

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 20, 2024
10:16 a.m.

BOARD MEMBERS PRESENT:

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

ALSO PRESENT:

- Deborah Algios, Deputy Town Attorney
- Virginia Wagner, Secretary
- Nicole L. Basile, Court Reporter

1 Proceedings

2 CHAIRMAN MAMMINA: If everyone would please stand up
3 and join Vice Chairman Francis in the Pledge of Allegiance.

4 (Whereupon, the Pledge of Allegiance was said.)

5 CHAIRMAN MAMMINA: All right. Good morning ladies and
6 gentlemen and welcome to the Town of North Hempstead Zoning
7 Board of Appeals. What I'd like to do before we get started is
8 go over the way that we conduct business here in North
9 Hempstead, in case it's different then other boards that you've
10 appeared before. So what we will do is as each case is called,
11 we will ask for the applicant to identify themselves by
12 standing up and coming forward to the podium. I will then ask
13 also if there is anyone who has interest in the case. That can
14 either support or that could be opposition. Thank you so much,
15 Jay. I'm 70 years old. Okay. You gotta laugh sometimes. And
16 at that point, the applicant will give their name and address
17 to the stenographer. This is quasi judicial hearing, which as
18 an architect, I had no idea what that meant but it was
19 explained to me many, many years ago that essentially there is
20 recourse on a decision that a zoning board might make. So at
21 that point, the podium belongs to the applicant. The applicant
22 will put onto the record whatever they would like to regarding
23 the case presenting that. The Board will ask whatever
24 questions it may seem fit. The applicant has the opportunity
25 to answer those and then we'll ask the applicant to have a seat
26 if there is anyone who wishes to speak and if there is, you'll

1 Proceedings

2 come up one at a time, give your name and address, put on the
3 record what you would like on the record and the Board will do
4 the same thing. Ask questions and have a back and forth. I
5 will say many people who come to a zoning board have never come
6 to a zoning board before so don't be nervous. It's okay. Just
7 pretend we're talking across the kitchen table, you know, to
8 each other. There really is no reason. And at that point, the
9 opposition or support will have a seat. We have a three minute
10 time limit on that response. We're not going to cut anybody's
11 head off, but, you know, many times we have a room full of
12 people, you know, we've gotta limit it to three minutes. We
13 ask that people try, try not to repeat, you know, each other.
14 I know these things, you know, can, you know, can get, I don't
15 want to say personal per se but emotional and, you know, we
16 like to just try to keep that even. So the applicant then has
17 the opportunity to come up again and then the Board can ask
18 whatever questions that it might seem fit based upon what
19 anyone else said. The applicant will have the opportunity also
20 to speak regarding anything that the applicant would -- excuse
21 me, that opposition or support may have said. And at that
22 point, the hearing is done and the Board will then do one of
23 four things. We will either approve the application, deny the
24 application, we may reserve the application or continue the
25 application. If we reserve the application, we have all the
26 information that we need and there's nothing else that we are

1 Proceedings

2 looking for and the Board may reserve, because we want to go
3 back and look at, you know, at property again, someone may have
4 submitted a paper, you know, to us that we would like to have
5 the opportunity to review. If we continue the application,
6 that could be also for any number of reasons. We may offer,
7 you know, some kind of a compromise to the -- to the applicant.
8 We may ask them to submit a document that they spoke about that
9 they didn't have, you know, with them today. Whether that be a
10 closing paper or a survey that's later than -- than what we
11 have now. So that would be -- that would be the four things.
12 There are cases that we may decide directly today from the
13 podium, but if we reserve or continue, you know, a case, the
14 Board -- the Board has approximately two months to -- to come
15 forward with those decisions. We try our best not to go that
16 long, but, you know, sometimes there, you know, there -- there
17 are reasons why. All deliberation that we do is done in
18 public. You don't have to come back here, we are televised and
19 so you can, you know, from, you know, sitting on your living
20 room couch or at your desk, you know, hear everything that the
21 Board says. And there is no opportunity though to ask
22 questions, you know, at that point, you know, it is strictly --
23 strictly the Board's deliberation that we -- that we have. So
24 I think with that said, do we have any modifications,
25 Ms. Wagner?

26 SECRETARY WAGNER: Yes, Chairman. We have an

1 Appeal #21520

2 adjournment of Appeal Number 21522, Zahid Khan (John Doko); 162
3 Cow Neck Road in Port Washington, Section 4, Block 95, Lot 71
4 in the Residence-B Zoning District. Variance from
5 70-100.2(A)(2), to legalize fencing in the front yard. That's
6 adjourned to April 17th.

7 CHAIRMAN MAMMINA: Okay. So if anybody is here for
8 that case today, that will not be heard today but you would be
9 re-noticed, I think by letter is it, Ginny.

10 SECRETARY WAGNER: Yes. By regular mail.

11 CHAIRMAN MAMMINA: By regular mail not by certified
12 mail. Thank you. So with that said, do you to call the first
13 case, please.

14 SECRETARY WAGNER: Appeal Number 21520, John Kekllas; 8
15 Deepdale Drive in Manhasset; Section 3, Block 34, Lot 19 in the
16 Residence-A Zoning District. Variance from 70-100.2(A)(2), to
17 legalize a wood fence and gate and a masonry fence in a front
18 yard.

19 CHAIRMAN MAMMINA: You've heard Appeal Number 21520,
20 John Kekllas and I apologize if I'm not pronouncing that
21 correctly.

22 MR. KEKLLAS: No, that's correct.

23 CHAIRMAN MAMMINA: Okay. Good. I have a tough last
24 name also. Is there anyone in the room who wishes to speak
25 regarding the application, other than the applicant? Seeing no
26 one. So please give your name and address.

1 Appeal #21520

2 MR. KEKLLAS: Yes. John Kekllas, 8 Deepdale Drive,
3 Manhasset, New York 11030.

4 CHAIRMAN MAMMINA: Good morning, sir and microphone is
5 yours.

6 MR. KEKLLAS: Okay. I inherited this house back in
7 2017. It's the house I grew up in. This brick wall, fence,
8 whatever you want to call it has been up as far as I can
9 remember. I'd like to bring your attention to an interim
10 office memo from the Superintendent of Highways. There was
11 concern whether this interfered in anyway with Northern
12 Boulevard and he basically said no, he has no problems with it
13 and he feels the structure dates back to the original
14 development. I have some Google -- I've uploaded some things.
15 I mean you can see it's been there for decades and as he states
16 in his letter that its been there for decades.

17 CHAIRMAN MAMMINA: When you say you uploaded some
18 things, is there anything you'd like to give to the Board?

19 MR. KEKLLAS: I think I e-mailed them.

20 CHAIRMAN MAMMINA: Yes. We have a good amount.

21 MR. KEKLLAS: I mean, I have a picture of my birthday
22 when I was seven and it's still there.

23 CHAIRMAN MAMMINA: As you say to people, do you have,
24 like, a communion picture, a Bat Mitzvah one, you know,
25 something like that.

26 MEMBER GOODSSELL: How high is this brick wall?

1 Appeal #21520

2 MR. KEKLLAS: At certain points I believe five feet,
3 some a little more, you know, but it's on a grade so there's
4 some high points.

5 CHAIRMAN MAMMINA: Yeah. I did notice the grade when I
6 went to see it. I mean here -- here it says eight feet but it
7 varies.

8 MEMBER HERNANDEZ: The street drops.

9 CHAIRMAN MAMMINA: Yeah, as the street drops. The --
10 I'm familiar with highway department, because, you know, where
11 I live there are no sidewalks.

12 MR. KEKLLAS: Right.

13 CHAIRMAN MAMMINA: And if you plant, you know, out in
14 the right of way, it's just made clear that if the snow plow
15 comes and knocks everything down, they're not responsible for
16 it. But I'm not dismissing, you know, the fact what you have
17 there but they are not there to make a judgment regarding that,
18 but certainly, you know, regarding the amount of time, you
19 know, that -- that it's been there.

20 MR. KEKLLAS: Like I said, I inherited it in 2017 and
21 I'm just trying to legalize everything.

22 CHAIRMAN MAMMINA: Yeah. And I guess just me and
23 certainly other members can speak, it's not something that we
24 would typically grant. But we do get applications where it's
25 documentable that things have been there for a long time and
26 may have even predated the zoning. So it's not, you know, it's

1 Appeal #21520

2 not dismissed as a matter of hand.

3 MEMBER DONATELLI: I would just note for the record and
4 when I passed by the property, even though this fence is on
5 your property, it appears to be more of a gateway to the entire
6 community as oppose to just a fence that contains one house.
7 We all know that Northern Boulevard is really heavily
8 trafficked and this, in my opinion, serves as kind of a buffer
9 to prevent some of the hubbub of Northern Boulevard from really
10 coming into the community. So -- so as -- it's not so much
11 even though it is a fence on the applicant's yard, it's more of
12 a gate for the community then it is pertaining to one
13 particular house. That's the way -- that was my impression.

14 MEMBER HERNANDEZ: I think we all feel the same way
15 about fences in the front yard. We don't allow them and we try
16 to discourage them as much as possible, but if there is a house
17 that probably could justify a fence on the side yard, which is
18 technically the front yard because you're the corner, it's a
19 house like this. This is a street that draws a lot of traffic,
20 fast traffic coming in from Northern Boulevard right into the
21 side yard of the house. I happen to live in the community
22 behind you up there so I have gone through this gate hundreds
23 and hundreds if not thousands of times and were it not there,
24 it would be even dangerous that some cars would make the turn
25 and potentially end up in your side yard only because it is a
26 high turn and a very circular street. That is a circle. So,

1 Appeal #21520

2 you know, certainly enough in this house to warrant having a
3 side fence, a side yard fence. Coupled with the fact that it's
4 probably been there for let's say 45, 50 years. Most likely
5 predates the fence code.

6 CHAIRMAN MAMMINA: One other thing that we -- we do
7 consider on corner properties and again, corner property
8 doesn't automatically mean that something automatically is
9 approved. But many times those corner properties were first
10 houses that the developer built so that people come and see
11 them and they wanted to show that nice big front lawn and you
12 end up with no real usable space, you know, for the outdoor
13 barbecue, you know, or the family party, you know. So coming
14 out into that front yard, I would say in this instance, only
15 because it's been there, you know, for that amount of time, you
16 know, that -- that is kind of the case of what you have here.
17 It's a busy intersection there and yes, it does create
18 aesthetically something very nice, we're not an aesthetic
19 board. So we can think something is beautiful, but that can't
20 sway what we, you know, what we think about it.

21 MEMBER HERNANDEZ: Mr. Chairman, given the discussion
22 that we've had, I move that we grant the application.

23 CHAIRMAN MAMMINA: We have a motion from Member
24 Hernandez. Do you have a second?

25 MEMBER DONATELLI: Seconded.

26 CHAIRMAN MAMMINA: Seconded by Member Donatelli. Ms.

1 Appeal #21520

2 Wagner, please poll the Board.

3 SECRETARY WAGNER: Member Goodsell?

4 MEMBER GOODSSELL: Aye.

5 SECRETARY WAGNER: Member Hernandez?

6 MEMBER HERNANDEZ: Aye.

7 SECRETARY WAGNER: Member Donatelli?

8 MEMBER DONATELLI: Aye.

9 SECRETARY WAGNER: Vice Chairman Francis?

10 VICE CHAIRMAN FRANCIS: Aye.

11 SECRETARY WAGNER: Chairman Mammina?

12 CHAIRMAN MAMMINA: Aye. So the application is granted.

13 MR. KEKLLAS: I appreciate it. Thank you for your
14 time.

15 CHAIRMAN MAMMINA: Thank you.

16 MEMBER GOODSSELL: The headlights coming around that
17 corner must be as annoying as anything, despite the fact that
18 there is a fence and a lot of greenery there. You must get you
19 get every single headlight that comes in.

20 MR. KEKLLAS: Because of the wall there, I've never
21 experienced it so. But it does act as a barrier and I
22 appreciate you granting this and again, thank you for your
23 time. Do I get to leave now?

24 CHAIRMAN MAMMINA: Yes. No. No. You have to stay
25 here.

26 MR. KEKLLAS: Thank you very much.

1 Appeal #21521

2 CHAIRMAN MAMMINA: Thank you so much. Pleasure.

3 Please call the next case.

4 SECRETARY WAGNER: Appeal Number 21521, Benjamin Wang;
5 38 South Drive in Manhasset; Section 3, Block 91, Lot 5 in the
6 Residence-B Zoning District. Variances from 22-4 and
7 70-101.1(A), to legalize a fire pit located too close to a
8 house and to legalize a fire pit and outdoor kitchen located
9 within a side yard, which is not permitted.

10 CHAIRMAN MAMMINA: You've heard Appeal Number 21521,
11 Benjamin Wang. Is there anyone in the room interested in the
12 application other than the applicant? Seeing no one. Please
13 give your name and address, Mr. Wang.

14 MR. WANG: Benjamin Wang, 38 South Drive, Manhasset,
15 New York 11030.

16 CHAIRMAN MAMMINA: Good morning.

17 MR. WANG: Good morning. Thank you for your time. So
18 I went through a renovation in my property and it's landscaping
19 patio work a couple of years ago. Went through the proper
20 channels, applied for the permits, had drawings and in the
21 drawings we got approved for a barbecue grill and the original
22 drawings, I can see that it did not have the fire pit. That
23 was either missed, or I missed it, or my contractor who
24 submitted the drawings missed it, but the fire pit was
25 eventually built. When the final inspection was being done,
26 the inspector noticed that the fire pit was there but it was

1 Appeal #21521

2 not on the original drawings. So I submitted amended drawings
3 from an architect that included the fire pit and it was made
4 aware to me that the fire pit location was out of code. So the
5 plan examiner requested that I can request a variance or
6 petition with the Department of State, which I did and that was
7 granted and in addition, to request an appeal as I'm standing
8 here today with the BZA to see if that would be okay as well.
9 Thank you.

