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TOWN OF NORTH HEMPSTEAD
BOARD OF ZONING APPEALS
PUBLIC HEARINGS

Wednesday
April 3, 2024
10:26 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

Proceedings

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CHAIRMAN MAMMINA: Okay. If everyone would please rise and join Vice Chairman Francis in the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was said.)

CHAIRMAN MAMMINA: Good morning, everyone. It looks like everyone got here reasonably dry. Welcome to the Town of North Hempstead Zoning Board of Appeals and good to see you all. And what I like to do is just go through a little bit of how we conduct things in the town, in case you've never appeared before a zoning board before, where I'll tell you just be calm and relax. I know how difficult that could be. Or if you have been before other zoning boards, we may do things a little bit differently here. But what we will do is, as each case is called by our secretary, she will -- I will then call that case as well and I will ask if there's anyone who here is in favor -- I ask if there is anyone who wishes to speak and whether that's in favor or in opposition, that's fine. Just put your hand up so that the Board knows that someone needs to be recognized. So the applicant will then put their name and address on -- on the record here and they then have the podium. They will make their presentation, the Board will ask whatever questions that we may see fit, they will answer those questions and then if there are others who wish to speak, they will then be invited up one at a time. Guys, we're going to ask for zero, please and that's okay. I didn't get up to that part yet. But -- so if there is no one who wishes to speak, then

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2 essentially the hearing is done and the Board will do one of
3 four things. We will either approve the application, deny the
4 application, we may reserve the application, which basically
5 means that there is no additional information that the Board
6 needs at all from the applicant and as I explain the last part,
7 if we should continue, you will understand that better. If we
8 continue the application, that could be for any number of
9 reasons. There might be a document that we want to get from
10 the building department, there may be, you know, a piece of
11 paper from your closing or, you know, an older document and so,
12 you know, that kind of goes on a two way road on that. And
13 almost never do we ever have a second hearing. So you're
14 generally done, you know, today in terms of having to come
15 back, even if we give information back and forth. The
16 information is still all public record and, you know, anybody
17 come in and they can review that and, you know, we deliberate
18 in person. We are on TV now so make sure your hairs combed.
19 And so everything that we do is, you know, done in accordance
20 with the sunshine laws as they are -- as they are called. If
21 we were to reserve or continue, then, you know, we -- we may
22 make -- we may make a decision that same day or, you know, if
23 there is other things that need to be submitted, you know,
24 you'll bring those into Virginia and, you know, she'll
25 distribute those then to the Board accordingly and then if you
26 want to know the status of your application, you can call the

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zoning office and everybody is very, very nice up there.

So with that all of that said, in terms of, you know, today, what we will ask is, I mean as you all saw, we all go crazy with our electronic devices. Now so we just ask that you put them onto mute. You don't have to turn them off. If you should get a phone call or take a -- or you need to make a phone call, you just need to step up out and that's okay. It doesn't matter. At any point, we just ask that you don't walk in front of the person that's at the podium and again, that's fine. And the other thing that -- that we will ask, again, is we ask for everything to be turned off, because, you know, we have a legal record that's being taken of the proceeding, you know, plus also it's difficult to, you know, to hear up there or even down there if there's cross talk. The other thing that we will let you know is that if there is anyone who wishes to speak, either in favor or oppose to an application, that's limited to three minutes and what I -- what I like to say is we don't chop anybody's head off at three minutes. You know, we've got a relatively small group today. When there's a larger group and there are literally 20 people who want to speak, you know, it becomes cumbersome so that's the reason for the three minute limitation. If there is someone who is coming to join you, we just ask that you give them that same information.

So did I cover everything? I think so. Okay. So with

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2 that said, Ms. Wagner, would you please call the first case.

3 SECRETARY WAGNER: Appeal number 21526, Brian Sapanski;
4 23 Sutton Hill Lane, New Hyde Park; Section 8, Block 268, Lot
5 27 in the Residence-A Zoning District. Variance from 70-29.B,
6 to construct additions that would make the home too big.

7 CHAIRMAN MAMMINA: You've heard Appeal Number 21526, is
8 there anyone in the room who wishes to speak regarding the
9 application other than the applicant? Seeing no one. Please
10 give your -- or the applicants. Please give your name and
11 address.

12 MR. COHEN: Sure. William J. Cohen, AIA. I am the
13 architect of record for the project. My address is 5512
14 Merrick Road, Massapequa, New York.

15 CHAIRMAN MAMMINA: Good morning.

16 MR. COHEN: Good morning, Mr. Chairman, Members of the
17 Board. Thank you for allowing us to present to today. I am
18 representing Mr. and Mrs. Brian Sapanski at 23 Sutton Hill Lane
19 in New Hyde Park. I am joined here today with Mrs. Brian
20 Sapanski and she will have a few words to share.

21 CHAIRMAN MAMMINA: I saw her nodding her head through
22 the whole thing. I was taught a long time ago that if I'm
23 making a presentation before a client, look for who is nodding
24 their head, because that means they're listening so then direct
25 that presentation toward them.

26 MS. SAPANSKI: That's the school teacher in me.

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2 MR. COHEN: I was going to say as a school teacher
3 she's a rule follower so.

4 Thank you again for allowing us to present today.
5 Bottom line, Mr. and Mrs. Sapanski own a split level home on
6 Sutton Hill. It is on a cul-de-sac. So the fact that it's on
7 a cul-de-sac has its own intricacies and restrictions that
8 prevent you from expanding in certain directions. Their goal
9 here as per the drawings that we have prepared and presents and
10 submitted, we are looking to add a -- it's a split level so we
11 are looking to add a second floor addition over the existing
12 living, dining, kitchen area as well as a small bump out in the
13 rear for the kitchen. The reason or rational behind this
14 addition, Mr. and Mrs. Sapanski have a family now that they
15 didn't have when they first bought the home. One of their
16 children in particular has some special needs and due to that
17 situation, they need a safe and warm environment for that child
18 to be able to receive therapy and play, and be in an
19 environment there is suitable. There is a small basement being
20 a split level home under the kitchen and dining area.
21 However, being the lowest house on the street, significantly
22 lower, they've had a tremendous amount of water issues and
23 other problems that prevent them from utilizing that space
24 appropriately for their child. The fact that they're looking
25 to do this second floor addition on this split is very
26 consistent with the community, the things you find in the

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2 neighborhood. The reason for us coming into today has to do
3 with a four percent increase or overage on the GFA with ratios,
4 which forces us into a variance situation and why we're here.
5 As far as the overall appearance as for our plans, it's very
6 consistent with other homes in the neighborhood. As a matter
7 of fact, topping of at about 3,100 square feet, it's one of the
8 smaller houses in this area. There is no detriment to any
9 neighboring homes. Once again, very consistent with other
10 houses in the area. As a matter of fact, in the immediate
11 neighborhood there was six other variances that have been
12 granted in recent times for similar overages comparable to this
13 one. So once again, coming to the Board and presenting what we
14 have submitted, we feel it's very consistent. It's not overly
15 ambitious and we hope to get relief from the Board and allow
16 them to move forward with the project.

17 CHAIRMAN MAMMINA: The other homes that have received
18 variances, do you have information as to how big their lots
19 were compared to how big their --

20 MR. COHEN: I have a list. Hold on a second. Here we
21 go. I can actually pass this off to you and submit it as
22 evidence.

23 SECRETARY WAGNER: We have that.

24 CHAIRMAN MAMMINA: Yeah, no, we're interested in the
25 size of the lot, because the size of the lot directly drives
26 how big a building you're allowed to build.

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2 MR. COHEN: Understood. Understood.

3 MEMBER GOODSSELL: For example, Mr. Cohen, I'm sure you
4 know this, but this is an unusual shape piece of property.

5 MR. COHEN: It is.

6 MEMBER GOODSSELL: How many of these variances that were
7 granted are on a similar shape properties, similar setbacks --

8 MR. COHEN: Understood.

9 MEMBER GOODSSELL: The numbers are interesting.

10 MR. COHEN: Right.

11 MEMBER GOODSSELL: But whether they are directly
12 comparable to your client's application isn't really --

13 MR. COHEN: Understood. I appreciate that. I don't
14 have that information offhand. On hand I should say.

15 MEMBER GOODSSELL: What you're asking to do is go and
16 look up each one of these and do our own comparison. That's a
17 lot of work.

18 MR. COHEN: I offer the opportunity for you if you
19 wish, but I'm just trying to show some precedent. That's all.

20 CHAIRMAN MAMMINA: But I guess just a, you know,
21 question that I have in -- in looking at this, you know, is as
22 an architect I do work with several nonforprofit groups and
23 things where, you know, we have typically children who are --
24 are challenged and, you know, so not only are we just
25 sympathetic to it, I think we all are, but we also have a job
26 to do in that -- in that way. It's a very large space. I

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mean it's -- it's pretty much almost the size of the -- of the

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rest of the second floor, you know. I know it has a three

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fixture bathroom, but then it's got a walk-in closet and also

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as I look at it, which just strikes me as an architect, is as

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you go up the steps and there's no landing at the top of that

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steps. So if we have someone who is visually impaired, you

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know, they're going to be standing on that lower step trying to

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find where the doorknob is. So I don't know or maybe you

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can --

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MR. COHEN: Sure. I can comment on that. First of

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all, the child will not be unsupervised. He receives therapy

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which Ms. Sapanski can talk further on that topic. But the

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reason for the bathroom, again, he's got some special needs and

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we're trying to accommodate the child in the existing home they

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have without having to move.

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CHAIRMAN MAMMINA: And we always try to do that as

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well.

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MR. COHEN: Right. Again, overall we're looking --

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CHAIRMAN MAMMINA: The three fixture bathroom and maybe

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we should ask Ms. Sapanski.

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MR. COHEN: Sure.

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CHAIRMAN MAMMINA: And then the size of the walk-in

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closet.

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MR. COHEN: That's not for clothing by the way. That's

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purely for therapeutic items let's just say.

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2 CHAIRMAN MAMMINA: Because it's drawn as a closet with
3 hanging rods and so I look at it and it says WIC. That means
4 walk-in closet.

5 MR. COHEN: Right. Right. It's more or less for
6 therapy related items let's just say.

7 CHAIRMAN MAMMINA: I'm curious about that only because
8 I also have -- my daughter is a special needs teacher and we
9 talk about, you know, these things a lot as it relates to me as
10 an architect and to her, you know, as a -- as a professional.
11 You know, and I guess just my perspective would be that with
12 the amount of space we have, you know, up there which, again,
13 is probably more than two-thirds the size of the entire second
14 floor now, would that equipment -- wouldn't that be left out to
15 work with or it doesn't even seem that that space would even
16 relate to how big the rest of the space is.

17 MR. COHEN: Right. Why don't we do this, why don't we
18 can bring Ms. Sapanski up and she could comment as to their
19 particular needs if that's okay.

20 CHAIRMAN MAMMINA: Sure. Remember the size of the lots
21 on the other properties.

22 MR. COHEN: I'm sorry?

23 CHAIRMAN MAMMINA: Remember the lots on the other
24 properties, because that will be key to --

25 MR. COHEN: Understood.

26 CHAIRMAN MAMMINA: Key to when the -- when we are

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making a decision.

MR. COHEN: Understood. Thank you.

MS. SAPANSKI: Hello. I'm Elana Sapanski. How is everyone doing today? I have a little laryngitis, so I apologize.

MEMBER GOODSELL: Put your address on the record.

MS. SAPANSKI: Sure. We reside at 23 Sutton Hill Lane.

CHAIRMAN MAMMINA: Back up one little bit.

MS. SAPANSKI: Better? Okay. I'm probably even better without it. But we are 23 Sutton Hill Lane in Manhasset Hills 11040. I do have an appeal statement to share, but it seems like I might be best kind of going rouge and maybe answering some of your questions that you have to date. So my husband did do a lot of driving around the community looking for square footage of homes, looking for GFAs, I've been to the Town Board directly downstairs across the street looking for all the GFAs, looking for foil, getting information, I'm looking at lot sizes and again, a lot of the homes in our area are rather big, rather large and we are just looking for a safe area for our son. Unfortunately our basement does significantly flood I'd say with every major rainstorm and even with just little rainstorms. We're getting a lot of water in the basement area, we're getting a lot of water even in our first floor area. So he has chronic lung disease and the water will rise up in our vents almost touching our carpet at times. My husband will be

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outside redirecting gutters to just help the water flow away from our property. We put a brand new retaining wall to hopefully redirect some of the water that has been causing some of the water damage. We've waterproofed the basement. So we really just have a first floor home that is just not great for a special needs child who one is legally blind and also has chronic lung issues. So unfortunately with chronic lung issues, when you have a lot of severe water damage, it creates a lot of mold and mildew. So our first thing is, you know, how can we go up to maybe make some sort of a bigger space where he can run around and play with his twin sister. Unfortunately they were both born extremely premature at 24 weeks. They were in the hospital for three months and six months. They were in the NICU at North Shore University Hospital, they were in Wiesel Children's Hospital and we absolutely love our community that we're in. We're so blessed to be so close to the hospitals. I think as a mom, that's my biggest, biggest blessing is being so close to the hospitals that our --

MEMBER GOODSSELL: How old are the children now?

MS. SAPANSKI: They're currently seven. And I think our next biggest blessing is being a part of the Herricks School District. I am special education teacher myself and I can speak for their special education department and the services that our children are currently getting and they are outstanding. My husband and I have looked near and far on Long

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2 Island, because again, we really want space, we want big
3 property, we have to have that sprawling backyard on a few
4 acres with a big backyard, a big home and the one thing that's
5 keeping us here on Long Island, especially in our community is
6 Herricks. So I think if we could really minimize -- maximize
7 what we can do with our home, that is what we're looking to
8 today and really just give our child what, you know, just a
9 really safe space in our home that allows us to say in the
10 Herricks School District. And as you know, there are not many
11 homes for sale in our surrounding community so even if we were
12 to look at, you know, other homes on the market and things like
13 that, they are a lot of smaller properties. There's not a lot
14 of ways to add on, or build, or, you know, bump out an addition
15 so that's kind of where we're at today.

16 CHAIRMAN MAMMINA: It's important to understand, you
17 know, just from the perspective of where the Board comes from.
18 We are all from unincorporated parts of the town who have lived
19 for many years, even decades, you know, so we -- we do know --
20 and I'm not saying this as a ways against you. You know, I'm
21 saying this as it's important to understand, you know, how the
22 Town Board works in their selection --

23 MS. SAPANSKI: Absolutely.

24 CHAIRMAN MAMMINA: -- and Zoning Board people. So we do
25 look the at it in the same perspective as you do. We don't
26 have a village where you go to the major and say I need this

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2 and that. And also in terms of the microphone, because my
3 voice is as loud as well, it's also just because it's also
4 televised.

5 MS. SAPANSKI: Okay.

6 CHAIRMAN MAMMINA: And if you're not using the
7 microphone, then other people, you know, can't hear you. So I
8 think with that said --

9 MEMBER GOODSELL: So, Ms. Sapanski, when did you buy
10 your house?

11 MS. SAPANSKI: So we bought our house in May of 2012.
12 We were currently residing in Stamford, Connecticut. We have
13 family on Long Island so I was commuting every day back to East
14 Meadow. As I said, I was a special ed teacher, I absolutely
15 love my job and so I was commuting back and forth. It got to
16 be a little bit too much so we found our perfect little haven
17 where my husband can shoot up to Connecticut, we were close to
18 bridges and the city, and currently my husband is also still
19 working out of New York City. It allows him to get home with a
20 30 minute train. We looked in Cold Spring Harbor, parts of
21 Massapequa we grew up, you're looking at an hour train. So to
22 have my husband commuting way too far was also something that
23 we're like we're just in this perfect little spot. Every part
24 of this location is just what we're looking for to raise a
25 family.

26 MEMBER GOODSELL: And in the time that you've owned the

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house, 11 or 12, have you made other improvements to the property?

