on what is, basically, an  
3 ordinary house, I don't think in, whatever, 30 years, I don't  
4 think we have ever granted something like that, unless there is  
5 some really extenuating circumstance that I don't see here. It  
6 is self-created.

7 MR. LATORTUE: So the lot is a bit smaller than some of  
8 the other lots in the neighborhood.

9 MEMBER GOODSSELL: I see that. It is an unusual-shaped  
10 lot.

11 MR. LATORTUE: Right.

12 MEMBER GOODSSELL: And it's 80-feet deep, instead of the  
13 standard 100. There is a little bump-out in the rear.

14 MR. LATORTUE: And so there isn't much of -- that side  
15 yard is mostly on one side and the rear yard is a little bit  
16 limiting. So if the kids really are only playing towards that  
17 rear and the one side. So to take that one side away for a  
18 parking space, would be a detriment for the property and for  
19 the overall recreational value of the yards. And then on top  
20 of that, there is the one parking space, I think, that  
21 originally existed that people use in the driveway, which  
22 doesn't necessarily meet code requirements because it's only 17  
23 feet, but a car does fit there, technically, and that is the  
24 one parking space people use.

25 CHAIRMAN MAMMINA: And take this as I mean it, but you  
26 are putting it on the record two times, one time is really all

1 Appeal #21519

2 that we need. And, I guess, I will just restate it. You tell  
3 me if I am wrong. The parking facing the garage was taken over  
4 and the parking space in front is too narrow based upon the  
5 setback, too shallow. But even as you said, you could probably  
6 get a legal parking space by pulling that around in there.  
7 And, you know, we have granted parking spaces that are narrower  
8 than the 10 feet required in a Residence in order to come in on  
9 a little bit of an angle. But again, we have zero parking.

10 MEMBER DONATELLI: Can I just take a step back and ask  
11 you a few questions, if you don't mind?

12 MR. LATORTUE: Sure.

13 MEMBER DONATELLI: How long has your client been the  
14 owner of the property?

15 MR. LATORTUE: I'm not sure exactly. I would have to  
16 ask him.

17 MEMBER DONATELLI: Just approximately.

18 MR. LATORTUE: I think five years.

19 MEMBER DONATELLI: So the application --

20 MEMBER GOODSSELL: No. I don't see that in the public  
21 record. Are you the same person that bought the property in  
22 2009?

23 MR. PARIONA: I own the property since 2009.

24 MEMBER DONATELLI: Since 2009?

25 MR. PARIONA: Yes.

26 MEMBER DONATELLI: And did you buy the property from

1 Appeal #21519

2 somebody who was running a daycare?

3 MR. PARIONA: No. I made a daycare in the house.

4 MEMBER DONATELLI: So the property had a garage at the  
5 time that you purchased the property?

6 MR. PARIONA: Yes, the way that it is.

7 MEMBER DONATELLI: And when did you convert the garage?

8 MR. PARIONA: No, I didn't convert it. I am trying to.

9 MEMBER DONATELLI: So right now, it is still a  
10 functioning garage?

11 MR. PARIONA: No.

12 MEMBER GOODSSELL: When you bought the property, was the  
13 garage a garage or was it already enclosed as part of the  
14 house?

15 MR. PARIONA: Okay. The garage has a garage door. It  
16 has a window on the side. It has tile on the floor. But when  
17 I applied, I am talking to my licenser about the garage and  
18 they told me I could not use it until it's legalized.

19 MEMBER GOODSSELL: So when you bought the property, was  
20 it still a garage or was it already enclosed as part of the  
21 house?

22 MR. PARIONA: Well --

23 MEMBER GOODSSELL: When you bought the property, could  
24 you lift the garage door and park the car?

25 MEMBER HERNANDEZ: And drive in?

26 MR. PARIONA: There is a door, but there is a wall.

1 Appeal #21519

2 MEMBER GOODSSELL: In 2009, when you bought the  
3 property, describe for me what the garage was.

4 MR. PARIONA: Okay. I am going to describe. There is  
5 a door on the garage. There is framing behind the wall, behind  
6 that door, the garage door. There is a window on the side and  
7 there is heat, heating around.

8 MEMBER DONATELLI: So the garage door did not go up and  
9 down?

10 MR. PARIONA: No, never.

11 MEMBER DONATELLI: The framing means that even though  
12 the garage door was still there, it couldn't be used as a  
13 garage.