10 CHAIRMAN MAMMINA: Okay. So I guess for myself as an
11 architect, I've made applications to the Department of State
12 and I understand the building department's reasoning on it, but
13 at this point, that's been approved by the Department of State,
14 has that been given to the building department so that they've
15 seen that?

16 MR. WANG: Yes. I submitted it to the plan examiner,
17 but the plan examiner told me that I needed both Department of
18 State approval and a BZA approval.

19 CHAIRMAN MAMMINA: Okay. The building department,
20 again, just so everybody understands, is an independent body of
21 the Zoning Board and we're here, because they're going to
22 submit a reason for denial. We come here and sometimes the
23 case just might be that someone is challenging the building
24 department. So we would be that body that does that and just
25 because it comes from the town's building department, it comes
26 here.

1 Appeal #21521

2 MR. WANG: Yeah.

3 CHAIRMAN MAMMINA: It doesn't necessarily mean that we
4 agree. Most of us have been sitting here for a really long
5 time. So I don't know, my feeling is is that if we have the
6 Department of State approval for that, because it's a fire
7 safety issue.

8 MR. WANG: Yeah.

9 MEMBER GOODSELL: Obviously you don't want your house
10 going up in flames when the fire pit gets out of control.

11 MR. WANG: Yeah, 100 percent.

12 CHAIRMAN MAMMINA: And that's a building department
13 issue, but the Department of State is there to do that test of
14 the balances. So from my perspective --

15 MEMBER HERNANDEZ: I'm looking -- I can't find how far
16 is the kitchen supposed to be?

17 MEMBER DONATELLI: So the kitchen is in the side yard.
18 So do you want to -- do you want to talk a little bit about
19 your swimming pool in the back of the house and why you need to
20 have a kitchen -- where the outdoor kitchen is located?

21 MR. WANG: Sure. So we actually brought this property
22 in April of 2021. When we bought the property there was a
23 preexisting swimming pool. In -- I forget what year, but it
24 was that year where we had the really bad storm and that
25 swimming pool actually -- it's a liner swimming pool and when
26 we bought it, the liner actually ripped and we never got a

1 Appeal #21521

2 chance to replace it and so when we had that really bad storm,
3 the entire swimming pool collapsed and then so I had to go
4 through the proper channels again to rebuild the swimming pool.
5 So that swimming pool is new, but it was built in the exact
6 same location as the previous swimming pool and so as I was
7 redoing the swimming pool, I, you know, was just redoing the
8 backyard. I wanted to build, like, an outdoor and that was the
9 only logical location to have an outdoor kitchen. I wasn't
10 aware of the side yard and backyard. To be honest, I don't
11 know what constitutes as a side yard verses a backyard. To me
12 it's all a backyard, but I understand there is probably, you
13 know, legal definitions of that.

14 MEMBER GOODSELL: If you weren't a corner property,
15 you'd be correct.

16 CHAIRMAN MAMMINA: And that has to do with a corner
17 property and many people don't realize that nuance is that when
18 you're a corner property, the building department has to decide
19 where your rear yard is and where your side yard is.

20 MR. WANG: I see.

21 CHAIRMAN MAMMINA: And in the Town of North Hempstead
22 and in other municipalities that I file applications in, the
23 shorter is the front yard and behind it is the -- is then the
24 rear yard and the other one becomes the side yard. So in your
25 case, where you have a hundred feet on Wood Place and you have
26 120 feet -- yeah, you have 120 feet, okay, on South, that then

1 Appeal #21521

2 becomes the -- the side yard.

3 MR. WANG: Interesting.

4 CHAIRMAN MAMMINA: When really for that corner
5 property, it's usually they're used in the way that they're
6 used and not unlike the previous application where corner lots
7 can end up with de minimus rear and side yards for recreation
8 reasons and in this case you have a good amount of space
9 anyway.

10 MR. WANG: Yeah.

11 CHAIRMAN MAMMINA: So that outdoor kitchen by the
12 zoning becomes too close to that side yard.

13 MR. WANG: Understood. It's actually funny because
14 it's counterintuitive, because South Drive is where my front
15 door is and you would think the front of my house and then that
16 would be the rear, but in this case it's not.

17 MEMBER HERNANDEZ: Right. It's not the front door,
18 it's the size of your property. So technically your house was
19 built sideways.

20 MR. WANG: Got it. Yeah. They should have probably
21 turned it 90 degrees or something.

22 MEMBER HERNANDEZ: They build it the best way they feel
23 they could get the space in, but that's not how the law reads.

24 MR. WANG: Yeah, got it. Understood.

25 MEMBER HERNANDEZ: Now although that you have a greater
26 space on what is considered your side yard. Okay. Where you

1 Appeal #21521

2 have your kitchen.

3 MR. WANG: Yeah.

4 MEMBER HERNANDEZ: And then smaller space where your
5 pool is, technically your pool is in your backyard, which is
6 why they allowed you to put it there, but your kitchen is not.

7 MR. WANG: Got it. I see. Understood.

8 MEMBER GOODSSELL: I'm sorry, Jay. Can you tell me a
9 little bit about your kitchen, because I see it marked on the
10 plans, but give me the size, give me the dimensions and tell me
11 what you're putting in.

12 MR. WANG: So it's already there. The kitchen just
13 comprises of a grill, I forget the size. I want to say it's
14 about 50 something inches and then there's a burner, like a
15 side burner on the side and that's it. There's no
16 refrigerator, there's no sink. It's kind of flush with, you
17 know, a granite counter top and stone paper construction.

18 MEMBER GOODSSELL: And is it gas?

19 MR. WANG: It is hooked up to gas, correct. And
20 there's you know, proper venting and things like that. So it
21 is hooked up to my gas line.

22 MEMBER GOODSSELL: And the fire pit, is that a gas fire
23 pit or wood burning?

24 MR. WANG: That is a wood burning fire pit.

25 CHAIRMAN MAMMINA: I have a very important question
26 regarding the barbecue.

1 Appeal #21521

2 MR. WANG: Sure.

3 CHAIRMAN MAMMINA: Because I have one like that. Have
4 you ever used that little burner, that side burner?

5 MR. WANG: I have not yet.

6 SECRETARY WAGNER: On the side of the barbecue? I use
7 it all the time.

8 CHAIRMAN MAMMINA: Your gas is hooked up to the house.
9 Mine it is not.

10 MR. WANG: It's propane, right?

11 CHAIRMAN MAMMINA: Yeah.

12 MR. WANG: It's gonna use it up fast. I fortunately
13 have the luxury so, you know, I only use it for cooking.

14 MEMBER HERNANDEZ: So although it's technically an
15 outdoor kitchen, it's really more just a barbecue?

16 MR. WANG: Yes, correct.

17 MEMBER HERNANDEZ: Very well. I'd like to put on the
18 record that there is one neighbor that had an objection to it.

19 MR. WANG: Okay.

20 MEMBER HERNANDEZ: It is the neighbor that is
21 diagonally behind you.

22 MR. WANG: Okay.

23 MEMBER HERNANDEZ: And her complaint was primarily
24 because of what you mentioned, which was the leak from your
25 pool.

26 MR. WANG: Oh, okay.

1 Appeal #21521

2 MEMBER HERNANDEZ: Basically that they already had an
3 incident because of something that happened with your pool.
4 This kitchen, although it is in your side yard, it is about as
5 far away from that particular house as it can be. So this
6 particular request for a variance would have, of the neighbor's
7 part, least impact on her or him. I don't know who it was, a
8 male or female. So although technically it is on the side
9 yard, it is the functional backyard of the house. So unless
10 anyone has any other comment, I move that we grant the
11 application for the fire pit, because it was already granted by
12 the state and on our own for the kitchen in the side yard.

13 CHAIRMAN MAMMINA: So we have a motion from Member
14 Hernandez. Do we have a second?

15 MEMBER GOODSSELL: I'll second.

16 CHAIRMAN MAMMINA: Second from Member Goodsell and,
17 Ms. Wagner, please poll the Board.

18 SECRETARY WAGNER: Member Goodsell?

19 MEMBER GOODSSELL: Aye.

20 SECRETARY WAGNER: Member Hernandez?

21 MEMBER HERNANDEZ: Aye.

22 SECRETARY WAGNER: Member Donatelli?

23 MEMBER DONATELLI: Aye.

24 SECRETARY WAGNER: Vice Chairman Francis?

25 VICE CHAIRMAN FRANCIS: Aye.

26 SECRETARY WAGNER: Chairman Mammmina?

1 Appeal #21523

2 CHAIRMAN MAMMINA: Aye. Application is granted.

3 MR. WANG: Thank you so much.

4 (A discussion was held off the record.)

5 SECRETARY WAGNER: Appeal Number 21523, Farley Kamhi;
6 135 Park Avenue in Carle Place; Section 9, Block 467, Lot 33 in
7 the Residence-B Zoning District. Variances from 70-100.2(M),
8 70-100.2(A) (2) and 70-100.2(A) (4), to construct and to legalize
9 fencing that is too tall and located within in a front yard and
10 to legalize an arbor that is too tall and too wide and located
11 within a front yard.

12 CHAIRMAN MAMMINA: You've heard Appeal Number 21523,
13 Farley Kamhi. Is there anyone in the room interested in the
14 application other than the applicant? Seeing no one. Please
15 give your name and address.

16 MR. TEUFEL: John Teufel, that's, T-E-U-F-E-L,
17 professional engineer at 707 Route 110, Farmingdale, New York.

18 CHAIRMAN MAMMINA: Back up just a little bit from the
19 microphone. In the music industry, Taylor Swift and I've been
20 together a long time. You're eating the microphone so just
21 back up a little bit.

22 MR. TEUFEL: Okay. Thanks. Oh, I see.

23 MEMBER HERNANDEZ: Much better.

24 MR. TEUFEL: Yeah. So I'm here with Mr. Farley Kamhi,
25 the owner of 135 Park Avenue, Carle Place. We're seeking
26 variances to maintain and move a four foot high slatted chain

1 Appeal #21523

2 link fence along Midtown Road southerly. In the southerly
3 direction. Move it one foot onto his property. Also maintain
4 a 34.8 foot long portion of the same four foot high slatted
5 chain link fence along Park Avenue and maintain a slightly
6 oversized arbor in that front yard of this corner property.
7 He's also seeking to maintain the same style four foot high
8 slatted chain link fence which extends 3.6 feet in the front of
9 the affective building line on the south side of the property
10 and runs in the east west direction. We'd also like to note
11 that although originally a six foot tall fence was requested,
12 we are actually now just seeking to maintain the four foot high
13 slatted chain link fence that's been there for over 20 years.

14 VICE CHAIRMAN FRANCIS: I'm sorry, did you say the
15 fence has been there for over 20 years?

16 MR. TEUFEL: Yes. Correct. The zone is Residence-B,
17 where arbors are required to be a maximum of eight feet in
18 height and we're requesting 8.75 for this existing arbor, which
19 is in excellent condition and it has a width of 5.31 feet,
20 where five feet is the maximum permitted by ordnance. The
21 arbor is about three feet from the main house and was installed
22 about five years ago. And as I said, it's in excellent
23 condition. The fence is, again, in very good condition. Like
24 we said over 20 years. It's been there over 20 years and its
25 had no complaints from the neighbors about the fence. It's
26 actually used for his dog. When -- when Mr. Kamhi's children

1 Appeal #21523

2 were young, that's when he put it up for a play area for the
3 kids. Now he uses it for their Maltese dog as a dog run and
4 that basically completes our case. So any questions?

5 MEMBER DONATELLI: Sorry to interrupt. I do have a
6 question. The Town of North Hempstead in the mid 90s. Do you
7 have any proof that the fence was in existence prior to the
8 enactment of the code?

9 CHAIRMAN MAMMINA: Maybe a survey?

10 MR. TEUFEL: I don't have any --

11 MEMBER GOODSSELL: A communion picture from somebody's
12 communion party or anything?

13 CHAIRMAN MAMMINA: Sir, you have to just put yourself
14 onto the record.

15 MR. KAMHI: I can certainly go into the archives and
16 find some pictures from the --

17 MEMBER GOODSSELL: Tell us your name and address.

18 MR. KAMHI: Oh, my name is Farley Kamhi, 135 Park
19 Avenue, Carl Place, New York.

20 MEMBER GOODSSELL: You're the owner?

21 MR. KAMHI: I am the owner, yes.

22 MEMBER GOODSSELL: And when did you buy the property.

23 MR. KAMHI: About 30 years ago.

24 MEMBER GOODSSELL: So the fence was not there when you
25 bought the property?

26 MR. KAMHI: The fence was not there when we bought the

1 Appeal #21523

2 property, no.

3 MEMBER GOODSSELL: We've had a fence, as the Chairman
4 mentioned, we have had fence requirements since '96.

5 MEMBER DONATELLI: Do you recall approximately when you
6 installed the fence?

7 MR. KAMHI: My son was born '94 so I'm gonna say it was
8 in '95.

9 VICE CHAIRMAN FRANCIS: Did you install the fence
10 yourself?

11 MR. KAMHI: No. A gentleman that -- that did a lot of
12 fences in the area did it.

13 VICE CHAIRMAN FRANCIS: Did he have a fencing company?

14 MR. KAMHI: I think he did it as a side job.

15 VICE CHAIRMAN FRANCIS: Yeah. It would be helpful if
16 you had some photographic evidence with regard to the year that
17 the fence was put up.