MS. SAPANSKI: So our biggest project that we did was the retaining wall. So our retaining wall when we first purchased the house, it's an original house in the 1960s and the retaining wall in the back was significantly deteriorating so we were able to rebuild the retaining wall and we were hopeful that that would help with some of the water damage on the property. Nothing other major that we have done. You can come visit my kitchen and I still have that 1960s beautiful yellow linoleum flooring and my double wall oven, which I do love, but my nonworking dishwasher. So there are a lot of things to the house that still need to be done. We were a very young couple when we bought. We were about 25 years old when we purchased this home and again, it was -- I always said an expensive fixer-upper. We bought it for about 600,000 and were just so excited to be in his beautiful home, beautiful neighborhood with a home that we could afford at that time. So it really was just, again, I saw the house from the road and I said I absolutely love this home, I feel right at home and it's been our home ever since. Again, raising children and having premature micro preemie twins unfortunately was not in our cards.

MEMBER GOODSSELL: Do you have other children?

MS. SAPANSKI: Just our twins. They were,

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2 unfortunately triplets, we lost one at birth. So to say we've
3 been through a lot is --

4 MEMBER GOODSELL: Let me ask you what we ask everybody.

5 MS. SAPANSKI: Sure. Absolutely.

6 MEMBER GOODSELL: You are asking us to approve plans
7 toy our house that is going to go over what the town code
8 allows and can you tell us, since you are designing it, why it
9 can't be designed to comply with the town code?

10 MS. SAPANSKI: Sure. Well, again, I think if we were
11 able it utilize our basement space it wouldn't be an issue. If
12 we could conform our basement and make sure that, you know, we
13 had a safe space that we could put carpet down and a little
14 space that could house his toys, some of his, you know,
15 physical therapy equipment and things like that, it really
16 wouldn't be an issue. But the fact that we can't use our
17 livable space in our basement makes it very difficult. So
18 again, my husband's idea was, well, if we could utilize the
19 space above our property and our neighbors right behind us,
20 they are also in a similar split level and they have also added
21 the addition. Now, I don't believe their addition goes the
22 whole length of the home -- stay away from the microphone. I
23 don't believe it goes the whole length of their home, but they
24 have expanded up. So I think that was the thing. When you
25 drive around our neighborhood, there are many split level homes
26 identical to ours and most, even another neighbor on our block

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2 have expanded over their first floor. So being that the
3 neighbors around our neighborhood have also expanded up, we
4 said well why can't we expand up, you know, your wheels start
5 turning.

6 MEMBER GOODSSELL: That's right. It would depend,
7 because the same house on a 100 by 100 foot lot may not be
8 allowed on a 100 by 150. So we don't really go by the house,
9 we go by a number of factors, which your counsel will address
10 or you architect will address. But we go by both the look to
11 the community but how big is this really, because what we're
12 granting is permanent.

13 MS. SAPANSKI: 100 percent.

14 MEMBER GOODSSELL: It's not something you're going to
15 take out when your child moves out.

16 MS. SAPANSKI: No, right. 100 percent.

17 MEMBER GOODSSELL: So that's why we are considering a
18 number of factors.

19 MS. SAPANSKI: Right. Right. Well, I do think if a
20 family were to move in next, I think they were to the larger
21 space as well. I know if I was on the market looking for a
22 home and I had a young family and I saw this beautiful family
23 room upstairs, I would be more inclined to enjoy that space as
24 a mother. I mean down the road I guess I'm going to make it
25 into a bedroom, you know, a master space if they chose to do
26 that. I feel like there could be a lot of different uses for

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2 the room. Maybe not our use, but someone could find value in
3 that.

4 MEMBER GOODSSELL: I'm sure your architect will explain
5 to you what you can and cannot do. I do understand you do have
6 a split level.

7 MS. SAPANSKI: Yes.

8 MEMBER GOODSSELL: Which comes with its own challenges.

9 MS. SAPANSKI: Yes.

10 MEMBER GOODSSELL: And a split level is not as easy to
11 add onto like as a colonial or a ranch, but there are rules
12 that the town has with respect to office space.

13 MS. SAPANSKI: Absolutely.

14 MEMBER HERNANDEZ: The area that floods in the
15 basement, I'm assuming that's called the unfinished cellar in
16 your plans?

17 MS. SAPANSKI: Yes. That would be in Exhibit C where
18 we listed all of our pictures.

19 MEMBER HERNANDEZ: So that's where you have your
20 mechanical room. You have your washer and your dryer, and a
21 slop sink?

22 MS. SAPANSKI: Correct. Correct. It's a half basement
23 the rest of it will be a crawl space.

24 MEMBER HERNANDEZ: Right. And then the other side is a
25 slab?

26 MS. SAPANSKI: Correct. And unfortunately too, like,

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we have had where the crawl space -- I feel like I'm in the scene in the Titanic where it just like pours out. Like we will have to have buckets under it and again, we have waterproofed the basement twice. We're just in a really bad spot in our property.

MEMBER DONATELLI: So sorry, but I do have some questions for the architect. Would you please answer my questions?

MS. SAPANSKI: Okay.

MEMBER DONATELLI: So I'm trying to understand on the first floor, are you bumping out the house?

MR. COHEN: Yes.

MEMBER DONATELLI: And what are the dimensions of the bump out on the first floor?

MR. COHEN: Sorry, I don't have it memorized. Hold on one second.

MEMBER DONATELLI: No, that's all right. There's an easel over there.

MR. COHEN: Oh, yeah. That would be helpful. I will tell you that the first floor addition, we're creating a bigger kitchen and moving it from one side to the other. There's a bay window area that's coming out and squaring off of the back of the house so the total net difference in the addition that we're doing is just 18 square feet. It's negligible. Yeah. It's negligible.

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MEMBER DONATELLI: So you're squaring out the house?

MR. COHEN: Right. Taking off the bay window in the back, which --

CHAIRMAN MAMMINA: 18 square feet?

MR. COHEN: That's it.

CHAIRMAN MAMMINA: Yeah. I'm not seeing 18. It's bigger than 18.

MEMBER GOODSELL: I'm seeing 67 square feet.

MR. COHEN: What's that?

CHAIRMAN MAMMINA: It's bigger than 18 square feet.

MR. COHEN: If you look over here there's a big bay window area that's coming out.

CHAIRMAN MAMMINA: I know, but also according to your drawing, you're adding the area -- because it's not clearly shown on your other drawing either. You're adding this other piece of the corner here as well.

MR. COHEN: Right. We are squaring off the back five feet, but the offset is only 18 feet according to our calculations.

CHAIRMAN MAMMINA: But how many square feet is what we asked, because square footage is all about square feet. It's not about 18 feet of offset.

MR. COHEN: I'm sorry. My apologies. I read it wrong. We are deleting 18 feet but we have a net difference of 71. I apologize.

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2 CHAIRMAN MAMMINA: How are you deleting 18 feet? Maybe
3 I'm looking at the drawing incorrectly.

4 MR. COHEN: That entire bay area.

5 CHAIRMAN MAMMINA: No. No. I get that. But where
6 you're showing the new crawl space in the corner adjacent to it
7 and a larger deck, you don't show with any kind of a dotted
8 line what you're filling in in this --

9 MR. COHEN: Which drawing?

10 CHAIRMAN MAMMINA: And then you're building the deck
11 over here. So I understand that you took out the bay window,
12 but you added in this -- this corner up in here, which squares
13 off the entire back of the house. I don't know. I mean look
14 at your -- look at your sheets. I mean it's your sheet not
15 mine.

16 MR. COHEN: Bear with me a second.

17 CHAIRMAN MAMMINA: I mean look at your A4. I mean your
18 A4 shows new foundations for that partitioned part and then new
19 foundations for the deck.

20 MR. COHEN: The deck is not included in the square
21 footage.

22 CHAIRMAN MAMMINA: Of course not. That's not my point.

23 MR. COHEN: Hold on a second.

24 CHAIRMAN MAMMINA: I mean it seems like a fundamental
25 thing, you know, that --

26 MR. COHEN: I'll tell you right now.

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2 CHAIRMAN MAMMINA: According to the drawings, you draw
3 it and you checked it so I'm assuming you also designed it.

4 MR. COHEN: Hold on a second.

5 CHAIRMAN MAMMINA: Does it show a square footage
6 calculation?

7 MEMBER DONATELLI: I'm looking at Page A-0 and it looks
8 to me on the upper right hand corner of the page, I see the
9 calculation and it looks about 77 square feet.

10 MR. COHEN: Right.

11 MEMBER DONATELLI: For the first floor.

12 MR. COHEN: It's 11 foot two by six foot two.

13 CHAIRMAN MAMMINA: Yeah. Right. So it's not 18.

14 MR. COHEN: Right. No, I'm sorry. 18 is what was
15 deleted which was -- which we have on the cover sheet as well,
16 that's that bay window area.

17 CHAIRMAN MAMMINA: Yeah, no, I get it. Because also as
18 I was trying to understand this yesterday, I understand it now
19 is your square footage diagram is upside down from the way that
20 the rest of the drawings are oriented. Even the lettering is
21 upside down.

22 MR. COHEN: You may have a different version than me.
23 That may have been correct. My apologies.

24 CHAIRMAN MAMMINA: I don't know. Mine is dated
25 7/10/23. There are no revision dates anywhere on the drawings.

26 MR. COHEN: We have the latest revision date 2/22.

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2 That may have been corrected in that. I'm happy to submit this
3 as an exhibit.

4 CHAIRMAN MAMMINA: No. No. No. Excuse me, I see it
5 over here. Yes. 2/22/24. But my drawings are still upside
6 down. They are not -- they are not oriented -- no go to the
7 bottom left hand corner.

8 MR. COHEN: Right.

9 CHAIRMAN MAMMINA: Look at where your kitchen is, look
10 at your bay window. It's down at the bottom of the sheet.

11 MR. COHEN: Oh, the GFA. It's upside down.

12 CHAIRMAN MAMMINA: Yeah. It's upside down.

13 MR. COHEN: We did that to reflect the north arrow up
14 on that. That's all. To match the survey. That's what I was
15 told since it's on the coverage sheet. That was the rational
16 on that.

17 CHAIRMAN MAMMINA: It just seems odd to me.

18 MR. COHEN: No problem. In the meantime, to answer
19 your question, the area of new foundation of six foot two by
20 seven foot 11 and then we credited -- which credited it back to
21 18 square feet for that bay window that was taken out.

22 CHAIRMAN MAMMINA: So is that reflected then in your
23 overall calculation?

24 MR. COHEN: Yes. Yes.

25 CHAIRMAN MAMMINA: Because normally on a diagram of
26 floor area, it gets hatched to show where those areas are and,

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2 you know, and then as part of that, generally they are called
3 area A, area B, area C.

4 MR. COHEN: Sure.

5 CHAIRMAN MAMMINA: Everybody has their own way that
6 they would do it, but just looking at this the way that it's
7 presented, it doesn't show it.

8 MR. COHEN: Right. My apologize about not being clear.

9 CHAIRMAN MAMMINA: Where is the second floor area
10 calculation?

11 MR. COHEN: It's also on the cover sheet.

12 CHAIRMAN MAMMINA: Where is the diagram that
13 accompanies it?

14 MR. COHEN: It's the second floor A-0.

15 CHAIRMAN MAMMINA: So now you've got stuff in the lower
16 left hand corner and stuff in the upper right hand corner?

17 MR. COHEN: No. The lower left was -- that was average
18 grade. I'm sorry. Lower left hand corner is the average grade
19 calculations. Upper right is GFA.

20 CHAIRMAN MAMMINA: Right. Only because it's not
21 labeled. It doesn't say.

22 MR. COHEN: Okay. All right. Got it.

23 MEMBER GOODSSELL: How many square feet is the house
24 right now, did I hear you correctly say it was 3,100 square
25 feet?

26 MR. COHEN: That would be the total new.

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2 MS. SAPANSKI: That would be the proposed.

3 MEMBER GOODSSELL: I have a denial letter that said the
4 maximum GFA is 3,072, but you're asking for 3,430, which is not
5 a number feet, it's 308 square feet over.

6 MR. COHEN: Right.

7 MEMBER GOODSSELL: Okay. So if it's 3,100 that's
8 allowed.

9 MR. COHEN: No. No. No. That's the total proposed.

10 CHAIRMAN MAMMINA: Not according to your drawings.
11 Look at your A-0.

12 MR. COHEN: Right.

13 CHAIRMAN MAMMINA: And now go up to the other part
14 that's not labeled as floor area calculation and if you go to
15 the bottom it says total proposed GFA is 3,430 square feet. Do
16 you see -- no, go to the right hand side.

17 MR. COHEN: Yeah. 3,430.

18 CHAIRMAN MAMMINA: Yeah. It says 3,430 so which number
19 is it?

20 MR. COHEN: No, it's 3,430.

21 CHAIRMAN MAMMINA: So it's not 30 whatever the other
22 number was that you just said. It's 3,430?

23 MR. COHEN: 3,430. Yes.

24 CHAIRMAN MAMMINA: I'm confused.

25 MR. COHEN: Sorry.

26 MEMBER GOODSSELL: The GFA is --

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2 MR. COHEN: Right.

3 CHAIRMAN MAMMINA: But are you 3,100?

4 MR. COHEN: No. No. 3,430. 3,430 is total proposed.

5 MEMBER GOODSELL: And currently the house square
6 footage is?

7 MS. SAPANSKI: I believe we're somewhere about 2,300.

8 CHAIRMAN MAMMINA: No and I mean this with the greatest
9 -- greatest to you ma'am, because you're wonderful and I'm sure
10 your architect is wonderful, but it can't be to the best of my
11 --

12 MR. COHEN: Of course.

13 CHAIRMAN MAMMINA: I'm sure you know that.

14 MR. COHEN: Very simply. Give me one second, I'll tell
15 you exactly.

16 MEMBER DONATELLI: If you take a look at your Page A-2,
17 you will see it above -- just above the drawing of the family
18 room. It says total existing 2,223 square feet. 2,223 is
19 existing.

20 MR. COHEN: Thank you.

21 MEMBER DONATELLI: And -- and allowable is 3,072 and
22 the request is for 3,430. So the request --

23 MR. COHEN: That's correct.

24 MEMBER DONATELLI: -- is for 358 above what is
25 allowable, but the house currently is 2,223.

26 MR. COHEN: Correct. Thank you for clarifying.

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2 MEMBER DONATELLI: I counted.

3 MR. COHEN: I knew it was there somewhere.

4 MS. SAPANSKI: Nicely down.

5 MR. COHEN: Thank you.

6 CHAIRMAN MAMMINA: I'm looking at that and everything
7 is drawn all over the place, and then when we look at that
8 second floor it has no dimensions on it and I'm just looking in
9 the area, you know, where you're showing that, because I'm
10 looking at your A-3. I mean on this it tells us that it's 954,
11 you know, square feet, but we have no -- we have no
12 corresponding calculation on A-3.

13 MR. COHEN: Right. But we have it listed on A-2.

14 CHAIRMAN MAMMINA: You're missing my point. How do I
15 know it's 954. I can take my calculator out. How do I know
16 it.

17 MR. COHEN: Why? Because I have my stamp on it and I'm
18 certified.

19 CHAIRMAN MAMMINA: I'm sorry, sir, 45 years I'm
20 licensed and I would never give that as -- as my rationale.
21 It's obvious to me and I don't mean to embarrass you, you're
22 turned all upside down, you know, on the drawings, you know,
23 and I, you know, I say that, you know, I don't know. I say
24 that because you're saying I've got my stamp on it, it's okay.
25 It's not okay, because you're confused about your own drawings.
26 You didn't even know you're filling that corner in. How could

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you not know you're filling that corner in?

MR. COHEN: Oh, I know I'm filling the corner in.

CHAIRMAN MAMMINA: You know now because I told you you were filling it in.

MR. COHEN: No. No. No. There was no question of that.

CHAIRMAN MAMMINA: Yeah, but you -- you -- when I said you're filling in the corner on the first floor to square off the corner, you said no, I'm not, I'm only taking out the walk-in bay.

MR. COHEN: No, I said I was squaring it off.

CHAIRMAN MAMMINA: After a lot of back and forth, yes. When I showed you where the foundation was.