14 CHAIRMAN MAMMINA: But your drawing clearly shows a new  
15 footing where the garage door would have been and a new wall.

16 MR. LATORTUE: That's what he wants to do.

17 CHAIRMAN MAMMINA: But he said that's done now, unless  
18 I am not understanding. So it could be a garage? That's the  
19 question. Right now, it could be a garage still?

20 MR. LATORTUE: But it's already -- when he brought the  
21 house, it was already partially --

22 CHAIRMAN MAMMINA: I would like the owner to testify,  
23 though. You are saying it does not have -- it does have that  
24 wall filled in? That's what I am understanding you to say or  
25 are you saying that that's the future plan?

26 MR. PARIONA: No. No. No. The door is there, it's

1 Appeal #21519

2 closed, permanently closed.

3 CHAIRMAN MAMMINA: Okay. When you say permanently  
4 closed, what does that mean?

5 MR. PARIONA: You could see from the outside, the door.  
6 You see the door. Behind the door is framing you see.

7 CHAIRMAN MAMMINA: I get it. So you take the wall  
8 down --

9 MR. PARIONA: No, I didn't take nothing.

10 CHAIRMAN MAMMINA: No. I am saying to correct the  
11 condition, you take down the wall. It's probably built out of  
12 wood or metal studs and Sheetrock. And it would take the  
13 carpenter -- I don't know -- four hours to take it down, you  
14 know. So the garage could still be a garage very easily.

15 MR. PARIONA: Yeah, but we like to use --

16 CHAIRMAN MAMMINA: I know you want to. And please take  
17 it to mean it as I mean it, I don't want to be a wise guy, but  
18 I want to drive a Porsche, too, but I don't.

19 MEMBER DONATELLI: May I ask some additional questions?

20 MR. PARIONA: Sure.

21 MEMBER DONATELLI: So are you now running a daycare in  
22 the house?

23 MR. PARIONA: Yes.

24 MEMBER DONATELLI: How many children do you have? I'm  
25 sorry. How many children in your daycare?

26 MR. PARIONA: Okay. We have a capacity for 16

Appeal #21519

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

children.

MEMBER DONATELLI: 16 children.

MR. PARIONA: But sometimes we have like 16, 12, 10. We have children since 6 months old. We don't have a 6-month old now. Until 12 years old. That, includes before and after school.

MEMBER DONATELLI: And I assume that parents come to drop off their children --

MR. PARIONA: Sure.

MEMBER DONATELLI: -- at the daycare? And then they pick them up. How do parents do that? Where do they park?

MR. PARIONA: In the driveway.

MEMBER DONATELLI: They pull up into the driveway?

MR. PARIONA: Into the driveway.

CHAIRMAN MAMMINA: So one car at a time? It could be reasonable to assume that there is a back up of cars in the street?

MR. PARIONA: Yeah. Yeah, sure. They are waiting.

CHAIRMAN MAMMINA: So --

MEMBER DONATELLI: And I'm sorry. You said capacity is 16?

MR. PARIONA: No. No. The maximum capacity is 16. We are not allowed to have more than 16.

MEMBER DONATELLI: Right, so that is the maximum.

CHAIRMAN MAMMINA: And to get to the 16, do you need to

1 Appeal #21519

2 have the garage space as a playroom, as it says?

3 MR. PARIONA: I wanted to make this conversion because  
4 I want to make a nice comfortable environment for the children,  
5 and using legally that garage as part of it, too.

6 CHAIRMAN MAMMINA: I have done nursery daycare centers.

7 MR. PARIONA: Oh, nice.

8 CHAIRMAN MAMMINA: And like your 6-month old, you need  
9 a completely different license to have infants.

10 MR. PARIONA: Yeah.

11 CHAIRMAN MAMMINA: And I understand that, but in order  
12 to have the 16 children there, if you don't have the garage,  
13 can you have 16 children?

14 MR. PARIONA: No. I still can have. In the condition  
15 that it is, I still can have it.

16 MEMBER GOODSSELL: And how many do you have now?

17 MR. PARIONA: 12 on average.

18 MEMBER DONATELLI: I have no further questions. Was  
19 there something else that you gentlemen wanted to add?

20 MEMBER HERNANDEZ: I just have one question on the  
21 driveway, because I see there is some kind of a manhole cover  
22 on the driveway. There is some kind of a cover underneath the  
23 car in the photograph?