18 MEMBER GOODSSELL: No one would save a receipt unless
19 you're family is very good record keepers.

20 MR. KAMHI: My kids do complain about the records I
21 keep, but no, I don't have a receipt from, you know, '94.

22 MEMBER GOODSSELL: Mr. Francis is correct, because if
23 you predated the code, then we would permit you to place -- you
24 know, visually we can't tell how old the fence is. We can tell
25 it wasn't put up this year, but I looked at it and I haven't
26 seen one go up like this in a very long time. Although, my

1 Appeal #21523

2 neighbor had one and they ran the aluminum slats through and
3 eventually it became broken and chipped.

4 MR. KAMHI: The prior owner did have aluminum slats on
5 the other side. We didn't like the look of aluminum so we went
6 with the plastic slats. You know, I power wash it every year
7 to keep it in good shape.

8 CHAIRMAN MAMMINA: Did you say that your -- that your
9 oldest was born?

10 MR. KAMHI: No. No. My youngest. Steven was born in
11 '87 and Matt was born in '94.

12 MEMBER DONATELLI: Well, if -- if -- if you installed
13 it in 1995, then you would predate the code. So I guess my
14 question is, is there any -- anything that you can give us,
15 whether it's an affidavit from a neighbor, or a photograph, or
16 something. We're trying to help you here.

17 MEMBER GOODSELL: An old survey.

18 MR. KAMHI: No. The survey is new and that's what
19 caught this.

20 MEMBER HERNANDEZ: If you have any photographs of a
21 barbecue in the backyard. This is your backyard, right?

22 MR. KAMHI: Well, no it's actually, you know, the
23 discussion about corner lots and things. I guess technically
24 it's my second front yard.

25 MEMBER HERNANDEZ: Yes, it is. But you use it
26 functionally as your backyard.

1 Appeal #21523

2 MR. KAMHI: We had graduation parties with tents up
3 there, yes.

4 VICE CHAIRMAN FRANCIS: So just so you know, at it
5 stands right now, this is not something that we can grant.
6 It's in violation of the town code in terms of the fencing law.
7 So to the extent that you can convince us with documentary
8 evidence that this fence predates the code, that would help
9 your situation.

10 MR. KAMHI: I can probably ask my neighbor if he can
11 sign a letter.

12 MEMBER HERNANDEZ: And if you have photographs from a
13 graduation party or anything.

14 MR. KAMHI: Well, the graduation parties thought
15 wouldn't be from that -- I mean the kids were little at the
16 time.

17 VICE CHAIRMAN FRANCIS: As one Board member, your
18 neighbors affidavit really is not going to per sway me, because
19 I can get my neighbor to sign off on anything. We're good
20 neighbors. So that doesn't really -- that's not going to move
21 me. I need something that shows definitively that this fence
22 was in existence in 1995.

23 MR. KAMHI: I can look in old pictures and see.
24 Certainly the kids played there so there may be there are
25 pictures.

26 MEMBER GOODSSELL: Because if you had come to the

1 Appeal #21523

2 building department after 1997, they would have denied it. You
3 would have gotten a permit, you would still need a variance,
4 but the Board might not have given the size of the yard. They
5 might not have given you all the way out to the sidewalk. So
6 it would be important for you to dig deep, if possible.

7 MR. KAMHI: No, we did say we would move it in the foot
8 to get it off the lawn. We recognize we blew it there so.

9 MEMBER DONATELLI: Let me just add as one Board member,
10 I personally, with respect to the arbor being too tall, it's
11 .75 of a foot over and the width is .31 feet over. I -- I'm
12 less troubled by that.

13 MEMBER HERNANDEZ: Agreed.

14 VICE CHAIRMAN FRANCIS: Agreed.

15 MEMBER DONATELLI: Arbors tend to be big. But the
16 fence, I would really ask if --

17 MR. KAMHI: Let me ask my wife to look through the
18 pictures.

19 VICE CHAIRMAN FRANCIS: The fence is really substantial
20 -- would require a substantial variance. It's not something
21 that we normally do, unless you prove to us that there's
22 something unique about this fence. I don't know if we want to
23 run through the five factors now. Well, we probably should.

24 MEMBER GOODSELL: We probably should. We probably
25 should.

26 MR. TEUFEL: I'm familiar with those factors. I'll go

1 Appeal #21523

2 over them.

3 VICE CHAIRMAN FRANCIS: Yeah. Yeah. Yeah. So why
4 don't you do that now?

5 CHAIRMAN MAMMINA: I'm just curious what brings you
6 here today, was there a complaint from the neighbor?

7 MR. KAMHI: No. We had done construction and when we
8 went to get the first permit, they said by the way you have old
9 permits and one of them required that we get a survey of the
10 property. When they did the survey of the property, they said,
11 oh, by the way, you're fence is over the line.

12 CHAIRMAN MAMMINA: Yup. Got it. Okay. That's fine.

13 MR. KAMHI: It was kind of like a snowball affect here.

14 MEMBER GOODSELL: The general rule of thumb, which I'm
15 sure your attorney can tell you is, if it was legal when it
16 went it, then it's grandfathered in and it remains the code.
17 If it was not legal when it went it, I don't care if 100 years
18 passed, it's not grandfathered in. That is by the way, the
19 biggest arbor I've ever seen.

20 MR. KAMHI: You know, it was a kit, you know, that's
21 the way it came.

22 MEMBER GOODSELL: Are you training roses to grow?

23 MR. KAMHI: No. The problem is, that's a northeast
24 corner and that's why my wife wanted the arbor. She wanted
25 nice, you know, pretty flowers over it. I've spent hundred of
26 dollars on different plantings and they all die, because the

1 Appeal #21523

2 neighbor -- I guess if you have picture of it, you can see
3 there's a big bush to the left. Too much shade. I mean I've
4 tried rose bushes, I've tried special flowering bushes that are
5 supposed to be good in the shade, nothing takes and every year
6 my sons says well what are you gonna try this year, you know.

7 MEMBER GOODSSELL: Tell your son when you do find
8 something that works, you have to walk through the bees that
9 will eventually come and that's not fun either so it's very
10 pretty. I did notice the arbor, because it is the tallest
11 arbor I've ever seen on a residential property. Sorry.

12 MR. KAMHI: Again, that's what they installed. It --
13 you should see nice picture from the Christmas card when I have
14 it lit up. It's very nice.

15 CHAIRMAN MAMMINA: Let's do the five factor.

16 MEMBER GOODSSELL: Run through the five factors.

17 MR. TEUFEL: Yes. I think I saw them right over here.
18 One, undesirable change in the character of the neighborhood or
19 a detriment to the nearby properties. Well, as we discussed,
20 Mr. Kamhi has discussed it with his neighbors. They don't have
21 any problem with it. I think corner properties it's common
22 that people put fences, you know, even though it doesn't comply
23 with the code at any time, it's on a corner property and just
24 because you have that whole thing with the backyard being so
25 small.

26 VICE CHAIRMAN FRANCIS: Does it obstruct in any way

1 Appeal #21523

2 with regard to the traffic flow?

3 MR. TEUFEL: No, absolutely not. It's only, like, four
4 feet and it's 20 feet back from -- from Parkwood and -- and --
5 and -- and -- yeah. It's about 20 feet at least from the
6 corner. So I don't think there's any issue.

7 VICE CHAIRMAN FRANCIS: Okay.

8 MR. TEUFEL: You know, with the site lines. Whether
9 the benefit sought by the applicant can be achieved by a
10 feasible alternative. The -- the fence is there so, you know,
11 I guess it's an existing situation.

12 VICE CHAIRMAN FRANCIS: Well, not to cut you off, I
13 just want to make sure that the record is clear.

14 MR. TEUFEL: Sure.

15 VICE CHAIRMAN FRANCIS: In terms of alternatives, an
16 alternative would be to plant arborvitae or evergreen
17 plantings, something to that nature. Why couldn't that be
18 done?

19 MR. KAMHI: Well, that wouldn't work for a dog.

20 VICE CHAIRMAN FRANCIS: Move over.

21 MR. KAMHI: Sorry. An arborvitae or a planting isn't
22 going to keep a dog in the yard.

23 VICE CHAIRMAN FRANCIS: Okay. But --

24 CHAIRMAN MAMMINA: We'll admit that in my house. Okay.
25 I cheated it, but my arborvitae are 12 feet high and I did --
26 they sell, like, rabbit fences and they are very small, maybe

1 Appeal #21523

2 like a 12 gauge wire and I just pushed them into the
3 arborvitae. Otherwise, I understand what you're saying.

4 VICE CHAIRMAN FRANCIS: And quite frankly, the Chairman
5 and I both own dogs. But the fence ordinance has nothing to do
6 with dogs. So whether you have a dog or you don't have a dog,
7 you don't get a variance because you have a dog. Okay. Please
8 continue.

9 MEMBER HERNANDEZ: And the other corner properties in
10 your immediate neighbor, none of them have these fences to the
11 side.

12 MR. KAMHI: Oh, no, that's not true.

13 MEMBER GOODSELL: I did notice one about 10 houses
14 away.

15 MR. KAMHI: I was going to say actually both corners
16 from my house, both of them one is oriented in the same
17 direction but it's the opposite corner and one of them is the
18 same direction and they both have -- they actually have six
19 foot PVC fences.

20 MEMBER GOODSELL: So question, are they legal?

21 MR. KAMHI: I have no idea.

22 MEMBER GOODSELL: Well, it behooves the applicant to
23 check the -- if you're going to use them as examples, you have
24 to check the building department records to see if they are in
25 fact legal, because if they are not, you can't use them.

26 VICE CHAIRMAN FRANCIS: I would bet that they are not.

1 Appeal #21523

2 MEMBER GOODSELL: Yeah. Six foot --

3 MR. KAMHI: I was just answering your question.

4 CHAIRMAN MAMMINA: No. No. No. You answered fine. I
5 would say we're going to continue this and we continue to give
6 the benefit of doubt. You know, we all pay a ton of taxes, you
7 know, and we -- we're fair to everybody.

8 MR. KAMHI: Sure.

9 CHAIRMAN MAMMINA: But I look at it and I say, all
10 right, you know, the taxpayers are also the voters as well.
11 Not that they get a special consideration on something that of
12 course has impact and we are here to be the arborvitaes of what
13 the -- of what the building department denies. So photographs
14 of some other houses and arbors would complete your record. If
15 they have a permit or if they don't have a permit, you know,
16 that's easily investigated, you know, just because somebody
17 else puts up a fence without a permit, doesn't mean they are
18 okay either and I have seen a couple of times where then
19 everybody starts turning each other in and it kind of takes
20 it's own.

21 VICE CHAIRMAN FRANCIS: Yeah, why don't you finish with
22 the five factors.

23 MR. TEUFEL: Whether the requested variance is
24 substantial. Well, I guess we would say it is only a four foot
25 fence, which meets the code height wise, of course it is in the
26 front yard.

1 Appeal #21523

2 VICE CHAIRMAN FRANCIS: And the length of it is what?

3 MR. TEUFEL: I would say about 100 feet the total.

4 Length 30, 30 and maybe -- yeah, about 100 feet.

5 VICE CHAIRMAN FRANCIS: All right. So that would be
6 substantial.

7 MR. TEUFEL: Well, that is up to whatever the Board
8 decides of course. Of course. Would the variance have an
9 adverse impact of the physical environmental conditions in the
10 neighborhood. Well, we don't feel, you know, that's the case.
11 I mean it doesn't affect drainage and the air can go through
12 it, you know. So I really don't think that that would be an
13 issue frankly and finally, whether the alleged difficulty was
14 self created. Well, you know, the fence was installed by a
15 contractor. I think Mr. Kamhi relied on the contractor to meet
16 the town codes, which happens a lot and unfortunately the
17 contractor didn't. So, you know, that's why we're here today.

18 MEMBER GOODSSELL: If, in fact we're unable to -- your
19 client is unable to produce any kind of photograph or record
20 that this fence predates the code --

21 MR. TEUFEL: And that was 1995? I'm sorry, ma'am.

22 MEMBER GOODSSELL: Did he indicate that he was going to
23 move it back. It's 1.3 feet too far to the side.

24 MR. TEUFEL: Yeah. Absolutely. Yeah. On the north
25 side along Midtown. Yeah. The fence is over the property.
26 Absolutely it's going to be moved back the one foot.

1 Appeal #21523

2 MEMBER GOODSELL: Visually it doesn't look like it
3 because it's up to the sidewalk, but according to the survey it
4 does encroach.

5 MR. TEUFEL: Sure. And we know that happens all the
6 time.

7 CHAIRMAN MAMMINA: I'm not saying it's a magic trick,
8 but instead of pulling it back one foot, would you consider
9 pulling it back five feet and then plant evergreen in front of
10 that and the part of the fence that faces Park Avenue?

11 MR. KAMHI: Fine by me. I'd have to talk to the wife,
12 but yeah.

13 CHAIRMAN MAMMINA: I always have to talk to the wife.

14 MR. KAMHI: You know how that is.

15 CHAIRMAN MAMMINA: You know I make all the decisions.

16 MR. TEUFEL: We know that, Mr. Mammina.

17 CHAIRMAN MAMMINA: What suit and tie am I wearing
18 today. No, I pick all my own clothes.

19 MEMBER GOODSELL: Let's see if your client can come up
20 with some sort of photograph.

21 MR. KAMHI: I'll ask my wife. She's the keeper of the
22 photographs.

23 CHAIRMAN MAMMINA: And potentially the proposed
24 mitigation.

25 MEMBER DONATELLI: See if you can find some sort of
26 proof and if not, perhaps you can discuss with your wife a plan

Appeal #21523

1
2 B. The Town Board has decided it does not want fencing in
3 front yards so that's really why you're here for this variance.
4 If we can find proof that the fence preexisted the code, then
5 that's one possible resolution. If not, perhaps there is
6 some way that we can make this work by pulling it back and by
7 mitigating it, as the Chairman said, by plantings in front of
8 it so at least it's not as obvious and visible as it.