MR. COHEN: Right. Right.

CHAIRMAN MAMMINA: And you said to me well the deck is not square footage and I said of course it's not. But the point is, you didn't know where it was on your own drawing. So please, when you tell me rely on my stamp, you know, I wouldn't want to be standing before a review board at the State Department of Education and I'm not saying that this rises to that level, because it doesn't.

MR. COHEN: Right. Right.

CHAIRMAN MAMMINA: But you can't say because I have my stamp on it.

MR. COHEN: My apologies.

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2 VICE CHAIRMAN FRANCIS: Was this the first -- in terms
3 of the plan, is this the first plan that you drew or is there a
4 subsequent plan that got you closer to being complaint with
5 GFA?

6 MR. COHEN: In other words do we have several
7 iterations that got us to this point?

8 VICE CHAIRMAN FRANCIS: Yes.

9 MR. COHEN: Sure. We were working the client for six
10 months before we got to this.

11 VICE CHAIRMAN FRANCIS: Were any of them closer to
12 getting to GFA?

13 MR. COHEN: Were any of them closer?

14 VICE CHAIRMAN FRANCIS: One of the things we attempt to
15 do is give the applicant what they want, but at the same time
16 mitigate the need for a large GFA. You know, there was a time
17 when it was rare that we gave out GFA, you know, this large.
18 So I want to -- I just want you to understand that one of the
19 things that we try to do is shrink what you are looking to do.
20 So is there a plan that got you closer to compliance?

21 MR. COHEN: Actually, yeah. Originally we squared off
22 the front of the house, but it gave it a very boxy appearance
23 and we wanted there to be a little bit of offset, a little bit
24 of articulation on the front elevation. So we did set the
25 front back in two stages so we did gain square footage there.
26 Again, we wanted to make sure that this doesn't look like

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2 someone just plopped a box on top of their house. So we did
3 scale back the project, yes.

4 CHAIRMAN MAMMINA: One of the things that I say all the
5 time is that we're not an aesthetic review board, which doesn't
6 mean that we don't like something that works better. But the
7 job of a zoning board is to create -- is to approve the -- the
8 variance of the least magnitude.

9 MR. COHEN: Understood.

10 MEMBER GOODSELL: So what we're really asking you is,
11 we look at -- it's a beautiful house. It will be a beautiful
12 house. We are not an aesthetic Board and as I said before, if
13 you neighbor has the exact same house, that doesn't mean we can
14 give you the same thing. Is there a way to accomplish what
15 you're looking for with less of a variance. That's what we're
16 asking.

17 MS. SAPANSKI: I would just have to go home and speak
18 to my husband in regards, like, do we want to touch base and
19 really shift the direction of the project. That would have to
20 be a conversation that that I have with him.

21 MR. COHEN: I will say this also for whatever it's
22 worth, to scale it back a couple of feet in any one direction,
23 I'm sure you can appreciate it, will actually even be costlier
24 to the homeowner, because now we are adding additional
25 structure to not being able to transfer loads onto the
26 foundation walls so.

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MEMBER HERNANDEZ: We're not suggesting moving a wall two feet, but let me put the numbers differently. Your house now is -- can legally be increased by 749 square feet when you hit your max. The space, which obviously is very important to you is your child's space. That child's space, if I did the right math is 770 square feet. So the space that you want for your child, which is most critical aspect of this whole thing obviously and we're most sensitive to, you almost have it based on what you're permitted to build. So all 349 is really bells and whistles. It's extra stuff that you had. Maybe the consideration should be what's most critical and what should we be doing and that's what I think we're driving at. It is a large number.

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MEMBER GOODSELL: You're stuck with your lot. You know, the next house over, if it was a square lot, you might not be in front of us. You're stuck with what you have.

18

MS. SAPANSKI: Right.

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MEMBER GOODSELL: So what we're really asking you is not that we're saying you can't build something. Is there a way to accomplish what you would like with less of a variance. It seems to me that it's not going to be possible without some variance. Is there a way to do it with less percentage, even if it just looks like all the other houses in the neighborhood and I know that neighborhood, and I've driven that neighborhood and I looked at your house and yes, I agree you're one of the

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2 smaller houses in the neighborhood and I'm also from Herricks
3 School District for 43 years. So I understand the attraction.
4 Is there a way to do this with less of a variance, that's what
5 the Board is concerned with.

6 MS. SAPANSKI: And how would it work if I --

7 SECRETARY WAGNER: Can I just ask you to use the
8 microphone. And, you know, you had come into the zoning board
9 and explained that you wanted to certain type of recreation for
10 your son. Maybe if you put that on the record, because that's
11 important to talk about exactly what -- what type of
12 accommodation that you want to make and how much space does
13 that accommodation require.

14 MS. SAPANSKI: Right. Right.

15 SECRETARY WAGNER: For example, if you have a pool
16 table, you need to have a certain amount of space to the side
17 to accommodate using a pool table so something of that nature.
18 If certain things that require certain dimensions.

19 MS. SAPANSKI: If I chose not to, is that okay?

20 SECRETARY WAGNER: What's that?

21 MS. SAPANSKI: If I chose not to, is that okay, because
22 I don't want to hinder anything.

23 SECRETARY WAGNER: Just number one go on the
24 microphone, but it's up to you. You can put anything. I'm
25 just saying that that's something that the Board -- that's the
26 most important thing is that they don't want to restrict you

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2 from doing something that would accommodate your son. So if
3 there's a specific type of recreation that you needed for him
4 and needed certain requirements, then that would dictate the
5 dimensions of the room.

6 CHAIRMAN MAMMINA: That's good and I don't think we're
7 going to make a decision on this today, which doesn't in any
8 way drown or give a predisposition to the -- to what was
9 presented, you know, today. But I think also at the same time,
10 you know, I'm sure that Mr. Cohen is an excellent architect and
11 I think we've gotta get all our numbers put together, because
12 you did that very very nice beautiful graphics.

13 MS. SAPANSKI: That was my husband.

14 VICE CHAIRMAN FRANCIS: Very good.

15 CHAIRMAN MAMMINA: Very impressive, but that has a
16 different square footage on that and I get that. You are
17 trying really hard to put your best foot forward on this and we
18 are here to try to help you to do that.

19 MS. SAPANSKI: Thank you and we appreciate it. We know
20 that your job is just as hard, if not harder than all of ours.

21 CHAIRMAN MAMMINA: I'm sure. I'm sure. So maybe put
22 on the record, you know, your -- I mean the fact that we all
23 recognize that you put on the record that you are also a
24 professional. So what are all of your goals as Ms. Wagner had
25 said, however you want. It's okay.

26 MS. SAPANSKI: Well, I think just being, again, with a

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son with legally blind issues, unfortunately he is unable to play contact sports so he will never be, you know, that soccer, football, anything with -- baseball, any sense of sport that could be high impact or a fast moving ball towards the face, he just won't be able to do. So again, we just want more of like a space where he has the ability to run, move around. The one sport that we would like to get him in is golf. So even if he has a space where he can practice a golf swing up there or even hit a few balls maybe even into a net, something that would allow him to find his niche, other than a contact sport. It's even so severe where he is unable to ride roller coasters, because of the severe impact of in-speed of a roller coaster could detach his retina at any point causing him to become severely blind. So we are talking about a very difficult case in terms of his disability and again, we were just looking for some sort of space that could allow him, again, something of a little safer space to maybe explore other activities that could be more knowledgeable to him, even if it's just a safe space to have friends and hang out over the years. Just finding that safe space for him.

CHAIRMAN MAMMINA: And also another question, because again our -- our goal here is to say, okay, why don't they have any other -- any other solutions and I know you spoke a little bit about it in your narrative, but you might want to elaborate, you know, as to why doesn't an outside space work

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for him?

MS. SAPANSKI: Sure. So unfortunately we do have the property that also floods. So I'm sure could imagine if our basement is flooding as bad as I recall and as stated on Exhibit C, you would imagine how bad our backyard gets. We have severe puddles a lot. The puddles just don't seem to evaporate. It's very, very muddy. We have a lot of ditches and holes due to the flooding. So again, as you would imagine, a very watery property is also not great for a legally blind child and unfortunately we just have been having a lot of rain over these years. So when you have, you know, even our front street floods, our driveway floods, our front property floods, our back property floods and we're not talking about just little rain. We're talking about mounds and mounds of water that just sits on the property at all times and I believe my husband sent in those pictures as well under Exhibit C of just how much water our property does collect. And again, we can sit inside for -- for a long period of time. We do board games, we do puzzles, we are very interactive. We read a lot, we do all that fun stuff, but we really just want to try to find an interactive space for him.

CHAIRMAN MAMMINA: Would it be fair to say from the examples that you've pointed out, you know, for him to play basketball or volleyball would not be something, you know, that could be considered?

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2 MS. SAPANSKI: Correct.

3 CHAIRMAN MAMMINA: And that in the wintertime, those
4 are things that are done indoors. So he doesn't have that
5 option.

6 MS. SAPANSKI: He doesn't have that option
7 unfortunately.

8 CHAIRMAN MAMMINA: There are now indoor soccer leagues
9 for younger kids so that -- lacrosse, you know, so there are
10 lots of activity alternatives that way but he cannot --

11 MS. SAPANSKI: Right. So at this point, being that he
12 is so young, we are trying to expose him to sports, but we know
13 as the children get more competitive and the sports become more
14 aggressive, he would have to take a step back. So he does wear
15 his safety goggles and he is part of the Wildcats soccer club,
16 but again, we just don't know how much longer he has that
17 option of being a part of that soccer club. I would say
18 another year or two minimum, because again, one major hit to
19 the head and we're talking about a complete loss of vision
20 unfortunately.

21 MEMBER GOODSELL: You mentioned that he receives
22 physical therapy.

23 MS. SAPANSKI: Yes. He receives physical therapy,
24 occupational therapy, vision therapy, he is OMH, which is
25 therapy for the legally blind where you could potentially start
26 using your walking cane just to make sure that you're

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navigating around your space in a safe way.

MEMBER GOODSELL: Your architect mentioned that there might be equipment that would be kept in the loft area?

MS. SAPANSKI: In terms of equipment, again, a lot of it really is just working with him from, like, a physical standpoint. So stairs, going up and down stairs, right, left, right, left, doing some wheel barrel activities. A lot of it is, like, core. So we do have like the little medicine weight balls and things like that which he would have to hold, we do have light sets of weights in order to help him with his core in terms of that sense. We have anywhere from climbing blocks to climbing ropes, like, we really have tried our best to navigate and bring in as much sensory things that we can in terms of helping him out. So we do have a lot of, like, climbing apparatuses, climbing blocks, working on his core, strength, flexibility, things of that nature, we've also signed him up for ninja warrior and just hoping that we can find a niche for him. But again, once he gets a little too old, we're kind of playing with fire. We want him to feel a part of it exactly.

CHAIRMAN MAMMINA: We want him to feel part of it, because we're all parents, grandparents.

MS. SAPANSKI: Exactly. And I think that's the hardest part.

CHAIRMAN MAMMINA: I can see based on what you're

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2 saying the need for a bathroom up there, because he's not
3 saying, hey, I'll be right back and scoot down the stairs.

4 MS. SAPANSKI: Right. And I agree with you too, having
5 so many sets of stairs is not ideal when my husband and I we're
6 very adamant, we were gonna move. We need to find a home
7 that's a little bit more stable for our family, but we just
8 don't want to leave the Herricks School District. It is really
9 what is keeping us here and we cannot say enough great things
10 about the district. And again, the special ed department,
11 Danielle McPherson up in, you know, higher up is just
12 absolutely fantastic. And the amount of services that my son
13 receives there is mind blowing and a lot of districts you have
14 to fight for services. They just kind of give it to you. He
15 also a one to one monitor and that is unheard of in a lot of
16 school districts so we truly believe in Herricks School
17 District.

18 CHAIRMAN MAMMINA: I think and of course anybody else
19 can jump in, you know, we'll continue the application.

20 MS. SAPANSKI: Okay. I think that's fair.

21 CHAIRMAN MAMMINA: And, you know, you can get the
22 numbers straightened out on everything, only because it's
23 really doing you a favor, because if the numbers end up off in
24 what you ultimately want --

25 MS. SAPANSKI: That's gonna hurt us in the long run.

26 CHAIRMAN MAMMINA: -- you're gonna end up back at the

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2 building department.

3 MS. SAPANSKI: Correct.

4 CHAIRMAN MAMMINA: You know, we want you to be able to
5 move along with this, you know, as quickly as you can and you
6 can get the sizes of those lots and, you know, not necessarily
7 the size of the lots are necessarily damming, you know, we need
8 to have proof there.

9 MS. SAPANSKI: So you think at this point if we leave
10 the plan as is -- but if we leave it as is, would you see it
11 getting declined?

12 CHAIRMAN MAMMINA: I can't do that and take it as I
13 mean it.

14 MS. SAPANSKI: Yeah.

15 CHAIRMAN MAMMINA: I would say to people sometimes it's
16 not let's make a deal, but we need to weigh the five points of
17 law.

18 MS. SAPANSKI: Absolutely.

19 CHAIRMAN MAMMINA: Which at this point, we don't really
20 have on the record but they were in the narrative. They were
21 in the narrative, which is fine and then we do the scales of
22 justice. Blindfold on and then we -- we all pays lots and lots
23 of taxes and we have all great schools, you know, so we
24 certainly understand where you're coming from.

25 MS. SAPANSKI: Thank you. Thank you.

26 CHAIRMAN MAMMINA: And then we balance that against

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2 what we generally would do, but then considering the
3 circumstances, you know, if there are then extenuating
4 circumstances, we -- we include that within our overall
5 decision.

6 MS. SAPANSKI: Absolutely. Okay. I just didn't know
7 if we should be going home and having our wheels turn and --

8 CHAIRMAN MAMMINA: You can look at that.

9 SECRETARY WAGNER: They are giving you an opportunity
10 to revise the plans if you want. So after you speak with your
11 architect, that's the way you want to go, then you would let us
12 know that you're going to submit revised plans and the Board
13 would wait until they are completed and -- and let you know.
14 If it's still exceeded the GFA then you would still need a
15 variance, the Board would make a decision on those plan.

16 MS. SAPANSKI: And if we do not revise, then we just
17 continue the course.

18 SECRETARY WAGNER: Just let us know and say make a
19 decision based on what we presented.

20 MS. SAPANSKI: Right. Right. Okay.

21 MEMBER DONATELLI: So sorry, we hate to have you
22 continue to make your presentation, but we are going to ask you
23 to continue to make your presentation. Would you please go
24 over the five factors again just for the record and I know that
25 they were in your presentation, but this way the individual
26 Board members can address your responses.

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2 MR. COHEN: To your five points?

3 MEMBER DONATELLI: Yes, please.

4 VICE CHAIRMAN FRANCIS: There should be a copy of the
5 five factors on the podium.

6 MR. COHEN: First one, whether an undesirable change
7 would be produced in the character of the neighborhood or
8 detriment to nearby properties. As previously stated, this is
9 consistent with other homes in the community. Split level
10 homes are very difficult to be able to do additions to and I
11 believe Ms. Sapanski already submitted copies of neighboring
12 homes in the area that have similar projects or expansions.

13 CHAIRMAN MAMMINA: You're also going to seek out the
14 sizes of those lots.

15 MR. COHEN: Yes. Per your direction, I'm happy to look
16 into that for you. Absolutely. Thank you.

17 The second one, whether a benefit sought by the
18 applicant can be achieved by a feasible alternative to the
19 variance. As Ms. Sapanski said, you know, she would go back
20 and talk to her family and evaluate the overall needs so that
21 we will report back to you on.

22 The third one, whether the requested variance is
23 substantial. In my opinion, four percent I don't think is
24 substantial, but that's up to the Board to decide.

25 CHAIRMAN MAMMINA: Yeah. I mean, this is a very --
26 very interesting set of circumstances. I've been here for, I

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think 31 years and I don't think I've ever seen somebody create on the second floor of their house, an 800 square foot, you know, individual standalone room.