24 MR. PARIONA: What is in the picture?

25 MEMBER HERNANDEZ: If I go on the Google Maps and I  
26 look at your address -- I didn't see it when I drove by -- I



1 Appeal #21519

2 see a car parked in that driveway and it looks like a manhole  
3 cover or something metal, right?

4 CHAIRMAN MAMMINA: Yes.

5 MEMBER HERNANDEZ: Is that a tank of some kind? What  
6 is that?

7 MR. PARIONA: I don't know. This last picture, we took  
8 it last year.

9 CHAIRMAN MAMMINA: No, I can see it.

10 MR. LATORTUE: I think that might be a house trap or  
11 something.

12 CHAIRMAN MAMMINA: You have to put it on the record.  
13 You see it, you acknowledge it's there. Now the answer is?  
14 What is it?

15 MR. PARIONA: What are you talking about, this? Oh,  
16 that's the meter.

17 MEMBER HERNANDEZ: Say it.

18 CHAIRMAN MAMMINA: Come up to the microphone.

19 MR. PARIONA: That's the meter. That's the water  
20 meter.

21 MEMBER DONATELLI: And I'm sorry. I do have one other  
22 question. As I look at the plans for the first floor, I see  
23 the existing garage conversion to playroom. And then on the  
24 right side, we have an existing playroom. And then behind the  
25 garage, we have an existing playroom. Then my question is as  
26 to that other space to the right of the existing playroom, that

1 Appeal #21519

2 is not marked as anything. What is that space being used for?

3 MEMBER HERNANDEZ: The rear right corner.

4 MR. PARIONA: This is the garage.

5 MEMBER HERNANDEZ: No, the rear right.

6 MEMBER GOODSSELL: The rear right corner.

7 MR. PARIONA: Oh, this is a playroom, too.

8 MEMBER DONATELLI: I'm sorry?

9 MR. PARIONA: It's a playroom, too.

10 MEMBER DONATELLI: So in other words, where I see  
11 existing playroom, that really applies to both sides?

12 MR. PARIONA: Both sides, yeah.

13 MEMBER GOODSSELL: And your living space is upstairs?  
14 You have a kitchen upstairs? You have a bedroom upstairs?

15 MR. PARIONA: Yes.

16 MEMBER GOODSSELL: We just want to note for the record  
17 there was a permit for the daycare issued by the Town in 2022.

18 MR. PARIONA: We applied for the daycare permit from  
19 you.

20 MEMBER GOODSSELL: Well, not from us. We are the Board  
21 of Zoning Appeals. You got it from the Town.

22 MR. PARIONA: From the Town. He said in order to get  
23 the daycare permit, we had to legalize, that's why we did, five  
24 years ago, all the drawings, and we get all the information.  
25 Otherwise, we didn't know what we are doing. We had to apply,  
26 make the drawing, and the way and how it is. And it's a great

Appeal #21519

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

opportunity to extend to the garage.

CHAIRMAN MAMMINA: We understand.

MR. PARIONA: Thank you very much.

CHAIRMAN MAMMINA: I don't know if we have any other questions? We will reserve this application so that we can kind of pop this all around and see what we think.

MEMBER GOODSELL: Thank you for your presentation.

MR. PARIONA: Thank you very much.

MR. LATORTUE: Thank you.

MEMBER GOODSELL: We are reserving.

## Proceedings

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

SECRETARY WAGNER: So the Board of Zoning Appeals is declaring itself lead agency in adopting a revised SEQR determination memo for the January 24th Hearing. Someone want to make a motion?

MEMBER DONATELLI: I will make a motion.

SECRETARY WAGNER: Someone want to second?

MEMBER GOODSSELL: I will second.

CHAIRMAN MAMMINA: Okay. Please poll the Board.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

SECRETARY WAGNER: The Board declares itself lead agency and adopts the SEQR determinations for the March 6th Hearing. Someone want to make a motion?

MEMBER DONATELLI: Since I haven't done it before, I will make a motion.

MEMBER GOODSSELL: And since I haven't done it before, I will second.

SECRETARY WAGNER: Member Hernandez.

MEMBER HERNANDEZ: Aye.

Proceedings

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

SECRETARY WAGNER: Member Donatelli.

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Member Goodsell.

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Chairman Mammina.

CHAIRMAN MAMMINA: Aye.

(Time noted: 11:52 a.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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 19th day of  
March, 2024.



---

AMY BOGUSZEWSKI