9 MR. KAMHI: Would you want the plantings --

10 MEMBER DONATELLI: Street side.

11 MR. KAMHI: Just on the Midtown side?

12 MEMBER DONATELLI: So that they cover the fence from
13 both streets, Park Avenue and Midtown.

14 VICE CHAIRMAN FRANCIS: Right. Right.

15 CHAIRMAN MAMMINA: And normally something like that is
16 four feet on center and it's not -- I'm not saying it doesn't
17 cost anything, you know. But, you know, if you find that when
18 it's done, most people will agree that yes, it does look
19 better. But -- and again, just and I know that Member
20 Donatelli said it, it's important to understand that the zoning
21 -- we don't create the zoning. Okay. We are here to decide --
22 we don't enforce to the building department. That's not --
23 that's not what we do either. We're here to do that balancing
24 test, you see the scales of justice except we're not
25 blindfolded. But that's what we do so. And every municipality
26 in the State of New York is required to have a Zoning Board as

1 Appeal #21523

2 a way of, you know, protecting the residents. So I think --

3 MEMBER GOODSELL: We have one other issue they have not
4 addressed. The fencing around the arbor, according to the
5 plans submitted to the BZA is six foot and that is a side yard
6 fence and in fact, it looks like the top of the lattice is over
7 six foot. I can't quite read it, but it looks like it's eight.
8 That's a height requirement for a side yard.

9 CHAIRMAN MAMMINA: That's actually the side yard, but
10 your point is still the same. Because you can't align -- it
11 has to align with the house, but the height is also too high.
12 It is six feet and I'll take you into my office and show you
13 how frustrated I get with people drawing on the computer now
14 and they don't really understand how to draw properly. So it
15 is eight foot nine to the top.

16 MEMBER GOODSELL: It is a six foot to the top of the
17 fence.

18 MR. TEUFEL: Yeah. Six feet to the top. A very small
19 segment of the fence, if I might point that out. As you can
20 see, it's really close to the property line there. The east
21 property line. So the total of a six foot fence there is
22 probably like maybe four feet or so. I didn't measure it, but
23 it's a very small segment.

24 MR. KAMHI: Yeah. That little segment fence, by the
25 way, is in front of a cellar staircase. So it just kind of
26 hides the cellar staircase.

1 Appeal #21523

2 CHAIRMAN MAMMINA: Yeah, I see that. All right. So I
3 think we will continue it. There's a little bit of homework,
4 you know, to do and I'm not saying it's the answer of the yes,
5 but if you're moving the fence any way, moving it back, you
6 know, a little bit further, you know, is -- is difference in
7 terms of -- of dollars and if you were to do that make, a trip
8 to Home Depot down Old Country Road, excuse me Jericho Turnpike
9 and you can plant them. Okay. Then if there's no other
10 questions --

11 MR. KAMHI: Sorry. Now I'm just a little confused on
12 what to do. Is it show pictures that it predates it or move
13 it?

14 CHAIRMAN MAMMINA: Nope. You present it however you
15 would like. I don't want to make us look overly important, but
16 we're in court now and, you know, you can present whatever you
17 would like. My suggestion, you know, would be try to find the
18 pictures and in the alternative.

19 MEMBER GOODSSELL: A picture of your son a sled in the
20 snow in 1990 with the fence in the background. You know how
21 your old children are and that we would accept your word for.
22 So it doesn't have to be all three of them standing in front of
23 the fence holding the date. Okay.

24 MR. TEUFEL: That would be photo shopped.

25 MEMBER GOODSSELL: Oh, in light of today's news and
26 yesterdays news, photo shopping is now a bad word.

1 Appeal #21524

2 MR. TEUFEL: Well, it's always bad.

3 VICE CHAIRMAN FRANCIS: Thank you very much.

4 CHAIRMAN MAMMINA: All right. So we will continue that
5 and --

6 SECRETARY WAGNER: You would submit that to the BZA
7 department. Any evidence of the age of the fence and then we
8 forward that to the Board.

9 MR. KAMHI: Okay. All right. Thank you.

10 MR. TEUFEL: Thank you. Thanks.

11 SECRETARY WAGNER: Next appeal, Appeal Number 21524,
12 Little Smiles; 110 Main Street, Port Washington; Section 5,
13 Block 81, Lot 4 in the Business-B and Residence-C Zoning
14 District. Conditional use 70-139.A (70-126.H), for commercial
15 parking in a residence district and variances from 70-103.A,
16 70-103.M, 70-196.A, 70-196.J(1)(d) and 70-203.G, to construct
17 alterations to convert office space to medical office space
18 with not enough parking on site, parking within a front yard,
19 too many wall signs on a wall, a wall sign that is in a
20 right-of-way, the reduction of a required landscape buffer and
21 the addition of parking in a landscaped buffer.

22 CHAIRMAN MAMMINA: You've heard Appeal Number 21524,
23 Little Smiles. Is there anyone in the room interested in the
24 application other than the applicant? Seeing -- seeing no one
25 and good morning Ms. Coschignano.

26 MS. COSCHIGNANO: Good morning. How are you? It's

1 Appeal #21524

2 still morning. Elisabetta Coschignano, Sahn, Ward, Braff,
3 Koblenz, Coschignano, 333 Earle Ovington Boulevard, Uniondale,
4 New York 11553 for the applicant this morning, 110 Main Street
5 PW LLC, Pergament Properties regarding Little Smiles. With me
6 today I have Scott Pergament of Pergament Properties, Chris
7 Robinson, Civil Engineer with R and M Engineering, he will go
8 over the site plan and he and Cody can discuss traffic and
9 parking also from R and M. As a matter of housekeeping, I have
10 some Green cards and envelopes that came back. We mailed the
11 rest earlier this week. We also followed the town's
12 requirements regarding the sign posting and that has been
13 uploaded with the appropriate affidavits. The application was
14 heard at the Nassau County Planning Commission on February
15 29th, who issued local determination. We also determination a
16 memorandum of law. However, I brought hard copies for the
17 Board because we inadvertently forgot to annex the exhibit. So
18 I'm going to hand this up. I'm going to hand up all the
19 exhibits now this way I could get it out of the way. These are
20 photos of the area and then this is just one copy of the prior
21 Board decision.

22 SECRETARY WAGNER: Okay. So we'll make the memorandum
23 Exhibit 1 and the photographs Exhibit 2 and then the prior
24 decision will be Exhibit 3.

25 MS. COSCHIGNANO: Thank you. The subject premises are
26 located at 110 Main Street, Port Washington and as you can see,

Appeal #21524

1
2 they are two separate parcels as shown on the site plan.
3 Parcel one consists of only parking and is known as Section 4,
4 Block 80, Lot 1 on the Nassau County Land and Tax Map. Parcel
5 two is the main building and related parking and known as
6 Section 5, Block 81, Lot 4, 5, 7, 8, 101, 102, 106, 201 and 301
7 on the Nassau County Land and Tax Map. And in total, they
8 comprise .96 acres. They're both located on the southerly side
9 of Main Street each abutting Bellview Avenue and I'm sure as
10 the Board knows, they're located along the commercial corridor
11 with both properties being split zoned in the BB Business
12 District and the RC Residence District. And the frontage is in
13 the business district and the rear of both is residence --
14 actually, parcel one is just a tiny corner of that parking lot
15 is in the Residence District and the rear of the southerly
16 portion of parcel two is mostly parking and that's what's in
17 the Residence-C Zone. They are bordered on the west by the
18 former multi cinemas. Beyond that there is a registered motor
19 vehicle retail and various commercial uses to the west. To the
20 east, again commercial and retail uses. There's a multifamily
21 building to the north, a museum and various dwellings which do
22 appear to be rental properties. The applicant purchased this
23 property in 2010. At that time it was used by JP Morgan Chase
24 as accessor to First Federal Loan and Savings. In fact, the
25 first application for variances was granted in 1961 to First
26 Federal and at the time of purchase, it was used by Chase as a

Appeal #21524

1
2 banking institution and then Sterling with a drive-thru, which
3 still exists today, but we are proposing to remove that
4 drive-thru as part of this application. Currently the bank is
5 no longer operating and there are medical and office uses in
6 the building. However, the applicant is here proposing to
7 convert some of their office space to accommodate Little
8 Smiles, which is a pediatric dentist. Premises received
9 various approvals over the years. In 1961, First Federal was
10 granted a variance to build a one story extension on the
11 premises at the rear exceeding lot coverage, rear yard variance
12 and elimination of a landscape buffer. At the time, they did
13 not have the back parcels which constitute the parking now. So
14 there was only a five yard setback, but the Board found that
15 there would be no practical purpose by not granting those
16 variances, that the development of the addition would not
17 interfere with any light and air for the neighboring buildings
18 and that the loss of parking was compensated by the acquisition
19 of the adjacent parcel. That being parcel one here for
20 accessory off street parking. It also appears at that time,
21 like I said, they had not acquired those southerly lots on
22 parcel two which consists of parking. So the Board's decision
23 in '61 basically says that Federal was busting at the seams and
24 needed additional space. So in 1977, First Federal went back,
25 they were granted variances for interior alterations to the
26 existing nonconforming building and in 1978, it appears they

Appeal #21524

1
2 had acquired all those rear and side parcels and proposed
3 parking in the greater residential district and an accessory,
4 what they called in their decision drive in, as they called it
5 back then, which also extended into the residential. Those
6 variances were granted and then my client purchased in 2010 and
7 in 2016, our client was also here with an application to
8 convert office space to medical space within sufficient
9 parking. At that time, 108 spaces were required and 59 were
10 provided. So at that time, the Board approved 59 spaces where
11 108 were required. Currently the bank is no longer operating
12 and there's no need for that existing ATM drive-thru structure.
13 So we are proposing to remove that entire structure to change
14 use for -- from office space to the dental space between -- and
15 currently between parcel one and parcel two, there are those 59
16 spaces. However, removing the ATM will allow them to
17 reconfigure and add an additional seven spaces so now they will
18 have 66 spaces. So as you can see from the photos, the
19 property is in very good condition and removing that ATM will
20 definitely improve the appearance and the variances we are
21 seeking are from section 70-103, 70-139 and 70-203, they all
22 related to parking and the conditional use permit to change the
23 use. The required parking for the current and proposed use at
24 the site is 117 spaces. The applicant would provide 66 and
25 just to note, since they had 59 where 108 were required, the
26 parking increases by nine spaces but we're mitigating that by

1 Appeal #21524

2 providing an additional seven spaces. So really between then
3 and now, we are just two spaces short of where we would be.
4 The change of use is very consistent with the prior variances.
5 The proposal adds one new parking space in the 25 foot setback
6 on the Residence-C portion of the premises and I know parking
7 already existed in the greater restricted district. As it
8 relates to parking, the landscape buffer will be decreased to
9 provide for the additional parking. However, the Board's
10 previous decision was granted under a previous version of the
11 code and permitted a no buffer zone. The nonconformity will
12 increase slightly but to provide for those additional parking
13 spaces. I'm going to call up Mr. Robinson in a few moments
14 from R and M who will go over the site plan details. The other
15 variance requests are from section 70-196 related to the
16 proposed sign, which I believe you have the photos of the
17 proposed sign. That sign is the second sign that will go on
18 this building and there will be no other signs in the future.
19 They expect there to be only two signs on the building. There
20 currently is one sign and this will be the second. It does
21 project three inches further into the main right of way beyond
22 the face of the preexisting nonconforming building and
23 currently is 3.2 feet into the right of way. So the building
24 will have a total of two signs.

25 At this point I'd like to call up Chris Robinson,
26 unless you have questions for me right now.

1 Appeal #21524

2 MEMBER DONATELLI: Just one question that comes to mind
3 right now. Will the building be fully occupied once it's up
4 and running?

5 MS. COSCHIGNANO: That's a good question. It will not.
6 There is remaining space that they have not yet leased. They
7 would like to lease it but they have not yet leased that space.
8 What's happened in the last five years, it's become very
9 difficult to lease general office space. So this building is
10 tending towards the medical. They do have a tutoring service
11 there. So the tutoring service is called Private Prep. So
12 they have that, they have Northwell and currently they also
13 have Primer Heart, which is a cardiology group. So those are
14 the current uses and there might be space for one additional
15 user. They are, you know, one or two additional users I should
16 say. They are looking but, you know, nothing is finalized at
17 this time.

18 MEMBER DONATELLI: So are you able -- if and when
19 Little Smiles comes in, are you able to estimate how much of
20 the premises will be occupied by the existing tenant of Little
21 Smiles and how much of the premises will still remain?

22 MS. COSCHIGNANO: Yes, and I'm sure Chris Robinson has
23 all the details on that as well.

24 MEMBER DONATELLI: Okay. That's great.

25 MR. ROBINSON: I'll answer your questions first. Chris
26 Robinson, by the way President of R and M Engineering, 50 Elm

1 Appeal #21524

2 Street, Huntington, New York. The balance of the bank space is
3 1,750 feet which is vacant and there's another, I think 1,300
4 feet in the balance of the building.

5 CHAIRMAN MAMMINA: 3,000 feet.

6 MR. ROBINSON: Roughly, yes. The main application
7 today will be the removal of part of the southerly buffer to
8 create parking. I don't know if you can hear me well, I'm sure
9 I can step over here.