MR. COHEN: Well, I will tell you it comes in waves for us. I've been doing this for 30 years also. The types of homes that we work on Long Island and we work in other states also, but the homes on Long Island seem to come in waves. All of a sudden we're doing a lot of ranch houses, all of a sudden we're doing hi-ranches. All of a sudden in our active files right now, we probably have eight or nine splits. All of the sudden that's popular and I grew up in a split in Massapequa so I'm very familiar with the intricacies of trying to expand that and the other projects that we're doing, they're all basically second floor expansion on an existing floor.

CHAIRMAN MAMMINA: I'm just making a point that it's a single space.

MR. COHEN: Oh, single space. Got it.

CHAIRMAN MAMMINA: Real great idea to some builder back in the 60s. They are very interesting when you walk in, but, you know, as Ms. Sapanski said, you can do your cardio workout just by going up and down all of the stairs, you know.

MR. COHEN: Splits are tricky. They're really tricky. And after a while they start looking the same. We try to make them look unique in one way or another. But they definitely have their challenges.

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As far as item four, would the variance have an adverse impact on the physical or environmental conditions on the neighborhood, definitely not. I will also add that it was talked previously by Ms. Sapanski saying that they -- she overemphasized the fact that there's tremendous flooding on that street and they're the lowest house on the block. So that being said, even in terms of the overall height of the structure and the impact, the fact that it's the lowest house, you know, the highest point of the ridge is less impactful to maybe the neighboring house since they are three or four feet higher anyway so that's something to bring up in conversation.

CHAIRMAN MAMMINA: You know, I think that submission of lot sizes to house size, you know, is something that is going to be --

MR. COHEN: We didn't bring this up, but even like the sky plane calculations, we made sure that everything fit within those sight lines. I think if we broke that, that would be more aggressive and I would shy away from anything like that. So I do want to bring that up since that hasn't been put on the record.

Four number five, whether the alleged difficulty was self-created, I don't think so.

CHAIRMAN MAMMINA: It's always self-created.

VICE CHAIRMAN FRANCIS: Always.

CHAIRMAN MAMMINA: It's created, you brought the

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2 property. Yes, you can't have a crystal ball. Yes, you love
3 the property and you want to say there, but there are always
4 options and we are not telling you to take that option. Okay?

5 MR. COHEN: Understood.

6 CHAIRMAN MAMMINA: But on the record it is always self
7 created.

8 MR. COHEN: And again, for the record, dealing with --
9 we're working on three or four houses right now that happen to
10 be on cul-de-sacs and I'm dealing with one on the bay front in
11 Islip right now. It creates an enormous amount of difficulty
12 trying to work with a cul-de-sac when you have a pie shape and
13 property lines and a curbed front, it has it's own unique
14 challenges that are very different then your typical
15 rectangular lot so.

16 CHAIRMAN MAMMINA: Sure. Okay. Okay. Any other
17 questions? All right. So then --

18 VICE CHAIRMAN FRANCIS: Off the record.

19 (A discussion was held off the record.)

20 CHAIRMAN MAMMINA: Mr. Cohen, what would be extremely
21 useful is if we really do a detailed diagram of ways square
22 footages are and where they aren't, you know, instead of us --
23 I use the word guessing and I don't mean it, I really don't,
24 you know, where here's a floor plan, this is coming off, area
25 A, area B, area C, they are being added on and then it will
26 also helpful to the family to make sure and you, that you're

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2 not back at the building department, you know, later, because
3 you missed literally three square feet and then they are going
4 to send you back.

5 MR. COHEN: Understood. I'll be happy to generate
6 another sheet instead of a little diagram, do a big diagram if
7 you want.

8 CHAIRMAN MAMMINA: Do it on an 11 by 17. That's okay.

9 MR. COHEN: All right. All right. Fair enough.

10 CHAIRMAN MAMMINA: All right. And thank you both.

11 VICE CHAIRMAN FRANCIS: Thank you very much.

12 MR. COHEN: Thank you. Thank you, Mr. Chairman and
13 Members of the Board. Appreciate your time.

14 MS. SAPANSKI: Thank you again.

15 CHAIRMAN MAMMINA: You submit that back to Ms. Wagner
16 and she will circulate it to us and then after that, we will
17 deliberate on that and we do that live. You can come in if you
18 want to, but that's not necessary. Okay.

19 MS. SAPANSKI: And we would be given that date of when
20 that would be happening?

21 SECRETARY WAGNER: You don't have to come back.

22 CHAIRMAN MAMMINA: You don't have to come back, no. It
23 depends on -- many days we are here to five o'clock at night
24 and we say okay, how many decisions can we make today. All
25 right. Maybe three, you know, because we do take a lot of time
26 on each one.

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2 MS. SAPANSKI: We appreciate that.

3 CHAIRMAN MAMMINA: And I appreciate that. Thanks so
4 much. I appreciate it.

5 SECRETARY WAGNER: Let the record show that the
6 Chairman is stepping out.

7 Appeal number 21527, John Corallo; 4 Howard Court,
8 Carle Place; Section 9, Block 458, Lot 51 in the Residence-C
9 Zoning District. Variance from 70-49.C, to construct a rear
10 addition that would make a house too big.

11 VICE CHAIRMAN FRANCIS: You've heard Appeal Number
12 21527, John Corallo. Is there anyone interested in the
13 application other than the applicant? Seeing no one. Sir,
14 please give your name and address.

15 MR. CURTIS: My name is Howard Curtis architect, 241
16 Landsdown Avenue, Carle Place, New York 11514.

17 VICE CHAIRMAN FRANCIS: All right. Tell us your story,
18 sir.

19 MR. CURTIS: So this property is located in Carle
20 Place. It's on the intersection of Raff Avenue and Howard
21 Court, which are both dead end streets. This property backs up
22 to the Motor Parkway, the old Motor Parkway at Raff Avenue,
23 which is the PSEG right of way now. Our project here is to
24 create a one story addition in the rear of the property. It is
25 a 12,246 square foot property. The property had gone for a
26 variance in 1995 to create a two family residence. The house

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2 does have a two family status right now. It is a Levitt,
3 original Levitt ranch which has no basement. The first floor
4 is the Corallo's family home. It's been expanded slightly
5 overtime and then the second floor, which is roughly a square
6 sitting on top of what the main body of the Levitt, roughly 28
7 by 29 square feet is a one bedroom unit accessed by an exterior
8 door and then a stair lot. So again, our project is to create
9 additional closet, bathroom and storage space for the
10 Corallo's, because their unit is three bedroom and one bath,
11 they've had a second child. The current smaller bedroom in the
12 back of the home they used currently or they use currently as
13 a, sort of a -- it was a storage area for them, because they
14 really don't have an attic, they don't have a basement so it's
15 a storage area for them. Ms. Corallo used it as additional
16 closet space. There was a small desk in there, but now they
17 need that as a bedroom. So they're losing sort of that floor
18 area, but they are also concerned in the fact that they only
19 have the one bathroom and it does not have a tub, it has a
20 shower. Their older child now who is, I believe three or four,
21 it was very difficult to not have a bathtub so they don't
22 really want to go through that again. So this addition will
23 allow them to add about a 70 square foot bathroom and then
24 replace the closet storage area that they're losing with this
25 new closet storage area in the back. Confirms to all aspects
26 of zoning other than GFA. We are at 29. -- 2,977 square feet

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2 with our addition, where we allowed 2,800 square. Feet so we
3 are over by 177 square feet. Our addition is 252 square feet.
4 I inadvertently miscalculated when I did this. I thought that
5 we were allowed to do this as of right in that I thought the
6 prior variance allowed us to maintain that side yard, but
7 because it's a two family, we're required to have a 10 foot
8 side yard which triggered the variance. I couldn't go to the
9 overage in floor area even though I have a 12,000 square foot
10 lot. I couldn't expand to, I believe it's 3,400 square feet.
11 I'm not allowed to do that. I have to honor the 2,800 square
12 feet. So that's why we're here before this Board, to do our
13 addition and have an overage of 177 square feet, which is
14 roughly six percent on the GFA.

15 MEMBER DONATELLI: Is that the area that's listed as
16 area E on your plans?

17 MR. CURTIS: It's area E. Correct.

18 MEMBER DONATELLI: And the bathroom.

19 MR. CURTIS: Bathroom and closet, yes.

20 VICE CHAIRMAN FRANCIS: What's the dimensions on the
21 closet?

22 MR. CURTIS: Across the back it's about 16 feet and
23 internally front to back I'll call it, it's six and a half feet
24 on the one side and about 10 feet on the other. So it's like
25 an eight by 16 walk-in roughly.

26 VICE CHAIRMAN FRANCIS: And that's a complete bump out

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2 on the rear of the property?

3 MR. CURTIS: Yes, it is. The one good thing about this
4 property is that because it is the dead end and they have the
5 PSEG right of way, there are tremendous shrubs on the back end
6 of their property, which cover the property line. They also
7 encase what the is PSEG tower. He's got this tremendous 50
8 foot tower that occupies a 16 by 16 area in his rear yard.
9 That's all incased by shrubs. The Raff Avenue side has a
10 menagerie of trees and shrubs, which conceal this. So it
11 really -- I mean there's really no impact to -- a visual impact
12 to anyone. No one is really going past the Corallo home, it
13 dead ends. So no one really sees this, but the impact is the
14 zoning impact, but it's not a visual or community impact in any
15 way.

16 MEMBER DONATELLI: And you mentioned this is a two
17 family. When did the house become a two family house?

18 MR. CURTIS: It went before the Board in 1995. It was
19 Case Number 15154.

20 MEMBER DONATELLI: Before this Board?

21 MR. CURTIS: It was granted with an insufficient side
22 yard of 6.9 where 10 was required for the two family.

23 MEMBER HERNANDEZ: Just to be clear, so then what
24 you're adding is 240 square foot bump in the back of the house?

25 MR. CURTIS: 252 square feet.

26 MEMBER HERNANDEZ: Thank you.

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2 MEMBER DONATELLI: And are you familiar with the five
3 factors, would you mind going through them, please.

4 MR. CURTIS: Sure. Excuse me. So whether or an change
5 would be produced in the character of the neighborhood or a
6 detriment to nearby properties. As I say, this project is in
7 the rear of the home, it's incased by shrubs, it's on a dead
8 ends street, it backs up to a non-occupiable right of way, no
9 one really sees this. It's one story, it's small and impact at
10 252 square feet so I would say that it is not a desirable
11 change to the community or to any visual impact.

12 VICE CHAIRMAN FRANCIS: And just to interrupt you, and
13 because it's in the rear, it cannot be seen from the street?

14 MR. CURTIS: It's not seen from the Howard Court side.
15 The Raff Avenue side, if you got close and peaked between
16 shrubbery and trees you would probably see part of the side
17 wall, but if you just happened to be going down that street to
18 make a u-turn, it would be difficult to see it with the way the
19 shrubs are.

20 Number two, whether the benefit sought by the applicant
21 can be achieved by a feasible alternative. Unfortunately I
22 don't think so, because we, again, as a Levitt, we don't have a
23 basement that we can use as overflow space. The upstairs is a
24 already a separate living unit. The only way to really expand
25 this home is to go out in a horizontal direction. The fact
26 that there is only one bathroom and it doesn't have a tub, I

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mean I guess he could just say I'm ripping out my nice first

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floor bathroom, but it -- they would still only have one

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bathroom for a four person family. So I don't really think

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there's a feasible alternative here, other than the small

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request that we're asking for.

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Whether the request is substantial. Again, we are

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required to honor 2,800 square feet. We're at 2,977. 177

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square foot overage on a 12,000 square foot lot. I don't think

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that would be considered substantial.

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Would the variance have an adverse impact on the

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physical or environmental conditions on the neighborhood. No

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and again, I think that goes back to, you know, what I had

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explained in -- in answer number one, in that it's not really

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visible. Environment, it's typical residential construction so

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I don't think there's an environmental impact at all.

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And whether the alleged difficulty was self-created.

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Well, of course it's self-created, because we are sort of

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hampered by what we have and to get what we're requesting, we

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created this variance.

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VICE CHAIRMAN FRANCIS: You know, I'm looking at the

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diagram of the house again and I can see where the original

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Levitt portion of the house is. When did that addition get

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attached?

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MR. CURTIS: That I don't know. I'm sorry. I don't

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have that information of when it was expanded.

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2 VICE CHAIRMAN FRANCIS: But when you're client bought
3 the house, that was already the configuration?

4 MR. CURTIS: Yes.

5 MEMBER GOODSELL: According to my research it's been in
6 the family for quite sometime.

7 MR. CURTIS: He bought it from his parents.

8 MEMBER GOODSELL: From his parents. Yes, I see that.
9 I see that. And I take it he's lived there for a while?

10 MR. CURTIS: I don't know how long.

11 MR. CORALLO until I was ability 12 years old.

12 VICE CHAIRMAN FRANCIS: Why don't you step up and give
13 us your name and address.

14 MR. CORALLO John Corallo, 4 Howard Court.

15 MEMBER DONATELLI: Into the mic.

16 MR. CORALLO sorry. John Corallo, I reside at 4 Howard
17 Place. I lived there with my family until we were about 12
18 years old. My mom, my dad and my sister. During that time,
19 before we moved to the other side of town, my -- my dad had
20 gone through a variance to create the second story and make it
21 into a legal two family, then they kept it as, you know,
22 investment property. We moved to the other side of town, built
23 a new house over there by the post office in Carle Place on
24 Silverlake. They've since moved. Me and my wife purchased it
25 from them right before we got married back in 2017 and, you
26 know, we are just looking for a little more space. We just had

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2 a baby girl two weeks ago.

3 VICE CHAIRMAN FRANCIS: Congratulations.

4 MEMBER GOODSSELL: Congratulations.

5 MR. CORALLO: Thank you.

6 MEMBER GOODSSELL: Is there a family member living in
7 the other half of the house?

8 MR. CORALLO separate tenant that we rent to.

9 VICE CHAIRMAN FRANCIS: And when you were growing up in
10 that house, the configuration was the way it is today?

11 MR. CORALLO: Yes. Yes. Yeah. As far as the square
12 footage goes, yes. We've updated the interior, you know, since
13 we purchased it. But as far as like the actual square footage
14 portion, we haven't added anything.

15 VICE CHAIRMAN FRANCIS: Thank you.

16 MR. CORALLO you're welcome.

17 VICE CHAIRMAN FRANCIS: Anything else you want to add
18 or put on the record?

19 MR. CURTIS: No, that's pretty much our presentation.

20 VICE CHAIRMAN FRANCIS: Okay. Any questions?

21 MEMBER DONATELLI: No. Perhaps we can reserve this?

22 VICE CHAIRMAN FRANCIS: Yeah, I agree. We are going to
23 reserve decision on this case.

24 MEMBER GOODSSELL: So we can deliberate.

25 MR. CURTIS: I understand the Chairman wasn't involved.

26 VICE CHAIRMAN FRANCIS: Right. Right. And he actually

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2 lived in Carle Place for a number of years so perhaps we can
3 get his input on this.

4 MR. CURTIS: I'm familiar with Chairman Mammina from
5 the community.

6 VICE CHAIRMAN FRANCIS: Oh, okay.

7 MEMBER GOODSSELL: And I can tell you how annoying it is
8 that Raff Avenue has that barricade halfway across there,
9 because I wound up on the wrong side of the barricade and had
10 to drive all the way around. On the other hand, it does make
11 for a very private street where it's very clearly marked as a
12 dead end and people who come down there are either specifically
13 going there or are lost.

14 MR. CORALLO all the time. Lost all the time.

15 MEMBER GOODSSELL: Three point turns. Thank goodness
16 for them. That's right, my GPS did not recognize those
17 barricades. Now, if this had been marked right next to the
18 barricades I would have known exactly where it was.

19 VICE CHAIRMAN FRANCIS: When you started I thought you
20 were going to say how annoying the Chairman is.

21 MEMBER GOODSSELL: Well, I express no opinion on the
22 record of the Chairman.

23 MR. CURTIS: When you made the three point turn, did
24 you -- were you able to look into Mr. Corallo's backyard?

25 MEMBER GOODSSELL: I wish. I do -- I am very impressed
26 by this 50 foot steel tower in the backyard. Has that been

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2 there ever since your family owned this house?