10 CHAIRMAN MAMMINA: Yup.

11 MR. ROBINSON: We have a drive-thru building, which is
12 roughly 5.3 feet off the south property line here in the
13 southwest corner and there's currently a drive lane to que up
14 to that building to the ATM window, which varies anywhere from
15 10 to 16 feet off the southerly property line. Our proposal is
16 to take that building down and to add -- put a consist curb
17 line at seven feet off the rear property line and then augment
18 that buffer area with new deciduous trees and evergreens to
19 create a screen along the southerly --

20 CHAIRMAN MAMMINA: That's like 25 feet just the drive
21 aisles alone.

22 MR. ROBINSON: Yeah. The drive aisle.

23 CHAIRMAN MAMMINA: And the bypass.

24 MR. ROBINSON: And the bypass. Exactly. Yeah. It's
25 on the easterly end of it it's 10 feet off the property line,
26 as it approaches the building, the buffer widens up to 16 to

1 Appeal #21524

2 line up with the lane.

3 CHAIRMAN MAMMINA: Yup.

4 MR. ROBINSON: I think Elisabetta submitted some
5 photographs. I do have a series here of the buffer area in the
6 back. I'll point out the buffer area is pretty much devoid
7 vegetation, other than some substantial trees. It's just mulch
8 between the curb and the fence line. We're going to remove
9 some of those trees which would be impacted by the curb line
10 but then augment it all by adding in evergreen and deciduous
11 buffer in that location. Also, the current curb line that
12 divides that parking from the drive-thru lane, this area right
13 in here shown on the picture, right now is only a six inch
14 curb. So there's no buffer in there. We're going to add a
15 curb line on the south side of it to create a landscape buffer
16 there and in between we'll also put some planting in to try to
17 stagger it and make up some of the loss of the buffer to the
18 south. Again, we're increasing our parking demand by nine
19 spaces, increasing our provided parking by seven. I think it's
20 an overall improvement to the building and to the property. My
21 associate Keyan Cody will talk a little bit the parking
22 analysis that we've done and I'd be happy to answer any
23 questions the Board might have relative to the site.

24 CHAIRMAN MAMMINA: Any questions?

25 MEMBER GOODSSELL: No questions.

26 CHAIRMAN MAMMINA: Thank you, Mr. Robinson. Appreciate

1 Appeal #21524

2 it.

3 MR. CODY: Good morning, Chairman and Members of the
4 Board, Keyan Cody, Robinson and Muller Engineering, 50 Elm
5 Street in Huntington, New York. I'd just like to go through --
6 we submitted a parking analysis dated February 12, 2024 that
7 I'd just like to run through with you guys.

8 As it's been stated, the applicant is seeking to occupy
9 that 2,500 square feet of space in the building with a dental
10 office. The required parking for the site is 117 stalls where
11 we are providing 66, thus we have a variance for 51 stalls
12 which we are requesting.

13 CHAIRMAN MAMMINA: Just a tiny bit slower. Thank you.

14 MR. CODY: We performed observations in late October of
15 2023. The observations were performed on Thursday the 26th and
16 Saturday the 28th. Both these days we observed the site and
17 the surrounding area between 10 a.m. and six p.m. and we
18 encompassed the on street in the area, the onsite parking in
19 the two lots and then the municipal parking lot five which is
20 across the street, which includes a portion of metered shopper
21 parking. Based off our observations for the total studied
22 area, we found that the overall peak was experienced at 2:30 on
23 the weekday with 186 vehicles parked out of 296 total capacity
24 leaving 110 spaces vacant. I'd like to mainly focus though on
25 the 66 provided spaces rather than the surrounding area.
26 That's just to bolster the scope of the analysis is to provide

Appeal #21524

1
2 extra context for parking if it's ever needed. First I'd like
3 to dive into how much parking the site would require with the
4 occupancy of the 2,500 square feet with the dental space. The
5 utilized industry standard data in the form of statics obtained
6 by the Institute of Transportation Engineers, which is the
7 organization which compiles data based off different survey
8 planning codes and creates parking and traffic rates to
9 determine estimated parking demands and estimated trip
10 generation demands. For this site we used language code 720,
11 which applies to medical and dental offices. It -- essentially
12 for the 2,500 square feet for a weekday, we'd expect about 2.63
13 vehicles per 1,000 square feet, which leads us to about seven
14 vehicles parked for that use in particular. On site, based off
15 of our observations, we observed 32 vehicles, you know, out of
16 the 66 future spots that would be parked. In addition, there
17 is about 3,000 square feet of vacant space in the building just
18 to be conservative that it would be occupied with standard
19 office space, it's showing a little bit lower than a medical
20 office, about half the space per 1,000 square feet lower or
21 half the vehicle of 1,000 square feet lower and estimating that
22 3,000 or so square feet leads to another six vehicles parked.
23 So if the building were to be fully occupied with a medical
24 office then a normal office we would expect about 13 more
25 vehicles then what exists today during the weekday. Obviously
26 during the weekend we would expect it to be lower, because

Appeal #21524

1
2 offices tend to generate less on weekends. In total, the 32
3 vehicles plus the 13 brings us up to about 45 vehicles parked
4 out of the 66 spaces, which are going to be provided in the
5 future condition leaving us with a healthy, you know, about 20
6 spaces or so available in case it runs a little bit high. I'd
7 also like to point out across the street in municipal parking
8 lot 5, I think there's about 50 or 60 shopper parking spaces,
9 which you can, you know, park in these metered spaces if you
10 were coming in for an appointment and for whatever reason,
11 maybe the parking was a little bit too occupied, which I don't
12 think would actually happen. There are additional spaces. We
13 only found those spaces had about 20 vehicles during the peak
14 time. In addition, there's also an employee parking lot
15 located in Port Washington, which if needed, the applicant will
16 seek and get permits for their own employees thus reducing the
17 demand onsite parking. Like I said, we only expect 45 vehicles
18 out of the 66 spaces so we don't anticipate any of this.

19 Lastly, we did do a trip generation for this site as a whole if
20 it were to be fully occupied. Based off our trip generation
21 for the 9,000 or so square feet of medical and the remainder
22 general office resulted in a peak trip generation of 45 trips
23 per hour with 13 entering and 32 exiting. Keep in mind this is
24 for the whole site where the proposed medical office would only
25 count for a very small portion of that. Compared to a previous
26 bank, a bank that is much smaller than this would generate 100

1 Appeal #21524

2 trips in a peak hour, especially if it had a drive-thrus. So
3 from a traffic standpoint, it's also a very small impact.

4 If you have any questions, I'd be happy to answer them.
5 Thank you.

6 CHAIRMAN MAMMINA: Thank you.

7 MS. COSCHIGNANO: Okay. So, you know, to summarize, we
8 feel it's clearly in character with the neighborhood, its
9 existed for many years and we are not adding any new
10 structures, we are increasing the parking and removing the ATM,
11 which we feel is going to be an improvement to the site.
12 Considering the previous variances granted and the nature of
13 the area, we feel that -- and the parking that we are
14 increasing, we feel that it's not a substantial variance and
15 especially in this commercial area. At this point in time we
16 don't have an alternative. It's been very difficult to find
17 tenants like we said to occupy general office space. So we,
18 you know, we've had these medical users. We do have a tutoring
19 service, which is general office space but this would add a
20 dental user, which is medical. We don't feel there will be any
21 detrimental affect on the community, the premises are not
22 changing, but we do feel they are going to be improved with the
23 landscaping, the removal of the ATM and the additional parking.
24 We would also submit that it's not a self created variance. We
25 have no alternative but to request these variances. The
26 conversion of the building from general to medical has just

1 Appeal #21524

2 been, you know, common in the past few years. Not just here,
3 but in other, you know, municipalities as well and that's it
4 for me, unless you have any questions.

5 MEMBER GOODSSELL: I do have one question. Have any of
6 the tenants requested any of the parking spaces be specifically
7 designated for their business?

8 MS. COSCHIGNANO: No.

9 MEMBER DONATELLI: And will the spots be compliant in
10 terms of size?

11 MS. COSCHIGNANO: Yes, they are.

12 MEMBER DONATELLI: I guess as I look at the site plan,
13 the proposed site plan, I do have a question. I see where the
14 -- along Bellview Avenue where the ATM currently is.

15 MS. COSCHIGNANO: Yes.

16 MEMBER DONATELLI: Obviously you're going to -- you're
17 proposing to remove the ATM and we have an ingress from Bayview
18 and then you're going to keep that proposed curb line and make
19 it slightly wider. I guess my question is in terms of
20 circulation of cars in the parking area, it -- is it more
21 advantageous to keep that proposed curb line there then to
22 widen it or to somehow reconfigure the parking in some way
23 without that curb line?

24 MR. ROBINSON: You're talking about the curb line that
25 we're going to add to the south side of the island here?

26 MEMBER DONATELLI: Yes. Yes.

1 Appeal #21524

2 MR. ROBINSON: We prefer to put -- to add that extra
3 width there, because today the difference between the head in
4 parking against that curb and what's now the drive-thru lane is
5 only the width of a six inch curb and if someone were to pull
6 up to that curb, say they drive a suburban or really any SUV
7 today, the front bumper overhangs the curb. So I would rather
8 not have cars parked along that aisle where they could get hit
9 by the car that's pulling into the head in parking on the north
10 side. It'd be more preferable to create some overhang space
11 and landscape it and then have a clean drive aisle and then the
12 parallel parking along the south side. It just operationally
13 will work better. We left the driveway where it is now which
14 is currently the exit from the drive-thru lane as an entrance
15 only so you can turn in this way, parallel park on your right
16 and the main driveway that exists here remains two ways. So
17 you can circulate in, back out this way and there are currently
18 two exits through evergreen on the east side.

19 MEMBER DONATELLI: Thank you for that explanation.

20 That does make sense.

21 MEMBER HERNANDEZ: Because I was thinking the same way
22 he was thinking. My thought was, why did you not -- obviously
23 the least expensive way of configuring it is to just make
24 parking, but did you explore incorporating that space into the
25 main parking lot by removing that and see if it changed the
26 amount of spaces you could get out of it?

1 Appeal #21524

2 MR. ROBINSON: I probably did about 40 different
3 parking variations on the property trying to figure out ways to
4 make it work.

5 MEMBER HERNANDEZ: I just want to get it on the record.

6 MR. ROBINSON: Unfortunately the extra width is just
7 not enough to get a head in single loaded row. We've tried
8 different configurations. I tried making it all angled parking
9 and in the end, the seven parallel spots actually got me the
10 most amount of parking. It's simple, it's convenient and it
11 disturbs the least amount of land.

12 CHAIRMAN MAMMINA: That's why I had asked the question
13 about the width there and get that on the record that the 25 is
14 not going to do you a whole lot.

15 MR. ROBINSON: You're not going to get any more out of
16 that.

17 MEMBER DONATELLI: And the parking along that rear
18 area, the south side, the five -- proposed five yard setback.
19 That will be for employees?

20 MR. ROBINSON: I think it's open. I don't think we
21 have any restricted parking in there. The new parallel stalls
22 are all 10 by 23, you know, fully conforming spaces in there to
23 provide plenty of room to maneuver your vehicle around and the
24 buffer is seven feet from the curb line.

25 MEMBER DONATELLI: Any other questions? You guys okay
26 with this? All right. So, Mr. Chairman, I am very well

1 Appeal #21524

2 familiar with the premises. I've been going to the bank ever
3 since it was Washington Mutual and before that. I mean, all
4 sorts of -- that's right. And so I'm very familiar with the
5 premises. I've actually used the occasional park there. I
6 would also note for the record that as we know from other
7 applications that have come before us with a drive-thru where
8 there is some neighbor input, those are very difficult issues
9 to deal with. I do believe that having a five foot buffer with
10 parallel parking is bound to be less disruptive than having a
11 drive-thru area so close to the existing premises. So I would
12 also note that the spots are compliant. One moment, please.
13 So -- so I know in light of the prior grant variance for the
14 parking spots and in light of the fact that we are actually
15 adding parking spots here, I think that -- that we're certainly
16 not increasing the deficit of parking. I think if anything,
17 we're actually making the site a little bit more usable. We
18 are, of course, converting empty office into medical, but I
19 would note that that building now already is in part medical.
20 So it would actually make sense from a -- from a zoning board
21 review. I would also note that there is a fence that the
22 applicant has agreed to reduce and add some plantings as part
23 of the buffer. With respect to the signs, the building is a
24 prior nonconforming, that it actually projects onto the right
25 of way, which is part of the reason why the sign will project,
26 but in terms of height and in terms of size, the sign is

1 Appeal #21524

2 complaint. Yeah. Yeah. The proposed sign is 18 square feet
3 and it's approximately 12 feet in height. So the only reason
4 why they need a variance for that, is because it does encroach
5 but the building itself encroaches. So based on all of those
6 reasons, I make a motion that we grant the application.

7 CHAIRMAN MAMMINA: We have a motion by Mr. Donatelli.
8 Do we have a second?

9 MEMBER HERNANDEZ: Second.

10 CHAIRMAN MAMMINA: Seconded by Mr. Hernandez. Please
11 poll the Board.

12 SECRETARY WAGNER: Member Goodsell?

13 MEMBER GOODSSELL: Aye.

14 SECRETARY WAGNER: Member Hernandez?

15 MEMBER HERNANDEZ: Aye.

16 SECRETARY WAGNER: Member Donatelli?

17 MEMBER DONATELLI: Aye.

18 SECRETARY WAGNER: Vice Chairman Francis?

19 VICE CHAIRMAN FRANCIS: Aye.

20 SECRETARY WAGNER: Chairman Mammina?

21 CHAIRMAN MAMMINA: Before I vote aye, I'd just like to
22 add one thing to that. That drive-thru is hideous and --

23 MEMBER DONATELLI: As the architect on the Board.

24 CHAIRMAN MAMMINA: As the architect on the Board and
25 also the impact of the drive-thru to the neighbor next door,
26 aside from the aesthetics and as I said in the beginning we are

1 Appeal #21525

2 not an aesthetic board, but it's pretty much smack on the
3 property line and a drive-thru could be active 24 hours a day.
4 So I think that it takes that whole commercial part and just
5 eliminates it, you know, from those neighbors next door and
6 even for the neighbors across the street, just not having to
7 see that odd structure there, I think is also possible. So as
8 I said, I vote aye as well.

9 MS. COSCHIGNANO: Thank you.

10 CHAIRMAN MAMMINA: Thank you.

11 MS. COSCHIGNANO: Thank you very much.

12 (A discussion was held off the record.)

13 SECRETARY WAGNER: Next appeal, Appeal Number 21525,
14 Orlando's Deli (14-16-18 Port Washington Inc); 18 Main Street
15 in Port Washington; Section 5, Block 126, Lot 225 in the
16 Business-B Zoning District. Conditional use from 70-126.F, to
17 construct interior alterations to convert a space to a retail
18 food use.

19 CHAIRMAN MAMMINA: You've heard Appeal Number 21525,
20 Orlando's Deli. Is there anyone in the room who is interested
21 in the application other than the applicant? Seeing no one.
22 Please give your name and address.

23 MR. EDWARDS: Yes. Good morning, Mr. Chairman and
24 Members of the Board. For the record, my name is Wayne
25 Edwards, Sahn, Ward, 333 Earle Ovington Boulevard, Uniondale,
26 New York. I'm the attorney for the applicant Executive

Appeal #21525

1
2 Delicacy PW doing business as Orlando's Deli, who is a tenant
3 of the premises located at 18 Main Street in Port Washington.
4 18 Main Street is on the south side of Main Street, 203 feet
5 east of South Maryland Avenue. It is in a group of stores
6 known as 14-18 Main Street and is the middle store, and is
7 located in the Business-B District on the official Zoning Map
8 of the Town of North Hempstead. It was formerly used as a nail
9 salon day spa. The square footage of the store is 1,832 square
10 feet with 1,560 square feet in the basement used for storage
11 and mechanical space. The applicant submitted the building
12 permit for the alteration of the premises through the building
13 department of the Town of North Hempstead for the deli use in a
14 denial letter dated January 8, 2024 was issued which states
15 that under section 70-126.F, additional use retail grocery,
16 retail use or other stores primarily used for the selling of
17 food item and packaged goods in units of more than one person
18 for consumption requires a conditional use permit. That's why
19 we're here today. I've submitted the packet of exhibits.
20 Exhibit A is a Google photograph, which shows the location of
21 the building. You will note that behind the building is a
22 large municipal lot and the proposed deli can be accessed from
23 that lot. There currently is a steel door at the deli. That
24 will be changed when we do the alterations to a glass door and
25 it will make an inviting set up. The interior of the store has
26 also been set up so that you're not walking through the kitchen

Appeal #21525

1
2 or the mechanic or any other areas in terms of food
3 preparation. So you can use that parking lot to access the
4 deli right from there so you don't have to park on the street.
5 You might be familiar with Orlando's Deli. They're right down
6 the block right next to Starbucks. I submitted the picture of
7 the front of that store and also the menu of that store. It's
8 going to be basically the same menu. I've also included the
9 hours of operation. The hours of operation are basically --
10 let's see. Monday through Friday, six a.m. to six p.m.,
11 Saturday, seven a.m. to five p.m. and Sunday, seven a.m. to
12 three p.m. You know, as you learn your business district,
13 those hours might change, you know, might be different in
14 Manhasset verses Port Washington, but it will basically those
15 hours. Those are similar hours to the location they recently
16 opened in Bethpage. So they're expanding. I also included a
17 little about them. Its been there for 40 years Orlando's Deli
18 and the two operators have purchased it. They were employees
19 in 2018 and they've been operating obviously successfully since
20 they're expanding.

21 Pursuant to Section 70-225.B of the code, the Board
22 must consider in making -- granting a conditional use permit
23 with the purposes of zoning as set forth in the Town of North
24 Hempstead and the use permitted where the property is located
25 is in the Business-B Zone. Rather than go through all of them,
26 let's just say it's not going to affect the health, safety and

1 Appeal #21525

2 welfare of the community. It is a use that is common to
3 downtown business uses. Every downtown business use, whether
4 Manhasset, Port Washington or Carle Place has a local deli and
5 it's in a great location at the entrance from Port Washington
6 Boulevard onto Main Street. So it's a great location for that
7 and it should be something that's good for the community.
8 There are a lot of empty stores on Main Street so filling one
9 of those is great for the Town of North Hempstead, as well as
10 Port Washington. It will not affect any residential uses.
11 There's a big municipal lot as well, other business around
12 there so there's really no houses that are going to be
13 affected.

14 So on behalf of the applicant, unless you have any
15 questions, I request the Board to grant this. We do have
16 Roberto from the store if you have any questions regarding its
17 operation and we have the architect here as well.

18 MEMBER DONATELLI: I do have some questions as to the
19 outdoor seating. I think I saw two seats for outdoor seating.

20 MR. EDWARDS: I don't see outdoor seating on it, at
21 least on my plan. There are 10 seats in the store itself. Oh,
22 I see the two seats in the back. Yeah.

23 MEMBER DONATELLI: Yeah. Two seats in the back.

24 MR. EDWARDS: It's on A-1. A-1.

25 MEMBER DONATELLI: A-1. Okay. So is that area that is
26 specific to this premises?

1 Appeal #21525

2 MR. EDWARDS: It appears to be and if not, we will --
3 we will remove it if it's not.

4 MEMBER DONATELLI: So to my knowledge, that backs up to
5 the town parking. It that correct?

6 MR. EDWARDS: Yes.

7 MEMBER DONATELLI: Because we're -- we're -- we have in
8 some limited circumstances, allowed for outdoor seating.
9 However, I -- I guess my -- my one observation is I think it's
10 kind of strange to only have two seats out there, because then
11 you might -- if you're the only people who are sitting out
12 there, you might feel like well they didn't want me inside.
13 But secondly, I just -- I don't -- I don't know that that's
14 going to be something that is going to be of use if it's
15 fronting on parking lot. I don't know.

16 MR. EDWARDS: I don't think it's -- I really --
17 basically a deli to me is basically takeout. We do have some
18 seats, but if you're gonna use those two outside seats, you're
19 probably running, grabbing some lunch. You're a UPS driver or
20 somebody else sitting down, eating it and you're not looking
21 for -- for a view.

22 CHAIRMAN MAMMINA: The Board has been very careful
23 about granting outdoor seating, you know, for a number on
24 reasons. First of all, it has a magic way of just expanding.
25 You know, there are issues of paper plates blowing around and
26 trash, you know, that ends up out there. How is that handled

1 Appeal #21525

2 and also from a safety perspective, we have always required a
3 sufficient substantial barriers to any outdoor seating and I
4 don't know what that is. It doesn't look like there's a whole
5 lot of space back there, but there are concrete planters that
6 come up a good 30 inches high and filled with dirt and bolted
7 to the floor and --

8 MR. EDWARDS: We have a planter in front of those
9 seats.

10 CHAIRMAN MAMMINA: What is it though?

11 MR. EDWARDS: I have the architect here.

12 CHAIRMAN MAMMINA: There's not a lot of space there
13 with the seats in there.

14 MR. EDWARDS: We can also put bollards.

15 CHAIRMAN MAMMINA: Yeah. But just for me as one Board
16 member, I've just seen these things expand all over the place,
17 you know, and for -- for -- oh, I'd say at least half of the
18 time that I've been on the Board, which is now over 30 years,
19 you couldn't have them at all. I mean they were something that
20 was considered a use that was on there, but I don't know. I'm
21 familiar with Orlando's. Our Port member, I would -- I would
22 defer, you know, to -- to what his thoughts are regarding this.
23 He does serve a lot of Port Washington. I'm just a little
24 concerned, you know, about -- about, you know, that in there.
25 Also, when I look at the survey and I'm not sure of exactly
26 where that is, but there appear to be, like, cellar accesses or

1 Appeal #21525

2 something that are -- that are along that area in there, but I
3 -- the survey doesn't show the definition of, you know, of
4 anything else that's in there. So I'm just pointing that out
5 that I don't see anything shown on that brick paver area there.
6 So yeah, I mean if the architect wants to speak to that,
7 please.

8 MR. MONTAG: Good afternoon, Board. Arnold Montag,
9 architect.

10 CHAIRMAN MAMMINA: Just back up a little bit.

11 MR. MONTAG: Okay. Real quickly. It's not
12 detrimental. It's not a make it or break it for the deli. We
13 actually put that in there only because, you know, since Covid,
14 there are still many people who are not comfortable eating
15 indoors so we just said, hey, let's just provide this little,
16 you know, luxury really if somebody doesn't want to eat
17 indoors. But it's not going to, you know, it's a small
18 percentage of the whole business. It's not, like, an outdoor
19 seating restaurant that's going to lure customers in.

20 MEMBER HERNANDEZ: Can I ask a question. Given what
21 you just stated, you put it on the side that is four feet and
22 11 inches wide and substantially narrower than the ore side of
23 the sidewalk, which says that it's five feet five inches wide
24 and clearly wider.

25 MR. MONTAG: Let's see if we had any logic and if not,
26 maybe we're going to hire you.

1 Appeal #21525

2 MEMBER HERNANDEZ: I'm just curious if that's what you
3 did it for, I would have put it on the other side. Unless
4 there's something there blocking it.

5 MR. MONTAG: Right. It is skewed. You're right.

6 MEMBER HERNANDEZ: Yeah. The sidewalk was skewed and
7 not even and one side is wider.

8 MR. MONTAG: Oh, I do remember. There was a logic. We
9 actually had four. We had two and two and then the plan
10 examiner told us if we had four, I forgot what it was, but that
11 set something also.

12 SECRETARY WAGNER: You're only permitted 12 otherwise
13 it becomes an actual restaurant.

14 MR. MONTAG: Exactly. So that's where we eliminated,
15 but you are right. We should have eliminated from the other
16 side and if granted, we would switch it. So I like that.

17 CHAIRMAN MAMMINA: So what protection do we have? I
18 mean that's a fairly narrow --

19 MR. MONTAG: We have a concrete planter right in front
20 of the table.

21 CHAIRMAN MAMMINA: Do we have a drawing of the concrete
22 planter?

23 MR. MONTAG: No, but we could. We would have it all,
24 you know, rebarred, reinforced and all.

25 MEMBER DONATELLI: Well, you know, I -- I do not oppose
26 outdoor seating. It can be a nice amenity if there's some

1 Appeal #21525

2 definition to it. I'm mindful of a few instances where we've
3 done that. I think we have condition however some receptacles
4 for trash out there so as the Chairman said, we don't have, you
5 know, paper plates blowing, or lose materials, or blowing
6 laptops and iPads, you know. It -- it -- I don't have an
7 objection to it, but I would want to see a cross section of
8 that planter, because it does appear very very narrow and of
9 course somebody would have to squeeze by between the table and
10 the planters to get access there so. But I -- I do agree, you
11 know, when the students get out of class and want to go
12 somewhere, it's a nice amenity to have along Main Street and I
13 don't think that it would be incongruous with any of the
14 conditions. I guess my real question that comes up and I don't
15 any great concern inside the floor plan of the building. My
16 main concern is really with the safety of the outdoor seating.

17 CHAIRMAN MAMMINA: And I'll also would ask on the
18 survey, I can't -- I can't read it because it's too small,
19 there are two rectangles that are shown on each side in
20 approximately that area where that would be.

21 MR. MONTAG: No. That's just the existing chimneys.

22 CHAIRMAN MAMMINA: No. No. No. Not that. Not the
23 chimneys. Those are in the corner. Next to it there are three
24 chimneys.

25 MR. EDWARDS: I didn't see any. Mr. Chairman, I don't
26 think I saw anything there. I think that's just concrete

1 Appeal #21525

2 paths, whatever is there.

3 CHAIRMAN MAMMINA: Okay. I guess maybe along the --
4 whatever you're going to show for the -- it looks like it's got
5 a little wall of something on the side. I don't know.

6 MR. MONTAG: Mr. Mammina, can I show you a photo of
7 what's there?

8 CHAIRMAN MAMMINA: If you give us your phone it's ours.

9 MR. MONTAG: It's just a concrete path the way the
10 surveyor called it out. I guess for the -- it's just asphalt
11 verses concrete.

12 CHAIRMAN MAMMINA: So it's flat?

13 MR. MONTAG: Yeah. It's just a material difference.

14 CHAIRMAN MAMMINA: So one is not higher than the other,
15 not the end of the world to me.

16 MR. MONTAG: Yeah. If you'd like to see the photo.
17 You want to see the photo? It's flat.

18 CHAIRMAN MAMMINA: I take your word for it.

19 MEMBER GOODSELL: For me, the issue wouldn't be whether
20 I could sit outside or not sit outside. Obviously that area is
21 for people who want to eat and go back to work. For me, it's
22 whether I can pull up and get something. But if I can't pull
23 up, I'm going to bypass it and go and I've presumed that they
24 looked at that, because there's not much parking over there.
25 There's a few spots in front of Orlando's and then there's no
26 spots as you get to the corner. So I've presumed they looked

1 Appeal #21525

2 that this, but if you can't park, you're not going to stop.