3 MR. CORALLO my whole life. Yeah. I wish it wasn't,
4 but yeah, it's been there forever. Since I was little.

5 MEMBER GOODSSELL: And I couldn't quite see, is it
6 barricaded off so the kids don't play underneath it?

7 MR. CORALLO: Yeah. So it's up on like four by
8 fours --

9 SECRETARY WAGNER: You might want to come back up to
10 the microphone.

11 MR. CORALLO: Sorry. It is up kind of like on four by
12 fours. It was, at one time. Since then when we did
13 landscaping, we planted pretty large arborvitaes. Some of them
14 are probably like 20, 25 feet tall in front and surrounding the
15 tower. Actually, PSEG has to come and trim them now, because
16 they want to maintain access to the lines if they needed to.
17 We did it just for aesthetics and again, you know, it's a steel
18 tower. Not something you want to look at in your backyard.

19 MEMBER HERNANDEZ: No.

20 MEMBER GOODSSELL: It's something that none of us are
21 familiar with, I believe. If you don't mind, I think we are
22 going to reserve decision which is appropriate.

23 VICE CHAIRMAN FRANCIS: We are.

24 SECRETARY WAGNER: So they made decide it later on
25 today and we will let you know.

26 MR. CURTIS: Thank you. We would be notified either

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2 way of the continuation or a decision was made?

3 VICE CHAIRMAN FRANCIS: Yes.

4 MR. CURTIS: Okay. Thank you.

5 VICE CHAIRMAN FRANCIS: Congratulations with the new
6 baby. Good luck with her.

7 MR. CORALLO thank you very much. Appreciate it.

8 SECRETARY WAGNER: Next appeal, Appeal Number 21528,
9 Yuhsuan Chao; 31 Pubins Lane, New Hyde Park; Section 9, Block
10 550, Lot 22 in the Residence-C Zoning District. Variances from
11 70-49.C and 70-50.A, to construct additions that would make the
12 house too big and to construct a second story addition that is
13 located too close to the street.

14 VICE CHAIRMAN FRANCIS: You've heard Appeal Number
15 21528, Yuhsuan Chao. Is there anyone interested in the
16 application other than the applicant? Seeing no one.
17 Mr. O'Connell, please give your appearance.

18 MR. O'CONNELL: All right. Thank you my. Name is Tom
19 O'Connell architect doing business at 1200 Veterans Highway,
20 Hauppauge, New York architect for the Chaos. Thank you,
21 chairman is not here, but Members of the Board. So
22 representing the Chaos. What they're looking to do is to
23 expand their home in building a second floor on their home.
24 This particular residence is a nonconforming residence. It was
25 built in the early 1900s. So obviously nonconforming, it's way
26 too close to the street currently, it's a very odd lot, it's,

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2 you know, it's wider in the front, narrows in the back but yet
3 is over 10,000 feet in size. Nonetheless, we still are here
4 for a floor area, you know, a gross floor area variance, which
5 I'm going to get into a bit about. We also are before you
6 today for a front yard relief. To start with the front yard
7 relief, the existing house, when it was built, again, back in
8 the early 1900s, it yields a 16.7 foot front yard to the
9 property line. There's a one story section of this house that
10 we wish to build on top of to expand the bedroom space. It's a
11 very small home right now. They have, you know, children,
12 they'd like to have their children have their own bedrooms so
13 they are looking to get additional bedroom space on the second
14 floor and we are proposing to build over that one story and we
15 are going to hold that one story back slightly. So we are
16 going to propose a front yard setback to the new second floor
17 space of 17.8 feet. So approximately a foot and a half further
18 back then where the existing house currently sits. I did
19 design the second floor carefully to keep the density back.
20 I've been before this Board. So we did a hip roof, you know,
21 so we did not have this high vertical face that cross to the
22 street. So we created a hip roof to kind of slide the roof
23 back so it didn't feel as obnoxious toward that close to the
24 street itself. But there really was no other away to
25 accomplish, you know, existing bedroom space to work cohesively
26 to work with the rest of the house itself. So to talk a little

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2 bit about the gross floor area. The house itself, when it's
3 all said and done, it's going to be 2,676.66 square feet.
4 2,800 square feet is the maximum that I'm permitted. We could
5 not up zone this property, because it's a nonconforming
6 structure. Property is 10,000, but we could not up zone it.
7 2,800 is the max, but unfortunately there is a garage on this
8 parcel that is over 300 square feet of space. Once I include
9 this garage, which is 398 square feet of space, it puts us over
10 on the gross floor area. So in lieu of saying that we're 200
11 square feet -- over 200 square feet over in gross floor area,
12 what I'm trying to -- to save us from taking 90 square feet
13 away from the garage, because that's what we would have to do.
14 If I take 90 square feet away from the garage, we would not be
15 before this Board for gross floor area. All right. And that's
16 really what we would have to do. All right.

17 VICE CHAIRMAN FRANCIS: This garage is not usable as a
18 garage though.

19 MR. O'CONNELL: Yes, it is.

20 VICE CHAIRMAN FRANCIS: They can access?

21 MR. O'CONNELL: Oh, absolutely. They go on the side of
22 the house. It's a side entrance garage.

23 VICE CHAIRMAN FRANCIS: Oh, I see it. Okay.

24 MR. O'CONNELL: Oh, it's absolutely usable as a garage.

25 MEMBER GOODSELL: And was the garage built when the
26 house was built?

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2 MR. O'CONNELL: Yes, it was. Yeah. It's an old garage
3 and, you know, so the answer is yes, I can knock 90 square feet
4 off that garage and I would not be before this Board for a
5 gross floor area variance. All right. And I just -- I can't
6 see, you know, the practicality of having to do that for 93
7 square feet. So that's really what I'm, you know, requesting
8 before you is to, you know, give me the relief of not having to
9 knock 93 square feet of the existing garage.

10 VICE CHAIRMAN FRANCIS: Right.

11 MR. O'CONNELL: Okay. So that's what I'm here before
12 you today to request. So with all that said, you know, we
13 don't feel an undesirable change is going to be caused. Again,
14 it's a house -- the size of the house that we are proposing is
15 within keeping of other homes in the area. The house is going
16 to be only 2,676. It's 2,800. There's other 2,800 square foot
17 homes in the area so we are not going to create a home that's
18 not --

19 MEMBER GOODSSELL: And as you said, the garage is
20 counting against you.

21 MR. O'CONNELL: The garage is counting. You can't even
22 see the garage. So how is that going to, you know, create an
23 undesirable change.

24 MEMBER GOODSSELL: It is near a dead end.

25 MR. O'CONNELL: Yes.

26 MEMBER GOODSSELL: It is -- it is a unique piece

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2 property. I had no idea how deep it was until I looked at the
3 survey.

4 MR. O'CONNELL: Very. Extremely unique. Absolutely.
5 This doesn't cause any environmental impact at all whatsoever.
6 Yes, we could have achieved part of this variance in another
7 way by knocking 90 square feet off the garage. We just don't
8 think that's feasible or fair to my client to, you know, have
9 them, you know, try to knock off 90 square feet.

10 MEMBER HERNANDEZ: How big the is garage now?

11 MR. O'CONNELL: It's 393 square feet. We would have to
12 knock off 93 square feet so. So, you know, again, we don't
13 feel it's a substantial request only because, again, it's the
14 garage that causes this issue before you and this is The
15 proposed application. Obviously it's --

16 MEMBER HERNANDEZ: And just for clarity sake, the
17 garage is 393 and the proposed house will be 2,676?

18 MR. O'CONNELL: That is correct.

19 MEMBER DONATELLI: Can you address the front yard
20 setback?

21 MR. O'CONNELL: Absolutely.

22 MEMBER DONATELLI: To me that's the elephant in the
23 room.

24 MR. O'CONNELL: That's the elephant in the room. Yes.
25 Again, this is a, you know, preexisting house that currently
26 sits at 16.7 feet. It is a two story home. It is a two story

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2 home with a gable roof in the front. So if you take a look at
3 the elevation that we proposed, you know, and you take a look
4 at what the house currently is, there's not many places that I
5 can build on this home. We can't push to the back, you know,
6 we, you know, we can't push to the, you know, side any more,
7 you know, it's not a huge home when it's all said and done.
8 It's under 2,800 square feet. We did push the second floor a
9 couple of feet back from where the front of the existing house
10 is. We designed it with a hip roof so it wasn't as, you know,
11 imposing as the existing house. You all understand what I mean
12 by a hip roof?

13 VICE CHAIRMAN FRANCIS: Yeah.

14 MEMBER HERNANDEZ: Yeah. We've been with the Chairman
15 a long time.

16 MR. O'CONNELL: Exactly. So just, you know, and we
17 think it's gonna be, you know, a very nice looking home. We
18 feel it's going to have, you know, have, you know, add to the
19 character of the home and as Member Goodsell said, it's at the
20 end of a dead end even, you know. It's not even going to have,
21 you know, really any impact of the surrounding neighborhood
22 itself.

23 MEMBER DONATELLI: So if I can just ask for some
24 clarification.

25 MR. O'CONNELL: Yes.

26 MEMBER DONATELLI: The front of the home as existing in

1 Appeal #21528

2 the front yard setback as existing, you said is 16.9 feet, I
3 believe you said.

4 MR. O'CONNELL: 16.7.

5 MEMBER DONATELLI: 16.7. Now, you are proposing to
6 build the addition above what is currently one story, but
7 you're pulling that back. So in other words, you're not --
8 you're not -- the existing facade for the first floor will
9 remain. What you're doing is pulling back the second story
10 addition.

11 MR. O'CONNELL: Correct.

12 MEMBER DONATELLI: And how far back are you pulling
13 back that second floor addition?

14 MR. O'CONNELL: Two feet from the face of the first
15 floor, but the property line is slightly skewed. Ever so
16 slightly skewed. So at the addition, it's going to be 17.8
17 feet back.

18 MEMBER DONATELLI: Rather than --

19 MR. O'CONNELL: The existing house is at 16.7.

20 MEMBER DONATELLI: Rather than 25 as required by code.

21 MR. O'CONNELL: That is correct.

22 MEMBER DONATELLI: So it's really a difference of 7.2
23 if my math is correct, which is fairly substantial.

24 MR. O'CONNELL: It is fairly substantial, but I'm
25 working with what's already there. I'm not making anything
26 worse.

1 Appeal #21528

2 MEMBER DONATELLI: That was really my question.

3 MR. O'CONNELL: Understood. Right.

4 MEMBER DONATELLI: That the existing front elevation --
5 that the existing front facade is -- is not being changed.

6 MR. O'CONNELL: That is correct.

7 MEMBER DONATELLI: What's changing is the second story
8 addition, but you're still pulling it back an additional two
9 feet.

10 MR. O'CONNELL: That is correct.

11 MEMBER GOODSELL: Vice Chairman, this -- this -- this
12 area of town has been, I would say up and coming in my opinion
13 over the last 20 years. I mean when I grew up in New Hyde
14 Park, these were older homes. We used to ride our bicycles
15 through them. They were older homes and I am impressed driving
16 through the neighborhood at the number of people who have
17 updated, modernized, added to, it's becoming quite a very nice
18 section of town. Now, in my opinion, one of the most important
19 factors is that this garage predates just about any calculation
20 that the town had. So the fact that this particular
21 application as compared to the previous case this morning, this
22 particular application, but for the fact that garage is 90
23 square feet over and was built -- I just verified with the tax
24 card, property tax cards, 70 or 80 years ago at least. It
25 looks like it was originally built as a one car and then
26 expanded somewhere before 1948. That's the determining factor.

1 Appeal #21528

2 If this garage had been built according to today's standards,
3 the applicant would not be in front of us. So as a result, in
4 my opinion and as one Board member, I do not have an objection
5 to the amount of the square feet that this house would go over.

6 MR. O'CONNELL: Understood.

7 MEMBER HERNANDEZ: I'd also like to just, for sake of
8 clarify, the second floor addition, not only is it recessed
9 further back from the existing front of the house, but it is
10 also further back from the existing second floor of the house.

11 MR. O'CONNELL: That is correct.

12 MEMBER HERNANDEZ: You didn't go straight up. You
13 pushed it back and it actually gives it -- again, we're not an
14 aesthetic board, but it gives it a nice change so that it's not
15 a flat wall right on top.

16 MR. O'CONNELL: That is correct. And, Member
17 Hernandez, here's the other fact. As you drive down the
18 street, as mentioned, it's a dead end, that's the part you
19 don't see. When you go down in that direction, you don't even
20 know that second floor is there at that point, because you
21 never get to that point.

22 MEMBER GOODSSELL: Well, Mr. O'Connell, you proved
23 everything you couldn't see. The fact that you can't see it is
24 only one factor.

25 MR. O'CONNELL: Right.

26 SECRETARY WAGNER: Let the record reflect that the

1 Appeal #21528

2 Chairman has returned.

3 MEMBER DONATELLI: So also, just by way of observation,
4 when I drove the area and in fact now that I checked Google
5 earth as well, it appears that the house directly across the
6 street also seems to violate the front yard setback. So at
7 least to that extent it -- it blends in with what is directly
8 across the street.

9 MR. O'CONNELL: It's in character.

10 MEMBER DONATELLI: I remember and just as a very brief
11 aside, reading a book on -- a biography of John Adams
12 explaining how house 250 years ago, the most elegant houses
13 were always the ones that were built closest to the street,
14 because prior to paved walkways, people would have to walk
15 through mud to get to the front door and so it was actually an
16 elegant thing to do to bring the house closer to the street.
17 Of course that was prior to the advent of cars and noise, and
18 everything else. So this --

19 CHAIRMAN MAMMINA: And zoning.

20 MEMBER DONATELLI: And zoning. Right. So this reminds
21 of -- of how houses were built a long time ago.

22 MR. O'CONNELL: Back in the horse days.

23 MEMBER DONATELLI: I suppose in that sense it is
24 contextual, because the house across the street is also the
25 same.

26 SECRETARY WAGNER: Do we have a motion?

1 Appeal #21529

2 MEMBER DONATELLI: Do you want to make a motion?

3 MEMBER GOODSSELL: I will make a motion. Well, part of
4 the application.

5 VICE CHAIRMAN FRANCIS: So I think it makes sense for
6 us to reserve this decision for a number of reasons. None of
7 which I'm going to say right now, but I think this should just
8 be a good practice for us to be sensitive to and to take a long
9 look at what we're doing so for that reason I would like to
10 reserve this.

11 MEMBER GOODSSELL: That's fine.

12 MEMBER DONATELLI: Yeah. Yes. Okay.

13 VICE CHAIRMAN FRANCIS: Mr. O'Connell, thank you very
14 much.

15 MR. O'CONNELL: Okay. Thank you everyone for your
16 time. Have a wonderful afternoon.

17 VICE CHAIRMAN FRANCIS: Thank you for a good
18 presentation.

19 CHAIRMAN MAMMINA: What an odd piece of property.

20 MR. O'CONNELL: Yes, that it is.

21 SECRETARY WAGNER: Appeal Number 21529, Bryan Arcos
22 (Arcos & Arcos Group, Inc.); 14 Cedar Road, Westbury; Section
23 11, Block 414, Lot 435 in the Residence-C Zoning District.
24 Variance from 70-100.2(A)(2), to legalize fencing in a front
25 yard.

26 CHAIRMAN MAMMINA: You've heard Appeal Number 21529,

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Bryan Arcos, Arcos and Arcos Group, Inc. Is there anyone in the room interested in the application other than the applicant? Seeing no one. Please give your name and address.

MR. ARCOS: Good morning, Chairman and Members of the Board. My name is Bryan Arcos, I am the sole proprietor of Arcos and Arcos Group. I currently live in 14 Cedar Road, Westbury, New York 11590.

CHAIRMAN MAMMINA: Good morning.