3 MEMBER HERNANDEZ: There's parking in the back.

4 MEMBER GOODSSELL: If you know where it is. If you know
5 where it is.

6 MR. EDWARDS: You know, in all due respect is that
7 that's one of the great things about the deli. Like I've been
8 coming here for a number of years and I know where to park and
9 not where to park.

10 VICE CHAIRMAN FRANCIS: Right.

11 MR. EDWARDS: So you learn and I think, you know, if
12 you're coming into town for the first time, right, then you
13 might park in front and actually there's plenty of parking,
14 because a couple of stores are closed. But it's all local
15 knowledge and for a deli or anything else, it's all local
16 knowledge and that's why it's a great location. And one of the
17 things I'd like to point out and I know we're getting hung up
18 on this outdoor seating, but the back of that store is going
19 through -- and the back of the building basically is going
20 through an entire renovation with brick work and things like
21 that. So here's my suggestion. Okay. And we want to get
22 started with the work on this project as soon as possible and
23 so I don't want to get hung up on seating. If you grant the
24 seating, let us submit a cutout of the planter but make it to
25 the satisfaction of the of the building department so it acts
26 as a barrier for the two seats verses us coming back the

1 Appeal #21525

2 following couple of weeks.

3 VICE CHAIRMAN FRANCIS: Yeah.

4 CHAIRMAN MAMMINA: I wouldn't want that anyway, no.

5 MR. EDWARDS: So I'm assuming that we will get the
6 conditional use permit, but I don't want to get hung up on
7 seating. I don't want to throw the baby out of the bath water.
8 So I would say Mr. Montag will produce a cutout, produce the
9 location for the two seats and then it should be the
10 satisfaction of the building department to make sure that the
11 barriers sufficient and would stop any cars.

12 CHAIRMAN MAMMINA: I also think that a difference here,
13 you know, from potentially someone else coming in with
14 something else is that it's not set up like a sidewalk cafe,
15 which I think are very very nice and are all over Manhattan,
16 you know, but you don't have find a lot of that in
17 municipalities and villages, you know. So I think though as,
18 you know, we separate why as one and not the other, I think
19 that that's also important.

20 MR. EDWARDS: That would be my suggestion for the Board
21 if the Board grants it. Mr. Montag will draw something up to
22 the satisfaction. He knows what an acting barrier should be
23 regarding the safety of those two seats.

24 VICE CHAIRMAN FRANCIS: Sure. Sure.

25 MEMBER DONATELLI: Let me just complete the
26 conversation started by Member Goodsell, which is Port

1 Appeal #21525

2 Washington is actually blessed and cursed simultaneously having
3 a real downtown with real pedestrian traffic on real Main
4 Street and fortunately we are not quite as beholden to our
5 automobiles as other areas in town spread out. So I would -- I
6 would suggest that between the students, between the other
7 workers, you know, local knowledge is important I would note to
8 either have to pull around back. There was a pizzeria in the
9 adjacent space that had been there for some 30 or 40 years so
10 it can be made to work. So I think that the conditional use
11 permit is -- is -- that the applicant has proven us to the
12 conditional use, I suspect will work. And I think in terms of
13 deferring placing the condition that the applicant submit plans
14 through the building department for a safe planter to ensure
15 the safety of anyone seated there so subject to that condition
16 -- oh, sorry.

17 VICE CHAIRMAN FRANCIS: Before you get there, I just
18 have one question for the operator of the Manhasset Orlando's.
19 If you would join us at the podium.

20 MR. EDWARDS: He's not going to give you the secret
21 recipe.

22 VICE CHAIRMAN FRANCIS: Give your name and address.

23 MR. MARGARITA: Monroe Margarita, it's 42 Edgewood,
24 Port Washington, New York.

25 VICE CHAIRMAN FRANCIS: Almost every food use now
26 utilizes the food delivery services like Door Dash, is that

1 Appeal #21525

2 something that Orlando's does at Manhasset?

3 MR. MARGARITA: Yes. We do Uber Eats. We have online
4 orders.

5 VICE CHAIRMAN FRANCIS: And so that would be the same
6 in Port Washington?

7 MR. MARGARITA: Same thing. Yeah.

8 VICE CHAIRMAN FRANCIS: So one of the issues is where
9 controlling where they park when they picking up the store.
10 And, you know, Main Street is not the widest street in the
11 world. So if there's a way to control that so that the parking
12 happens in the parking lot and not on Main Street, I think that
13 would be --

14 MR. MARGARITA: Well, they can park in the back because
15 it's a big parking lot. It's in and out so.

16 VICE CHAIRMAN FRANCIS: So is there a way for you to
17 direct them going forward?

18 MR. MARGARITA: Yes. I can recommend them to go to the
19 back.

20 VICE CHAIRMAN FRANCIS: It's almost an unenforceable
21 condition, but I would like that to be a condition.

22 MEMBER DONATELLI: And I agree. I think that's well
23 put. You do not -- we don't want cars double parking or
24 stopping right on Main Street.

25 MR. MARGARITA: Of course not on Main Street.

26 MEMBER DONATELLI: That would be a disaster between

1 Appeal #21525

2 school time getting in and out, this and that. So what I would
3 suggest is, number one, making this our application to grant
4 subject to restaurant conditions. Number two, subject to any
5 food pick up or delivery service be in the rear of the
6 premises, not in the front of the premises. All right. So
7 subject to those conditions, we've got restaurant conditions,
8 we've got food delivery service accessing the premises through
9 the rear of the premises and subject to the applicant
10 submitting acceptable plans to the building department for the
11 -- the safety of any patrons who might be seated outside in the
12 vicinity of the planter.

13 MS. ALGIOS: And that's in satisfaction --

14 VICE CHAIRMAN FRANCIS: Exactly. So in addition to
15 Uber Eats parking in the back, all your food deliveries, all
16 your service that you get would also have to happen in the
17 back. Not double parked in the front of Main Street.

18 MR. MARGARITA: Okay. I'm going to make sure of that.

19 VICE CHAIRMAN FRANCIS: Thank you.

20 MEMBER DONATELLI: So subject to those conditions, I
21 make a motion we grant the application.

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

24 VICE CHAIRMAN FRANCIS: Second.

25 CHAIRMAN MAMMINA: Seconded. Motion by Member
26 Donatelli and Vice Chairman Francis. Please poll the Board.

1 Appeal #21526

2 SECRETARY WAGNER: Member Hernandez?

3 MEMBER HERNANDEZ: Aye.

4 SECRETARY WAGNER: Member Goodsell?

5 MEMBER GOODSSELL: Aye.

6 SECRETARY WAGNER: Member Donatelli?

7 MEMBER DONATELLI: Aye.

8 SECRETARY WAGNER: Vice Chairman Francis?

9 VICE CHAIRMAN FRANCIS: Aye.

10 SECRETARY WAGNER: Chairman Mammina?

11 CHAIRMAN MAMMINA: Aye. The application is granted

12 subject to the conditions put forward. So thank you.

13 MR. MARGARITA: Thank you very much.

14 MEMBER DONATELLI: Thank you.

15 SECRETARY WAGNER: For the record, indicate that Member

16 Goodsell --

17 MEMBER GOODSSELL: Mr. Chairman, I have a prior
18 engagement. I must leave. I'd like to stay, please don't take
19 this personally. I have a prior engagement and I will not be
20 here for this so thank you very much.

21 SECRETARY WAGNER: Appeal Number 21526, Greenvale
22 Realty Holdings, LLC; 13 Glen Cove Road, Greenvale; Section 7,
23 Block D, Lot 242 in the Business-B Zoning District. Variances
24 from 70-103(A) (1) and 70-103(F) (1), to legalize additions to a
25 commercial structure with not enough parking and not enough
26 loading zones.

1 Appeal #21526

2 CHAIRMAN MAMMINA: You had Appeal Number 21526,
3 Greenvale Realty Holdings, LLC. Is there anyone in the room
4 interested in the application other than the applicant? Seeing
5 no one. Good afternoon.

6 MR. SBARRO: Good after. My name is Gianni Sbarro, I'm
7 an attorney with Forchelli, Deegan Terrana, LLP with an office
8 at 333 Earle Ovington Boulevard, Uniondale, New York. Thank
9 you all for having us today. Here presenting with me is Sean
10 Mulryan, our traffic engineer and Sal Alesci, he's our owner
11 and applicant. The requested application is for the property
12 known as 13 Glen Cove Road in Greenvale located on the west
13 side of Glen Cove Road approximately 308 feet south of Northern
14 Boulevard. The property has a lot area of 6,044 square feet
15 and it's designated on the Nassau County Land and Tax Map as
16 Section 7, Block D, Lot 242. According to the town zoning map,
17 the property is located in the Business-B District. The
18 existing building on the property is currently vacant, but it
19 was formerly used as retail clothing store known as En-Toto
20 Couture. Mr. Alesci purchased the property on July 7, 2023 and
21 he is now seeking to maintain a one-story rear addition over
22 the rear entrance of the building and a second story addition,
23 which is a partial second floor in the front of the building.
24 Both additions were constructed long before Mr. Alesci
25 purchased the property so he's only seeking to legalize the
26 additions today. Mr. Alesci proposes to use approximately

1 Appeal #21526

2 3,073 square feet space on the first and second floors of the
3 building for its family owned and operated business New York
4 City Fireplaces and Outdoor Kitchens. Additionally, the
5 applicant proposes to use approximately 993 square feet of
6 space on the second floor of the building for office use. By
7 way of background, New York City Fireplaces and Outdoor Kitchen
8 sells, designs, builds and installs, as well as fixes
9 fireplaces and outdoor kitchens. The companies products range
10 from custom gas to electric and ethenol fireplaces. The
11 business also offers a full line of outdoor kitchens,
12 accessories, outdoor cabinetry, refrigeration, side burners and
13 pizza ovens. This will be a showroom and design only location,
14 as their warehouse is located in Maspeth, Queens. The majority
15 of the companies employees operate in or from the Maspeth
16 location and the maximum of two employees will be at the
17 Greenvale location on any given day.

18 I'd like to hand up just a flier to give you a little
19 bit of a better understanding of the business and what they
20 offer.

21 SECRETARY WAGNER: This will be Exhibit 1.

22 MEMBER DONATELLI: So sorry, Mr. Sbarro, not to
23 interrupt.

24 MR. SBARRO: Sure.

25 MEMBER DONATELLI: But this will be a showroom for just
26 potential purchasers. Will this by appointment or how will

1 Appeal #21526

2 that happen?

3 MR. SBARRO: Yes. So it's going to be by both. A good
4 portion of the business is by appointment. Occasionally will
5 have a walk-in, but that's fairly rare from Mr. Alesci's
6 business model. They, you know, they usually have somebody
7 call in, which I actually have in my presentation. They'll
8 have somebody typically call in, they will, you know, it's
9 basically inquire about the products, if they want to come in
10 and actually see the products they can set up an appointment
11 and then at that point they can, you know, browse and then
12 somebody will go out to the property, take the proper
13 measurements if the particular customer hasn't taken those
14 measurements already and then it will be delivered from the
15 Maspeth location.

16 MEMBER DONATELLI: And is there a showroom in the
17 Maspeth location?

18 MR. SBARRO: Yes, I believe so.

19 MEMBER DONATELLI: I don't mean to interrupt your flow
20 of your presentation, but these thoughts just came to my mind.

21 VICE CHAIRMAN FRANCIS: Just give your name and
22 address.

23 MR. ALESCI: My name is Sal Alesci, 13 Glen Cove Road.
24 Yes, we do have a showroom in Maspeth.

25 MEMBER DONATELLI: All right. Thank you. So please
26 continue.

1 Appeal #21526

2 MR. SBARRO: Thank you. So today the applicant is
3 seeking variances from section 70-103(A)(1) and 70-103(F)(1) of
4 the code for insufficient off street parking and insufficient
5 loading provisions. Pursuant to section 70-103(A)(1), all
6 offices other than medical, dental or similar offices are
7 required to have one off street parking space for each 200
8 square feet of floor area in excess of 1,000 square feet. And
9 then similarly, a retail storage is required to have one off
10 street parking space for each 300 square feet of floor area.
11 As such, 11 off street parking spaces are required for this
12 site. The existing parking lot on the property provides five
13 off street parking spaces, including one handicap accessible
14 parking space. So a variance for six off street parking spaces
15 is required. Notably, on April 12, 2000, under Appeal Number
16 16338, this Board granted a prior owner of the property a
17 variance from section 70-103 for a deficiency of four off
18 street parking spaces and a copy of that decision was
19 previously submitted with our application. Further, according
20 to section 70-130(F)(1), provisions for off street loading and
21 unloading must be made on the premises use for a business
22 purpose in the location that will not interfere with accessory
23 parking and means of ingress or egress. Pursuant to the notice
24 of disapproval dated January 5, 2024, one loading zone is
25 required here. Due to the size of the property and the desire
26 to maximize onsite parking, the applicant proposes no loading

1 Appeal #21526

2 zone on the property. So a variance from section 70-103(F) (1)
3 is also required. The parking onsite will be self policing, as
4 there is no on street parking permitted and no accessible place
5 for any overflow parking to go. Any deficiency will only
6 affect Mr. Alesci and his customers so there will be no impact
7 on the surrounding property owners. We are also aware that
8 there was one letter submitted from a property owner that will
9 be addressed. At the outset, I'd like to just introduce
10 Mr. Sean Mulryan so he can speak on his traffic engineer report
11 and again, he and I will both address that letter as well as
12 the five factors.