MR. ARCOS: Good morning. So basically I filled this appeal just because this property is a corner property. We are right off the Northern State Parkway on Exit 34. This exit is -- doesn't have -- it's like a direct access to the neighborhood. There's no stop at that exit. Cars pretty much zoom by.

VICE CHAIRMAN FRANCIS: When you say there's not stop at the exit, just explain that.

MR. ARCOS: So when you get off Exit 34, traffic keeps moving. So cars, if they come off that exit 30 miles per hour, they pretty much zoom right onto Cedar Road, if they don't have to make a turn on Brush Hollow Road. So my -- my property is right on Cedar Road and on Montauk Court is a side street that's a dead end. I pretty much described on the site plan that I want to put a fence pretty much on the second front yard. That would be on the side of Montauk Court. My plan is not to -- not for privacy but more for containment. I have two

1 Appeal #21529

2 children and one is three years old and one is five years old.
3 You know, I would like them to play in the backyard. Obviously
4 as the laws as it is right now, I would only be able to use
5 pretty much a little bit more than half of the backyard from
6 that property. So my idea is to put a four foot fence to
7 contain the backyard, but I'm asking for a variance so that
8 that fence could pretty much bleed into the second front yard
9 on Montauk Court. I don't want to take away visibility from my
10 neighbors on Montauk Court so that's why I decided to just
11 leave it at four feet so as to not make a five foot or six foot
12 fence that might take away visibility from my neighbor that is
13 next to my backyard. And I'm not an architect so I might be a
14 little bit not prepared for --

15 CHAIRMAN MAMMINA: You did very well.

16 MR. ARCOS: -- the questions, but that's pretty much the
17 idea.

18 VICE CHAIRMAN FRANCIS: So tell us, because this is an
19 application to legalize what is already there.

20 MR. ARCOS: Right. So there is no fence right now. We
21 -- I don't -- from the prior -- the prior owner, which I have
22 no relation to, Gloria Leaf was the prior owner of that
23 property. I brought that property in May of 2023. There was a
24 fence there before, but I don't -- I received a violation for
25 that fence, because I believe that there was no variance for
26 that fence. So we took it down immediately and now we are

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2 applying for, you know, the proper --

3 VICE CHAIRMAN FRANCIS: Okay.

4 CHAIRMAN MAMMINA: The picture still shows it.

5 MR. ARCOS: The pictures still shows it. Right.

6 Correct. On Google maps, yes.

7 MEMBER GOODSELL: Where when I looked at it, it is
8 level, dirt, nothing there and I take it the fence that I could
9 see between this house and the next house on Cedar Road is the
10 neighbor's white PVC fencing.

11 MR. ARCOS: Correct. Yes.

12 VICE CHAIRMAN FRANCIS: You know, the issue with corner
13 properties is that your backyard always faces the street. It's
14 not like a traditional backyard, you know what I'm saying.
15 It's not in the rear -- I don't want to say it's not in the
16 rear of the house, because it is in the rear of the house, but
17 it's close to a street.

18 MR. ARCOS: Right.

19 VICE CHAIRMAN FRANCIS: And I think all of us are very
20 familiar with that exit off of Northern State. Every time I
21 have to get on the Northern State from that, it's -- it's a
22 very precarious situation.

23 MR. ARCOS: Correct. Yeah. It's very confusing. A
24 lot of drivers don't know how exactly how the traffic works.
25 Some people -- there's two stop signs. I don't know the other
26 street, because I kind of just moved there, but there's two

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stop signs for, like, the neighborhood and there is no stop

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sign on the exit. So people kind of are confused as to who

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stops. Sometimes the people off the exit stop and then, you

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know, it causes, like, this commotion there, but -- and then

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there's sometimes where people don't stop off the exit

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obviously, because they don't have to. But they really zoom

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and then the next stop is two blocks away from my -- from that

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corner of Montauk Court and Cedar Road.

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VICE CHAIRMAN FRANCIS: Actually, there's a traffic

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light on Brush Hollow Road.

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MR. ARCOS: Yeah.

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VICE CHAIRMAN FRANCIS: And that's where most of that

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traffic is headed to.

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MR. ARCOS: Correct.

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VICE CHAIRMAN FRANCIS: I don't know, this is a very

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unique situation.

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MEMBER HERNANDEZ: The reason why you're hear is

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because you have really exceeded your backyard by four feet --

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by 17 feet, because you have gone towards the street side. You

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could build your fence from the corner of your house and I'm

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trying to figure out what's the north here or south here. I

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don't see an arrow. Hang on. Oh, here it is. This is the

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north here. Okay. So your south eastern corner of your house,

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which is the lower right hand corner of your plan, if you were

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to put that fence straight back to the end of your property

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line going straight back, you will have a backyard that is 51 feet wide by, it looks like about 35 feet deep. So it's not a small side yard. It's a sizable yard. Where your fence is not permitted by code is that extra chunk that you put to the right of that area alongside your house and into your --

MR. ARCOS: Right. Right. The 18 feet about.

MEMBER HERNANDEZ: Right. Exactly. Yeah. And that's the one that's not permitted, because you're really up to the sidewalk or street if there is no sidewalk so. And we -- we really need to have a very very specific reason why we would permit such a fence to stay in that location, only because it -- it affects your neighbor behind you. You know, their house faces that Montauk Court. So they are going to affectively have a fence in front of their yard and that's the reason why the town doesn't want to have those fences reaching the sidewalk. They want to be able to look down the street and not see fences cutting up the front yard.

MR. ARCOS: My only really reasoning behind this is that -- well, my kids they are, you know, they're small. My daughter is here, you know, she can't stay still. I feel like they will want to play in the bigger area, which would be kind of the -- if that area is the two front yards, they might want to play and I am kind of concerned about just a ball going into the street and, you know, traffic passing by. Really that -- that is really my only reasoning. Like I said, I'm not -- I'm

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2 not stuck to the site plan. If you guys have a different type
3 of way that we could -- that I could do it or, you know.

4 MEMBER HERNANDEZ: Well, again, the code allows you to
5 do it without anything from us. If you go from that corner
6 straight back.

7 MR. ARCOS: Understood.

8 MEMBER HERNANDEZ: That gives you a yard on the back of
9 the house. From the side of the house, there needs to be, you
10 know, something. I appreciate if you had no backyard at all,
11 you know, the back of your house was only five feet before you
12 got to your neighbors, we would say okay, fine, it's reasonable
13 to use the side of the house because there is no backyard, but
14 you do have a backyard.

15 MR. ARCOS: Completely understood.

16 MEMBER HERNANDEZ: So it's very difficult for us to
17 justify. As a matter of fact, with small children and I did
18 have small children at one time, now they're adults, I don't
19 know if I want them playing around the house and I'm sitting in
20 the back, because at that point I can't see them and my point
21 of view was I always wanted them wherever I was. Whatever
22 rectangle I can see, that's where I wanted my kids playing.

23 MR. ARCOS: Right.

24 MEMBER HERNANDEZ: So having an L shaped backyard or a
25 U shaped in your case, because you have a little section on the
26 other side as well may not even be a big deal.

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MR. ARCOS: On the site plan I was very generous. I'm sorry. Very generous to putting that part. If there is some type of way that maybe not include the whole side of the house but maybe just that part in the back so as to have a rectangle.

MEMBER GOODSELL: While they are double checking, can I just ask a question?

MR. ARCOS: Yes.

MEMBER GOODSELL: Out of curiosity, your plan is to move into this house?

MR. ARCOS: I am already -- yes, I am planning, you know, I'm already living in this house. We are not yet finished with closing out the permits, but we are in process of getting all the last -- the last, like, approvals. We already met with the plumbing inspector twice just to have some things cleared up and some things that he wanted us to change, and then the final inspection to close out the building permit.

MEMBER GOODSELL: Just out of curiosity, why did you buy the house in a corporation?

MR. ARCOS: Oh, right. So in 2019, I started investing in, like, these kind of fixer-uppers. But really I started in Queens and I've done properties in the Bronx and then I have one in Ozone Park and I have one in Roosevelt and -- Roosevelt, New York so here in Long Island and Freeport, New York. Those are the four properties I have. I started -- this was, at the beginning, it was an investment situation, but then as soon as

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I saw the neighborhood and I saw how accessible it is for me to go to work, I work in Queens. I have a shipping company as well other than these investments that I do. So I, you know, I told my wife, hey, you know, this is house is really beautiful, obviously it was in pretty bad shape.

MEMBER GOODSELL: Well, I see that you bought from an estate so.

MR. ARCOS: Right. Correct. Exactly. Yes.

MEMBER GOODSELL: And I do a lot of estate work when I was in practice. So yes, they are not generally as well maintained.

MR. ARCOS: Correct.

MEMBER GOODSELL: By people who have owned them for a long time.

MR. ARCOS: Correct. And then if I'm not mistaken, the person -- the mother that lived there had passed away sometime before and really, I guess all of the heirs, the sons and daughters were kind of not really maintaining the house. There was a fence there that had been there for a long time. I'm sure there was some type of violation given at some point that had be resolved. But yeah, so just to make a long story short, the house was really well situated, you know, we loved the green space that there is and the only thing is just the neighbors around there were really nice. Like as soon as they saw that we were fixing the house, everybody was, like, really

1 Appeal #21529

2 happy about it, you know, they came by.

3 MEMBER GOODSSELL: Raising their property values.

4 MR. ARCOS: Right. Right. Exactly. So they came by
5 and they were welcoming us. They were happy it's a family with
6 two kids so yeah, I mean basically that's --

7 MEMBER GOODSSELL: So you made a decision then to say?

8 MR. ARCOS: Yeah. Yeah. Yeah. Definitely. Right now
9 I'm in the process of closing out these permits and then
10 applying for refinancing but now under my personal name, not
11 the company name anymore and yeah. I mean, just the school
12 district is all right. I mean it's not, like, the best school
13 district, but I'm fine with that, you know, this is something
14 that we just gotta work with with our kids and kind of build up
15 the school districts in Long Island. And we're happy. I mean
16 we are Latin American, everything is very close in terms of
17 having stores and supermarkets that have our products and stuff
18 like that. So we're happy about that and everything is really
19 close to that house. I mean you want to go to the mall, the
20 mall is there, the movie theater.

21 MEMBER GOODSSELL: You want to get on the parkway, it's
22 there.

23 VICE CHAIRMAN FRANCIS: BJ's right around the corner.

24 MR. ARCOS: BJ's right around the.

25 MEMBER HERNANDEZ: We know the area well.

26 MR. ARCOS: Yeah. We moved in in February. Yeah. So

1 Appeal #21529

2 we kind of just moved in there, but we are really happy. It's
3 a nice neighborhood.

4 VICE CHAIRMAN FRANCIS: So Steve is going to show you
5 something.

6 MR. ARCOS: And everything -- the whole fence would be
7 four feet as to not take away the view for the neighbor that's,
8 like, that's next to my backyard, which I think is one of the
9 things that's important on corner properties and fencing as
10 well.

11 VICE CHAIRMAN FRANCIS: Yes. So I think what we have
12 been discussing is allowing you to have a fence from the back
13 corner of the house toward Montauk Court so that the -- the big
14 area is enclosed, but we would condition on you using a state
15 type fencing. It's usually black in color, but it's kind of a
16 see through fencing. It's rod iron, but it usually is not and
17 that you also plant evergreens along that area to block off or
18 make it really a little more -- plantings along Montauk Court
19 and then with regard to the back --

20 MR. ARCOS: Yeah. Can you -- sorry, because I'm not
21 like 100 percent. Thank you. Thank you. Sorry about that.

22 VICE CHAIRMAN FRANCIS: Because it confuses me just
23 talking so I know it's confusing you.

24 SECRETARY WAGNER: Let me just confirm.

25 MR. ARCOS: And the type of --

26 VICE CHAIRMAN FRANCIS: It's called a state style

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fencing.

MEMBER HERNANDEZ: Yeah. What you had before is white PVC fencing which is solid and you can't see through it so it's very much in your face. But a state fence usually you can see through and therefore it will prevent the ball from rolling out into the street.

MR. ARCOS: Exactly. Which my idea is the containment. Exactly. Yeah.

MEMBER HERNANDEZ: But you don't -- it's not a wall. Google maps, one of their screens shows the old PVC fence. The areal doesn't. The aerial view shows the wooden fence.

MR. ARCOS: Yeah. No. No. We took that down in, like, August, I believe.

SECRETARY WAGNER: I think we have to say exactly how many feet to move the fence in on the property line so that the inspector can --

VICE CHAIRMAN FRANCIS: Three feet.

MEMBER HERNANDEZ: Three feet so you can plant.

VICE CHAIRMAN FRANCIS: Arborvitae is probably the best.

MEMBER HERNANDEZ: Any green shrubbery that covers. You remember what the old one looked like. It didn't look very nice. That's what we don't want to see.

VICE CHAIRMAN FRANCIS: Any evergreen shrubbery that's going to stay green all year around.

1 Appeal #21529

2 MR. ARCOS: And then three feet from the property line.

3 MEMBER HERNANDEZ: Yes. So you have space to do the
4 planting. Exactly.

5 MR. ARCOS: Perfect. And from the area that's actually
6 allowable to put the fence that has no restriction onto -- in
7 terms of the type of fence. I might just kind of elongate it
8 instead of just that little area of just fence, maybe just have
9 the shrubbery go all the way with the three feet.

10 VICE CHAIRMAN FRANCIS: Oh, sure. Absolutely.

11 MR. ARCOS: Just so it looks nice. I don't want to cut
12 it short there.

13 MEMBER HERNANDEZ: You can put shrubbery along your
14 whole property line if you wanted to. That's perfectly fine.
15 There's no code against that. Keeping in mind, keep the
16 shrubberies low when it comes to the corner for safety reasons.
17 We don't want anyone having tall shrubbery.

18 MR. ARCOS: Right. Yeah. Yeah. No. No. No. Like I
19 said it's not, like, an issue of privacy, it's more an issue of
20 containment and just make it look nice. Yeah.

21 VICE CHAIRMAN FRANCIS: All right. So yeah, I'll move
22 that we grant the application as modified subject to our
23 explanation of the fence and the -- and the evergreen
24 plantings.

25 CHAIRMAN MAMMINA: We have a motion by Vice Chairman.
26 Do we have a second?

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MEMBER DONATELLI: I will second. Yeah. Second.

CHAIRMAN MAMMINA: Second by Member Donatelli. Please
poll the Board.

SECRETARY WAGNER: Member Goodsell?

MEMBER GOODSSELL: Aye.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye. So the application is approved
as amended.

MR. ARCOS: Perfect. Thank you so much guys. I
appreciate it.

VICE CHAIRMAN FRANCIS: Welcome to the neighborhood.

MR. ARCOS: Thank you. Take care.

VICE CHAIRMAN FRANCIS: Take care.

SECRETARY WAGNER: Appeal Number 21530, Lake Success
Shopping Center; 1400 Union Turnpike, New Hyde Park; Section 8,
Block 235, Lot 56 in the Business-AA Zoning District.
Variances from 70-202.4(C)(1) and 70-202.4(C)(4), to construct
cart corrals within a parking lot that would not be permanently
anchored to the ground and without the protective roof.

1 Appeal #21530

2 CHAIRMAN MAMMINA: You've heard Appeal Number 21530,
3 Lake Success Shopping Center. Is there anyone in the room who
4 is interested in the application other than the applicant?
5 Seeing no one. Please give your name and address.

6 MS. PREVETE: Yes. Good afternoon, Mr. Chairman,
7 Members of the Board. My name is Diana Prevete. I'm an
8 attorney with the law firm of Albanese and Albanese, 1050
9 Franklin Avenue, Garden City, New York 11530. I'm here today
10 representing the lessee of the subject property and the applicant,
11 which is Target Corporation. They are seeking variances of
12 section 70-202.4(C)(1) and 70-202.4(C)(4), to permit
13 installation of cart corrals within the parking areas adjacent
14 to the Target store. The Target is located at 1400 Union
15 Turnpike, New Hyde Park, New York within the Lake Success
16 Shopping Center. With me today is Alison Mathern,
17 M-A-T-H-E-R-N, who is a senior portfolio and development
18 manager from Target and also today, as I'm sure the Board is
19 familiar, representative of the owner Lake Success Shopping
20 Center, Mr. Robert Peck. He's been here on several occasions
21 whenever there is an application involving the shopping center.
22 The shopping center, as the Board knows, is a rather old one.
23 It was constructed in 1949 and as far as Target store is
24 concerned, there were a few different applications that have
25 been granted by the Board previously. One on February 5, 2020,
26 the Board granted Target a conditional use permit you under

Appeal #21530

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2 Appeal Number 21841, to permit interior alterations to the
3 first floor and the cellar of the building. The second one
4 that was granted by the Board was on December 15, 2021, where
5 the Board granted approval for Target to amend the previously
6 granted conditional use permit so that they could then use the
7 second floor as well as the first floor in this cellar and that
8 was Appeal Number 21157. And then most recently on January 19,
9 2022, the Board granted variances for five signs under Appeal
10 Number 21102. Just for the Board's information, the planned
11 opening for Target is right on top of us, it's April 14, 2024.
12 So they will be open in less than two weeks.

13 MEMBER GOODSSELL: And thankfully nobody will ask me one
14 more time when is Target opening.

15 MS. PREVETE: Yes. Exactly.

16 MEMBER GOODSSELL: Target does not realize the
17 neighborhood is going to turn out, in my opinion, in droves.

18 MS. PREVETE: I agree with you, Ms. Goodsell.

19 The proposed Target is in the center at the most
20 western end of the shopping center. It's known on the Nassau
21 County Land and Tax Map as Section 8, Block 235, Lot 56. I do
22 have a copy of the tax map, which I'll hand up as an exhibit.

23 SECRETARY WAGNER: Exhibit 1.

24 MS. PREVETE: Yes. And as the Board knows, the
25 property is located within a Business-AA District and for the
26 record, I will also hand up a copy of the zoning map, which

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2 shows the property and that it is located within the
3 Business-AA District.

4 SECRETARY WAGNER: Exhibit 2.

5 MS. PREVETE: The subject property is 17 acres, it
6 contains 300,050 square feet. It has 2,100 linear feet along
7 Union Turnpike so it's somewhat unique. At the eastern end is
8 HSBC bank and Shake Shack and then as you get -- you go west,
9 the last store, as you know, is the Target. Target Corporation
10 is primarily retailed dry goods and as been doing business for
11 approximately 50 years. Initially it was a division of Dayton
12 Hudson Corporation, whose predecessor corporations date back to
13 the 1900s. It's parent company was renamed Target in 2000, and
14 as of today there are approximately, 1,956 stores, Target
15 stores domestically throughout the U.S. The closest Targets to
16 this particular location is the one in Westbury on Corporate
17 Drive. That's approximately eight miles away and then there is
18 a small format Target, which is located in Port Washington on
19 Shore Road in the Soundview Marketplace. As far as the
20 variances are concerned, 202.4(C)(1) requires cart corrals for
21 the storage of baskets, carts and wagons to be permanently
22 anchored in place. 202.4(C)(4) requires some of form of a
23 protective roof on them. These sections of the code were
24 adopted in March 2011. So that's relatively recently. They've
25 only been around for about 10 or 12 years. As a result,
26 throughout the town, there are shopping centers that have cart

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corrals that are not permanently anchored or covered with a protective roof. Just so the Board can get an idea, I do have Google Map photos of the Target cart corrals in Port Washington, the cart corrals in Westbury and also just so the Board would have some reference, previously Bed Bath and Beyond, before they closed, had cart corrals in this parking area. Those cart corrals also were not anchored or covered, because Bed Bath was established in the shopping center before that provision of the code came into effect. So I will just hand these up to the Board so they can get an idea of what they looked like.

SECRETARY WAGNER: This will be Exhibit 3.

MS. PREVETE: Yes, you can mark them altogether as Exhibit 3.

MEMBER GOODSELL: Ms. Prevete, I learn something new every week sitting on this Board. I had no idea that we had a code that corrals needed to be permanently anchored or roofed over. Coincidentally I went to the Target in Westbury the other day and I was the woman shaking the corral to determine whether it was anchored or not and I noticed, for the record, it was not anchored, but it's so heavy it is impossible to move it.

MS. PREVETE: Yes, to move it. Yes. You don't have to feel bad. We were not aware that they needed to be permanently anchored either so.

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2 MEMBER GOODSSELL: I told the Board I was surprised,
3 though I did my own little survey going to shopping centers in
4 the area and yes, it's a mix of covered, uncovered fixed
5 corrals. Most of them did seem to be fixed.

6 MS. PREVETE: Yes.

7 MEMBER GOODSSELL: And Target in Lake Success currently
8 has signs posted anchored to the ground, corral drawn area with
9 an X on the pavement where I presume you return your shopping
10 carts.

11 MS. PREVETE: Yes. They've waited to install the
12 corrals, because we were going to have the hearing today. So
13 they wanted to them -- they wanted to get as much done as
14 possible before the opening in anticipation that hopefully they
15 would be able to get them in by opening so.

16 MEMBER DONATELLI: So I do have one comment. You
17 mentioned Bed Bath and Beyond, which when it was opened,
18 predated the code.

19 MS. PREVETE: Yes.

20 MEMBER DONATELLI: I mean to me, the whole point of the
21 Board enacting that provision of the code is because they
22 wanted these corrals then attached to the ground, right?

23 MS. PREVETE: Correct.

24 MEMBER DONATELLI: So to me you're actually making the
25 argument as to why we should not grant the variance. Anyway,
26 if you can address that, please, because it is a relatively

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recent enactment to the code.

MS. PREVETE: Yes.

MEMBER DONATELLI: But perhaps you can address that.

MS. PREVETE: I really couldn't find back up material as to how this section of the code came into being. I will tell you from the vantage point of Target however, why they wanted to have this application brought before the Board. As you know Target is a very large retailer with stores throughout the U.S. this is their prototype. It's a two-wheeler steel frame as you can see from the photographs. Those are going to be the, you know, from the Westbury and Port Washington one. They're sized to fit the height of the carts and they are somewhat movable. If you, you know, have the proper equipment and team and staff to do it. Their experience with this design that it is better for snow removal, because the cart corrals can be moved and the area thoroughly plowed and then moved back into place and this eliminates snow buildup and ice around the corrals where people would be walking and putting them back into the corrals.

MEMBER GOODSELL: Mother nature is not cooperating with you on that argument. Refresh my recollection how many snowfalls we've had in the two last years.

MS. PREVETE: No, I understand and I think their experience goes more to the stores in the more snowy areas.

VICE CHAIRMAN FRANCIS: Ms. Prevete, one other point.

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2 Are these corrals taking up parking spaces?

3 MS. PREVETE: They've been computed into the parking
4 calculation. Yes, they are taking up parking spaces. They
5 were not counted for the parking variance that we got last year
6 so and he they were demarcated on the plan showing that they
7 were for corrals not for cars. If you don't have --

8 MEMBER HERNANDEZ: The reason why the question came up,
9 as we look at the pictures that you submitted, they are sitting
10 in what is marked as parking spaces.

11 MS. PREVETE: Those may be in the other locations, but
12 in this location, they are not parking spaces. They are in a
13 clearly demarcated area for the corrals. Parking space are
14 adjacent.

15 MEMBER HERNANDEZ: Yes. Yes, of course.

16 VICE CHAIRMAN FRANCIS: Right.

17 MS. PREVETE: Right.

18 MEMBER GOODSSELL: And I just want to point out that
19 what's there now, the posts that indicate cart storage, because
20 there is a red post with a red sign that indicates cart
21 storage, those are permanently anchored into the ground. Are
22 those coming out?

23 MS. PREVETE: The signs? No. Those are probably going
24 to be anchored where they are.

25 MEMBER GOODSSELL: So that kind of negates the argument
26 that they could be picked up, moved, plowed and put back.

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MS. PREVETE: The cart corral is just going to be slid in in front.

MEMBER GOODSSELL: Oh, I see.

MS. PREVETE: If you don't have them affixed to the ground, it's really not recommended that you have a covering, because if there is high, gusty winds, sometimes those winds can cause them to move. Pick them up. So that's Target's experience with this design of cart corral. That's the reason why they want them. They feel that this is a good design. They've used them all over the country, including in Westbury and in Soundview in Port Washington. They haven't had any real issues with it. The other thing, which they did point out to me, is that if the cart corrals are moveable and not anchored, what their experience has been is sometimes cars do hit these corrals in pulling in, pulling out, backing up. They have found that if they're moveable, there is less damage to both the corral and the car if they move, they shift a little bit. The cars aren't going at a high rate of space if they're maneuvering, but what will happen is there is less damage and it's easily rectifiable if there is damage to the corral. Okay. Their procedure for carts, Target, is that at closing in the evening, the carts are retrieved from the parking lot and also from the corrals and they're put inside the store overnight. There are excess carts that they do keep at the location, which usually are up against the building and they're

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2 covered with a tarp and they're anchored together so that they
3 can't move, you know. They're basically put together, tied
4 together. Target has a dedicated team of one to four employees
5 that handle the cart collection. Usually on a shift there's
6 one to two employees working on shift, but during peak times
7 they will have more than two employees working or if there is
8 snow on the ground, they tend to have more employees working on
9 the carts, because they're tougher to move in any sort of snowy
10 condition so they and, you know, the customers are more likely
11 to leave them then bring them back to the corrals. The Target
12 store also has a gatekeeper device at the access driveways to
13 the shopping center so that if someone tries to push the cart
14 beyond the property, the gatekeeper basically causes the wheels
15 to lock so that they can't get it off the property. As far as
16 the factors for the variance -- granting the variance, we don't
17 believe that an undesirable change will be produced in the
18 character of the neighborhood or a detriment to nearby
19 properties. As the Board knows, this is a Business-AA
20 District. The areas to the east, the west and the north are
21 developed with commercial uses, including gas stations, retail,
22 utilities, municipal uses, food uses, office uses. The area to
23 is south, as the Board knows, is a well-developed residential
24 area. However, the shopping center has existed for well over
25 70 years with a very, you know, multiple retail tenants, some
26 of them having cart corrals and there hasn't been any problem

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in the past, even though those cart corrals in the past were not anchored into the ground or covered. The benefit sought by the applicant cannot be achieved by some other feasible method. The applicant has stores throughout the country and his is the prototype two-wheeler steel frame cart corral, which is sized to fit the carts. Their experience with the design is that it is better in snow removal, whenever there is snow and that it is a little bit more forgiving if a car does hit a cart corral and they do believe that this is a good and a proper design even for this particular location of a Target. The requested variances are not substantial. We are only seeking two variances in this particular case and as the Board knows, there has to be kind of a common sense appraisal of the variances being requested. It's not just, you know, a percentage evaluation and we don't believe that there's really any adverse affect, which does come into play when you consider the substantiality of the variance. The requested variances will not have an adverse effect on physical or environmental conditions. As I've said, Target has a dedicated team. They are very attentive to, you know, the carts, where they're located, that they are put back in the corrals. They do have other areas there for pick-up so it's a very organized procedure that they have in trying to keep the carts, the pick-up areas and everything properly policed and maintained. We know that in this case, this is a self-created condition.

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2 It's a difficulty that they've created based upon their
3 prototypical design of cart corrals, but as the Board knows,
4 the self-created difficulty is not a factor in and of itself
5 that warrants denial of a variance. In balancing the benefit
6 to the applicant against detriment to the community, the
7 health, safety and welfare of the community, there really is no
8 detriment to the community so we believe that the benefit to
9 the applicant does outweigh any sort of evaluation of detriment
10 to the community so that the variance is warranted in this
11 particular case. I just want to state for the record also,
12 that the Nassau County Planning Commission has recommended
13 local determination so the Board is free to make whatever
14 decision it believes is warranted in this case given the
15 foregoing. If the Board has questions, you know, Mr. Peck is
16 here and Allison is here to answer them from Target. But if
17 there are no questions, we would respectfully request that the
18 application be granted.

19 CHAIRMAN MAMMINA: I have a few questions. Not that
20 that's any measure of anything, but apparently this ordinance
21 came into effect in 2011 and it's 2024. So in the past 13
22 years we've never gotten one of these before, but be that as it
23 may, it's clearly -- it's clearly in there. You know, in terms
24 of them being anchored to the -- to the ground, I can
25 understand that, because as the Vice Chairman said, if he hits
26 one of these things in his pickup truck and it's moving and

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2 when it moves, it may not hit a car, it might hit somebody who
3 is walking by. And I guess just for me, it's just my opinion,
4 I don't see what the big deal is to anchor it to the ground and
5 I will say I'm going to doubt very much that the Lake Success
6 Shopping Center is picking up these carts up and moving them
7 out of the way so the snow plow can come through. And who
8 knows, maybe they really do do that, but I think it's going to
9 be more, you know, that one of those kids is gonna have a
10 shovel, you know, if the snow guys haven't already pushed all
11 the snow, you know, onto that. But I'm just saying that I
12 think for safety reasons, certainly anchoring them would be
13 something that is important. I don't think there's any kind of
14 a hardship. The code is not specific at all as to what
15 protected on three sides means. Now, in some of the pictures
16 there are these, they look like these jersey rail bumpers that
17 are on the side. I don't know if that means protection, you
18 know, or do they want bollards at two feet on the center, you
19 know, on there. I have no idea what that means, but we do have
20 Mr. Norgent here, who I'm sure will -- will clarify that for
21 us. You know, in terms of being under a protective roof and I
22 will say nothing going on, Diana knows very well that in my
23 family I do all the food shopping. We used to meet at Walbaums
24 on a regular basis. She and her husband would shop and it was
25 just a coincidence.

26 MS. PREVETE: Yes, we did.

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2 CHAIRMAN MAMMINA: So yes, I do all the food shopping.
3 I love doing it. This is Target shopping, not so much my thing
4 but it doesn't change -- doesn't change anything. The lines
5 are too long at Target. But all the joking aside, I don't
6 know. You know, I mean I can only venture to guess does a
7 protective rood keep snow off it, I don't know. But the snow
8 is going to blow in from the sides, you know what I mean.

9 MEMBER GOODSELL: It's certainly not keeping the carts
10 dry, because the rain comes in any way.

11 MS. PREVETE: No. For the Board's information, the
12 team that handles the carts, if there's inclement weather like
13 rain or snow, they're also supposed to be drying them off.

14 CHAIRMAN MAMMINA: I've seen that kind of thing in the
15 supermarkets.

16 MS. PREVETE: Yes. They do have a dedicated team for
17 that.

18 MEMBER DONATELLI: Do you know if Target has any
19 instances of these cart corrals that are anchored to the ground
20 in the New York area?

21 MS. PREVETE: I did ask that question. I was told that
22 and this is from one of the -- Nicholas Propane, who is one of
23 the managers and he does store locations. He's pretty high up
24 in the organization. He said he can remember one where they
25 did anchor them from his recollection.

26 MEMBER DONATELLI: Is there a reason why they're not

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willing to anchor these?

MS. PREVETE: I can only say, unless Allison wants to address that. It's their prototype essentially. They use this prototype all over the country. They find that this has been successful for their team to bring the wagons in, gather them and everything and that's why they choose this prototype and choose to use it countrywide.

MS. MATHERN: Allison Mathern, senior portfolio development manager with Target Corporation.

CHAIRMAN MAMMINA: It can be any address that's a Target address.

MS. MATHERN: 1000 Nicolette Mall, Minneapolis, Minnesota 55403. Yeah. I mean not much to add other than what Diana said. This is our prototype. Again, we don't anchor them for a reason. So they can be relocated. Either if there's a snowfall to clear that area, because as noted, you know, we've all been in shopping centers where snow and ice is built up in the cart corrals, the carts are sticking out in the drive aisles, you know. So it may not be something that we do every snowfall, but if there are big snowfalls we have the ability to move those and clear them out, because that makes it more difficult for our customers and for the folks that work for us, the team members who are collecting and retrieving the carts and bringing the carts back to the store if that area is clogged up with snow and ice and whatnot. I would also note

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2 that, you know, occasionally we relocate them or would want to
3 maybe remove one if it's not being used, it's not in the proper
4 location that we thought would be the best location for
5 customers to use and that allows us to do that A, easily and
6 also without damaging what is newly paved asphalt in parking
7 lots. To your point, they are extremely heavy, they are very
8 difficult to move and so it's never -- I shouldn't say never.
9 It is, to my knowledge, never been a problem that, you know,
10 they move when we don't want them to and so simply, again, for
11 those reasons of snow removal and being able to relocate
12 without damaging the asphalt from that anchoring we prefer to
13 have them not permanently fixed.