13 MR. MULRYAN: Good afternoon. Sean Mulryan, Mulryan
14 Engineering, 1225 Franklin Avenue in Garden City, New York.

15 The subject site is located on Glen Cove Road and I'm
16 sure anyone that lives in Nassau County has been on that road
17 at least once. We are located just south of Northern
18 Boulevard. That intersection is in the newspaper more than
19 once. It carries a few cars through it. This is a building,
20 according to the Nassau County plan -- Nassau County Tax
21 records, the building was built in 1918 so there are
22 difficulties on this site that are inherent to the site. This
23 is a unique property. The property that's -- the building that
24 sits on this property and the property to the south sit at what
25 I'll call the natural elevation of the property. Whereas, the
26 building to the north and the building to the south of those

1 Appeal #21526

2 two buildings. So there's a Wendy's directly to the north and
3 that's the property owner that submitted the letter and there's
4 a bank to the south. Those properties have been lowered. So
5 there are retaining walls on those properties and those
6 properties are flush with or at the same elevation relatively
7 speaking with Glen Cove Road. Our property is level with Glen
8 Cove Road and then inline up towards the rear parking lot. So
9 by the fact that there are retaining walls on the property to
10 the north, which is Wendy's that submitted the letter in
11 concern, there is a grade separation dividing those two
12 properties. The grade separation does not exist between this
13 property and the property to the west, which is a larger
14 shopping center which you can see in the aerial photograph to
15 your left, my right. However, there are fences separating this
16 property from the property to the west, the property to the
17 south and the property to the north, which is also at a
18 significant grade difference. The letter submitted by the
19 neighbor was a letter that references the concern of the
20 neighbor in will people use our parking lot to go to the site.
21 As Mr. Sbarro mentioned, this is a fireplace outdoor -- outdoor
22 kitchen facility. The materials that are on display in these
23 showrooms are large. Typically you'll have a fireplace built
24 into a mantel or a fomantel, if you will which is much bigger
25 than a dress or some other item that a retail store might sell.
26 So the square footage used for these displays is significant

Appeal #21526

1
2 relative to other retail uses. These are not things that you
3 purchase on a daily or weekly basis. It's something that you
4 might invest in for your home, you might look to redo your
5 backyard, but unless you move on a very regular basis, it's
6 something that you may or may not buy once or twice over some
7 long period of time. This site is confined to a small parking
8 lot. The applicant is aware of that. The applicant was aware
9 of that when they purchased the building. They will obviously
10 work with the neighbors in any capacity they can to make sure
11 that customers of theirs do not park on the adjoining lot. As
12 was mentioned earlier, this is typically by appointment.
13 Someone drives by and the hope is that being on a busy road, it
14 will draw eyes essentially to the website to bring traffic in
15 during those conversations. Come in, this is our driveway, we
16 have parking in the rear. The five parking spaces in the back
17 do not provide an area for loading. However, once the showroom
18 is set up, there will be no need for fresh deliveries as we had
19 in the deli application that proceeded us. So the showroom
20 will be set up, the displays might change from time to time,
21 but obviously as a business owner, they would look to remodel
22 or redo those displays in times when the store is not open or
23 when they are not busy or not taking appointments. So again,
24 there will be a low number of employees at the subject site.
25 They will park in the rear. The appointments will be managed
26 by the applicant. This is something that is somewhat of a

Appeal #21526

1
2 location that brings eyes to the website and speaking to other
3 applicants, that's something that is difficult to do. You have
4 a website, it's hard to draw traffic to that website,
5 especially when you're trying to draw traffic or business from
6 a certain area. The applicant does maintain an existing
7 business in Maspeth, Queens. That business is a showroom and
8 also adjacent to that is a construction office which is also
9 owned and operated by the applicant. That is where the
10 distribution, installation and other factors will take place.
11 So this is strictly a showroom for the sale of materials within
12 the building. And as stated earlier, some -- some customers
13 may come into the site, some may not. These are things that
14 you can look at, you can look at online. Pictures are worth a
15 thousand words as they say, but some people do like to come
16 into the store. I've been to Taylor's Hearth and Leisure,
17 which is on Hempstead Turnpike. They have a similar sales
18 model and when you walk in there, it's about 1,000 degrees
19 because all their fireplaces are on. But as you walk through
20 the store, essentially the wall is a collection of different
21 types of fixtures with different types of logs, or stones, or
22 different things that you might see at an office or at Wendy's
23 sometimes will have a stone fireplace, gas fireplace. That's
24 the type of material that's being sold here. We don't believe
25 that there will be an issue. I know that when this application
26 came before the Board 24 years ago, the owner of the Wendy's

1 Appeal #21526

2 also spoke at that time. I will reference the letter that was
3 submitted and specifically state that that letter does not
4 state that there is ongoing issues or that there were ongoing
5 issues over the last 24 years. It's just a cautionary please
6 pay us the kindness of reviewing this application and
7 considering our location. One of the other things referenced
8 in that letter is the use of the driveway next to the property.
9 This driveway is an exit only. It's signed as such. There are
10 two large do not enter signs located here. As I mentioned,
11 this roadway is somewhat busy so someone making a left turn
12 across that roadway is probably not very likely and it's also
13 probably not very likely that you'd make a left turn out of any
14 of these driveways. So we believe this is going to be right
15 turns in, right turns out. Low volume, low turnover and again,
16 the use of the space is for showroom area. So that's the sum
17 and substance of my report. If there's any questions, I'd be
18 happy to try to answer them.

19 VICE CHAIRMAN FRANCIS: You want to speak to the issue
20 of the loading zone or the lack thereof?

21 MR. MULRYAN: Yes. So again, the display is
22 essentially what would be loaded in or out of this is facility.
23 Once the display is set up, there is no real need based on the
24 business model for incoming deliveries of any kind.

25 VICE CHAIRMAN FRANCIS: So everything is really coming
26 out of the Maspeth location?

1 Appeal #21526

2 MR. MULRYAN: Absolutely. Absolutely. So if you look
3 online at the Maspeth location, it's an industrial area. They
4 have overhead doors underneath and again, there is a
5 construction or the installers are a separate company but under
6 the same ownership, next to that building. So the distribution
7 of product to and from would be out of Maspeth. So any
8 deliveries coming from suppliers would go to Maspeth and the
9 installers would then load them and bring them to customers
10 sites.

11 VICE CHAIRMAN FRANCIS: Yeah. I just wanted to get
12 that on the record.

13 MR. MULRYAN: Absolutely.

14 VICE CHAIRMAN FRANCIS: Thank you.

15 MR. MULRYAN: Thank you.

16 MR. SBARRO: Unless the Board has any other questions
17 regarding that particular letter, I'd just like to run through
18 the five factors.

19 VICE CHAIRMAN FRANCIS: I was just going to ask that
20 you do that so good.

21 MR. SBARRO: Sure. So starting with the requested
22 variances will neither create an undesirable change in the
23 character of the neighborhood nor a detriment to nearby
24 properties. As explained by Sean a bit earlier, the existing
25 off street parking is adequate to accommodate the proposed uses
26 onsite, including the additional floor area the applicant is

Appeal #21526

1
2 seeking to legalize today. That's without any negative impact
3 to the neighborhood or the community at large. Again, prior to
4 Mr. Alesci's purchase of the property, a retail dress store
5 occupied the building for over 20 years with no parking issues.
6 Mr. Alesci's business will operate very similarly to the prior
7 retail business, as a consider proportion of the business
8 consists of consultations over the phone and visits to the
9 showroom would be infrequent. Further, the absence of loading
10 provisions on the property will have no affect on nearby
11 properties, because a vast majority of the inventory, including
12 fireplaces, appliances, et cetera will be stored at a much
13 larger facility. Again, in Maspeth, Queens.

14 Secondly, the benefit can not be achieved by any method
15 feasible for the applicant to per sue other than obtain
16 variances today. Due to the location, size limitations of the
17 property, the applicant is not able to comply with the parking
18 requirements set forth in the code. The proposed parking areas
19 configured as efficiently as possibly in order to maximize the
20 number of parking spaces onsite. Again, Mr. Alesci is only
21 seeking to maintain the status quo on the property while
22 improving the interior and exterior aesthetics of the building
23 and bringing it up to code. Moreover, again, any loading or
24 unloading would be infrequent or outside of normal business
25 hours and can easily be accommodated by the existing parking
26 area on the property so there is no need for any parking --

1 Appeal #21526

2 excuse me, loading spaces here.

3 Third, while the requested variances may be numerically
4 substantial, substantiality must be viewed from the totality of
5 the circumstances, which plain figure granting a variance here
6 because there is no impact to the neighbors, the environment
7 nor the surround community. As previously mentioned, a
8 majority of the building will strictly be used as a showroom so
9 the applicant's business generates significantly less traffic
10 than other typical retail establishments contemplated in the
11 code. A large portion of the applicant's business takes place
12 remotely so there is generally very little walk-in traffic and
13 additionally, there's -- excuse me -- particular area is highly
14 commercial in nature and the only residential property is
15 within a 300 foot radius of the subject property are located on
16 the east side of Glen Cove Road and they are buffered by
17 numerous commercial establishments. So the granting of these
18 variances will have no impact on them either. Notably, the
19 subject property is not accessible from First Street, where the
20 nearest residential properties are located so it's also highly
21 unlikely that there will be any spillover parking in that area
22 as well.

23 Fourth, given the sites longstanding commercial status,
24 the proposed improvements will not have any physical or
25 environmental impacts on the surrounding area. Glen Cove Road
26 is recognized as one of the main thoroughfares for commercial

1 Appeal #21526

2 business in Nassau County and therefore there's -- excuse me --
3 similar businesses of this type of scale are located all
4 throughout the neighborhood. If approved, the applicant plans
5 to make all improvements in accordance with the town's
6 regulations to ensure the protection of the environment and the
7 surrounding community. And finally, while the Board may view
8 the alleged difficulty as being self created, it should be not
9 dispositive in your decision because the benefits of these
10 variances being granted to the applicant significantly outweigh
11 any detriment to the health, safety and welfare of the
12 neighborhood and the community. Therefore, we respectfully
13 request that the variances be granted today.

14 CHAIRMAN MAMMINA: Just one thing that'll I'll add in
15 terms of the work done. I remember that application that they
16 came in for originally however long ago that was and I don't
17 even remember the issues where that front part had to stay open
18 and they made very high end wedding gowns there, if I remember
19 correctly. And they agreed to limit the size and I do remember
20 saying in my own mind, they're going to fill that in as soon as
21 they get that work done and I saw them filling it in and I said
22 I'm not the zoning police, you know, and so yes, I do know for
23 sure that that was filled in before your client rented --
24 rented the property.

25 MR. SBARRO: It was probably very shortly after the
26 approval came in 2000.

1 Appeal #21526

2 CHAIRMAN MAMMINA: Right.

3 MR. SBARRO: But again, just to reassure you, this use
4 is actually even more benign than that dress use was. You
5 know, I believe they actually sold product out of that
6 location. Mr. Alesci's use is primarily gonna be sold out of
7 the Maspeth location.

8 CHAIRMAN MAMMINA: I do have familiarity with these
9 types of stores having done one in my -- in my house and, you
10 know, truly the place where we looked at it was nothing more
11 than a showroom and I never even thought about where it came
12 from. It didn't matter one bit, you know, to me. I went to
13 Mineola as well and the whole place is just filled with that
14 and again, I didn't see any evidence of gigantic stockrooms and
15 things. Ones in Westbury, one was in Mineola and very benign.

16 VICE CHAIRMAN FRANCIS: Well, Mr. Chairman, I -- I
17 think that, as been pointed out, this is a fairly adequate use
18 for this -- for this area so I would move that we grant the
19 application.

20 CHAIRMAN MAMMINA: We have a motion from Vice Chairman
21 Francis and do we have a second?

22 MEMBER HERNANDEZ: Second.

23 CHAIRMAN MAMMINA: Second from Member Hernandez.
24 Please poll the Board.

25 SECRETARY WAGNER: Member Donatelli?

26 MEMBER DONATELLI: Aye.

Proceedings

1
2 SECRETARY WAGNER: Member Hernandez?
3 MEMBER HERNANDEZ: Aye.
4 SECRETARY WAGNER: Vice Chairman Francis?
5 VICE CHAIRMAN FRANCIS: Aye.
6 SECRETARY WAGNER: Chairman Mammina?
7 CHAIRMAN MAMMINA: Aye. Application is granted.
8 MR. SBARRO: Thank you all so much. You have a good
9 day.
10 VICE CHAIRMAN FRANCIS: Good luck.
11 MEMBER HERNANDEZ: Good luck.
12 VICE CHAIRMAN FRANCIS: I move that we adopt SEQRA. Do
13 we have a second?
14 MEMBER HERNANDEZ: All in favor? Aye.
15 MEMBER DONATELLI: Aye.
16 VICE CHAIRMAN FRANCIS: Aye.
17 CHAIRMAN MAMMINA: Aye.
18 SECRETARY WAGNER: So SEQRA is adopted and all in
19 favor.
20 VICE CHAIRMAN FRANCIS: Yes.
21 (TIME NOTED: 12:26 p.m.)
22
23
24
25
26

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

I, NICOLE L. BASILE, a Notary Public within and for the State of New York do hereby certify that the foregoing proceeding was taken before me on the 20th day of March, 2024. The said testimony was taken stenographically by myself and then transcribed. The within transcript is a true record of the said testimony.

I am not connected by blood or marriage with any of the said parties, nor interested directly or indirectly in the matter in controversy, nor am I in the employ of any of the counsel.

IN WITNESS WHEREOF I have hereunto set my hand this 24th day of April, 2024.



NICOLE L. BASILE