14 CHAIRMAN MAMMINA: Other than what you point out about
15 snow removal or whatever, would there be any extreme hardship
16 just fastening these things to the ground? As an architect and
17 I have never inspect a cart corral, I don't know if these cart
18 corrals are custom made or if it's something that's purchased,
19 but I don't -- I could come up with at least three different
20 details on how I can design something that's anchored to the
21 ground and have a locking thing on it that can flip back when
22 somebody wants to move the corral. But that's not what it's
23 really about, you know.

24 MS. MATHERN: Right. I mean I'm certain that there is
25 a way we can do that. Again, I think the challenge with that
26 would be if we did need to relocate one somewhere else in the

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2 parking lot, you know, we're damaging newly paved asphalt that
3 can leave something in the asphalt. I'm not a construction
4 manager so I don't know what those mechanisms can be or how
5 they can easily and affectively be removed. But my sense would
6 be the biggest challenge in doing that would simply be what
7 would be leftover or damage the asphalt if we did want to move
8 one.

9 CHAIRMAN MAMMINA: All right. Thank you.

10 MEMBER GOODSELL: Let me ask you a question. Do you
11 have any cart corrals that have a roof over them?

12 MS. MATHERN: I don't believe so, but I would not want
13 to testify that we absolutely do not. But I am not aware of
14 any and I believe we did ask that question and nobody else was
15 aware.

16 MEMBER GOODSELL: To me and just saying it does not
17 keep the carts dry, it's simply an advertisement opportunity.
18 Lidl shopping center, which is what, a mile and a half away,
19 has several with the word Lidl on them, but again that's Lidl.
20 I -- I -- I am impressed at how heavy these cart corrals are
21 that are being used in the Westbury one. They are double
22 aisle. I don't know what the weight is. I know I could barely
23 move the end of one of them so they're not likely to blow away
24 in the wind. Do your specifications show how heavy they are?

25 MS. MATHERN: I do not. Yeah. I'm looking at my
26 detail, but it doesn't have a weight on it. But yes, I know

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2 obviously, you know, Target gets sued for everything. So I'm
3 sure that if it was a problem that they were too light and they
4 were moving and hitting cars or whatever, we would have
5 rectified the situation. So I'm quite certain that knowing
6 that we do not prefer to attach them, you know, they are
7 designed to not move on their own.

8 MEMBER GOODSSELL: You've been in the Lake Success
9 Shopping Center?

10 MS. MATHERN: I was there this morning, yes.

11 MEMBER GOODSSELL: Then you've noticed the piers that
12 are currently installed. Are those coming out?

13 MS. MATHERN: I honestly cannot tell you that for
14 certain. I don't know. We can find out and let you now.

15 MEMBER GOODSSELL: Those are clearly anchored down.
16 That's my point.

17 MS. MATHERN: Yes. Yes. I think the challenge there
18 is that clearly those do not contain the carts in any way. You
19 know, it was a stopgap measure to tell customers where to put
20 the carts so our employees can most easily, you know, if people
21 follow the rules, they can collect them in the one spot as the
22 would with a cart corral.

23 MEMBER GOODSSELL: This is New York. It's a big if.

24 MS. MATHERN: I think it's a big if anywhere these
25 days. But that was sort of a stopgap measure, you know, to let
26 us open the store and have a place for the carts designated. I

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2 cannot tell you, I can find out whether or not that those will
3 be removed when and if we install the cart corrals. But in any
4 case, you know, to the previous point, those don't pose the
5 same issue with being able to plow around them, you know, they
6 would be able to be seen by a plow and they can maneuver around
7 them to clear the area. So there's -- it's really not -- it's
8 really apples to oranges with something that being permanent
9 versus the cart corral itself being permanent.

10 CHAIRMAN MAMMINA: Thank you.

11 MS. MATHERN: You're welcome.

12 VICE CHAIRMAN FRANCIS: You know, I think as one Board
13 member, the problem I'm having is the town board put this law
14 in place for whatever reason. You know, I don't really
15 understand it, but they put it in place and unlike other
16 variances, you know, you're asking us to negate what the town
17 board wanted, simply because this is the way that your client
18 operates and I -- I just don't think that's enough for me. I
19 don't think that's enough for me to vary this particular law.
20 But I'd like to hear from Mr. Norgent, because I'd like to hear
21 a little background on how this came up what the purpose is.

22 MEMBER GOODSSELL: Tell us about shopping carts, Mr.
23 Norgent, please.

24 DEPUTY COMMISSIONER NORGENT: Deputy Commissioner Glen
25 Norgent Building Department. As with all codes, there had to
26 be a reason that in 2011, the town board made this and put such

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2 specific requirements into it. What those reasons are, I do
3 not know.

4 VICE CHAIRMAN FRANCIS: Okay. That answers that.

5 DEPUTY COMMISSIONER NORGENT: Because the building
6 department's job is to enforce the codes.

7 MEMBER HERNANDEZ: Not to write them.

8 DEPUTY COMMISSIONER NORGENT: Not to write them. Now,
9 as was just stated, it's a, you know, generally speaking, it's
10 a relatively recent code and with -- I'm sure that if I knew
11 that, I could look and find out if there was testimony, because
12 sometimes when they pass the code, they say that this is the
13 reason why we're doing it and I -- I'm going to guess that they
14 had this meeting and nobody showed up either for or against it
15 and it was a very short hearing on passing this new code.

16 VICE CHAIRMAN FRANCIS: Right.

17 DEPUTY COMMISSIONER NORGENT: But in 2011, there must
18 have been something that caused this. Now, all those specific
19 requirements that it be anchored, that it be protected. Now,
20 I'm go to say that the protection means that you probably need
21 bollards, even though -- because there's another section of the
22 code that says it has to be enclosed on three sides. Those are
23 two separate code sections. So why would they say protect it
24 in one and enclosed on the other. Protection usually means
25 vehicle protection if it's within a parking lot and that it
26 requires it be 12 inches away from a parking space, it requires

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2 the roof. I don't know if a roof is required. As far as
3 moving them, I can say that I am a big fan of Target. I shop
4 at the Target in Farmingdale three or four times a week and
5 I've never seen the corrals moved. Whether it was the two and
6 a half feet of snow that we had four years ago or little tiny
7 snow. I've never seen corrals moved. In fact, that's usually
8 where they push the snow to is the corral areas. So anchoring
9 them to the ground, yeah. What happens when the vehicle does
10 it hit and it's now on that angle that we've all seen, it never
11 gets moved back. I've gone to Target and other places where
12 they are on the angle and I'll go there weeks later or months
13 later and it's still at that angle, you know, so it's not
14 straight and now it's taking up an extra parking spot, because
15 it got pushed into that. So that's one reason why anchoring is
16 important, because it does keep it in that spot and doesn't
17 encroach on the neighboring parking spot. Now, we haven't had
18 too many of these, because usually it's shopping centers and if
19 we all know shopping centers, they were built with that
20 overhang in the front where they usually put the cart corrals.
21 So that meets the code. It's underneath the overhang. So with
22 all the shopping centers that we've had go in and go out, Aldi,
23 other things, they were shopping centers -- supermarkets before
24 so they already had the cart corrals under the overhang.

25 MEMBER HERNANDEZ: And Iavarone in the shopping center,
26 that's where they keep their shopping carts underneath.

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2 DEPUTY COMMISSIONER NORGENT: Right. And that's a
3 typical thing. The ones out in the parking lot are atypical.

4 CHAIRMAN MAMMINA: People file for corrals? I mean,
5 again, I asked that as an architect. I mean I don't know. I'm
6 saying do people come in and file for shopping carts or they
7 just put it down and nobody questions it?

8 DEPUTY COMMISSIONER NORGENT: Well, it usually comes up
9 when, like I said, it was a supermarket that one went out, a
10 year later another supermarket comes in and file a permit to
11 put in new refrigerator, shelving units and all these things
12 and they gave us a site plan showing the shopping cart corral.
13 You're filing for it. Now, are we going out hunting for
14 shopping corrals? No. It's like anything else, you know.

15 MEMBER DONATELLI: They don't need certificates of
16 occupancy.

17 DEPUTY COMMISSIONER NORGENT: It needs a building
18 permit because it's in Chapter 70. It's considered an
19 accessory structure and by our code, an accessory structure
20 needs a permit. But that being said, there's probably tens of
21 thousands of accessory structures, porticos, large sheds that
22 need permits and do not have them.

23 CHAIRMAN MAMMINA: And I'm also thinking and I
24 appreciate Member Hernandez's comment but Iavarone is a
25 significantly smaller store than Target. They could build a
26 covering that comes out 50 feet to protect all of the carts and

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2 things. I mean so it is separated in that way. Interesting.
3 I don't know.

4 MEMBER DONATELLI: A case of first impression.

5 CHAIRMAN MAMMINA: Very odd. Very odd.

6 MEMBER GOODSSELL: Mr. Chairman, as one Board member, I
7 have no idea why the code is the way it is. The Target cart
8 corrals is the biggest and heaviest corrals of all the shopping
9 centers that I've looked at and I understand the Vice
10 Chairman's point that the town must have had something in mind.
11 Because they just enacted this code but whatever the purpose
12 is, I don't have an objection to Target's corrals.

13 MEMBER DONATELLI: I would like to hear from the
14 applicant if Mr. Norgent is done. I would like to hear from
15 the applicant and I -- I also have an opinion, but I'd like to
16 hear from the applicant.

17 VICE CHAIRMAN FRANCIS: Deborah, can we get a
18 transcript --

19 MS. ALGIOS: I will call for one.

20 VICE CHAIRMAN FRANCIS: I would definitely like to see
21 it.

22 DEPUTY COMMISSIONER NORGENT: Yes. I was going to, for
23 the next one 13 years from now, I was going to look to see why
24 these regulations were put it.

25 VICE CHAIRMAN FRANCIS: Yeah. Yeah. This one is
26 puzzling.

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2 MEMBER DONATELLI: Yes.

3 DEPUTY COMMISSIONER NORGENT: Thank you.

4 MEMBER HERNANDEZ: Thank you.

5 MEMBER DONATELLI: Did you want to respond to what Mr.
6 Norgent said?

7 MS. PREVETE: I -- I believe that what Mr. Norgent said
8 kind of bears out our thought on this. That there didn't
9 appear to be any particularly compelling reason why the law
10 came into effect. I couldn't find anything at least on that.
11 I did not check the transcript of the public hearing. However,
12 I can only speak for Target and when we first discussed this
13 and they were pretty insistent on the fact that they have a lot
14 of experience with the cart corrals. They have never seen a
15 provision like this in any of their other store openings. So
16 they were kind of surprised by it and I said to them well, you
17 know, it's here, you've been disapproved, you have to make a
18 decision about whether you want to move forward or you just
19 want to anchor the cart corral and they said, you know, our
20 experience tells us we should make the application, because we
21 feel this is the best design for the cart corrals and for this
22 particular location. They've put a lot of time and effort into
23 this store and opening this store so they wanted to have the
24 best --

25 MEMBER HERNANDEZ: With all due respect, the biggest
26 argument that you have made -- that has been made for doing

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2 these corrals is from the vast experience of the other
3 locations. So to talk about all the effort that's gone into
4 this analysis is contradictory.

5 MS. PREVETE: I can only tell you what I was told.
6 Okay. That's their philosophy. Okay. From the standpoint of
7 a legal standpoint, I believe we've made the case that a
8 variance could be warranted here, because there is really no
9 detriment to the community or to, you know, adverse impact
10 because these corrals are not anchored into the ground.
11 However, if the Board, you know, feels that we haven't made our
12 case, tell me what you'd need to see.

13 MEMBER DONATELLI: Well, so -- so -- I'm sorry.

14 CHAIRMAN MAMMINA: I just wanted to point, I am
15 obsessed with Google Earth. I Google everything on Google
16 Earth. People in the office make fun of me, but I can find the
17 answer to anything. Not that Google is definitive, but I'm
18 chuckling because the first thing that I put in is highlighted
19 in blue by the National Cart Company, whatever they are. "All
20 cart corrals shall be anchored to the ground. Anchoring the
21 cart corral is important product performance. There may be
22 specific anchors, check local authorities" and I'm laughing as
23 I'm, you know, as I'm reading that.

24 MS. PREVETE: As -- as, you know, the Board has a
25 decision to make here and I understand, you know, based upon
26 what Mr. Norgent said, based upon what I've seen and based upon

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the experience of Target, we believe that this is a good design and we believe that we've made the case for the granting of the variance. However, if the Board feels that we haven't made a case and they feel that, you know, anchoring -- you don't want to grant the variance for the anchoring, then we would say respectfully obviously the Board's prerogative. With respect to the covering, again, we don't know what the rationale was to have it covered. But if the Board feels that you can grant the variance for not having them covered, obviously Target would have to look at that and accept that. I also, when it says it has to be, you know, basically protected on all sides, I mean this tubular design does have a tube, you know, that goes along the side. So you can't go under it or through it. So I think that satisfies that and we weren't disappointed as far as, you know, having a protective side to it. So again, you know, it's hard for me to say other than we don't know what the rationale of the town board was when they enacted this particular section. We do believe we've made our case, but it's the Board's determination to make. We've asked for two variances and, you know, the Board has the obligation to make a decision as they feel and as they believe is the proper decision here.

VICE CHAIRMAN FRANCIS: I think -- I'm sorry, go ahead.

MEMBER DONATELLI: The one observation that I would make is, of course with every decision we make precedent for future applications that might come before us and while your

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2 presentation has been very thorough and very competent and
3 capable, we can't just grant a variance in one case. What do
4 we say to the next applicant that comes before us when the same
5 code is in place.

6 MS. PREVETE: Understood.

7 MEMBER DONATELLI: I mean I don't see any factors by
8 which we might differentiate this application from another
9 application in the future.

10 MS. PREVETE: I can only say to you, Mr. Donatelli,
11 that as Mr. Norgent said, I don't know think there's ever been
12 another application and I think if you went throughout the
13 town, you would find literally hundreds, maybe thousands of
14 cart corrals that aren't anchored to the ground.

15 MEMBER DONATELLI: I understand. But again, this is a
16 relativity recent case and as one Board member, I will say we
17 -- every time we sit up at this podium, we walk a fine line
18 between granting variances which we are empowered to grant or
19 the alternative is second guessing the town board, which we are
20 not authorized to do and very often as you know when you've
21 appeared before us in the past, variances come along because a
22 property has a certain unique quality to it or because of the
23 certain various circumstances behind an application. Here
24 we're presented with no, in my opinion, distinguishing factors,
25 other than the fact that this is a well regarded tenant and
26 certainly a welcomed tenant and I think as one Board member, I

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2 think we are really very familiar with this Target, because
3 this is, you know, the third application I guess.

4 MS. PREVETE: Fourth.

5 MEMBER DONATELLI: Fourth application and we are
6 waiting very eagerly for it to open, right, Ms. Goodsell?

7 MEMBER GOODSSELL: Yes.

8 MEMBER DONATELLI: So I know that we are all very, very
9 familiar with the application. But again, as one member of
10 this Board, I have a problem granting a variance just because
11 we want to. We can't second guess the town board.

12 MS. PREVETE: Understood. I understand your argument
13 about precedent as well. I can only say to you, you know, I've
14 been before many boards and with many different sections of
15 codes and villages and towns, and, you know, not to be
16 disrespectful, but sometimes the sections don't always make a
17 lot of sense. Maybe they are outdated, maybe, you know, for
18 whatever reason they are not necessary. So I can only say to
19 you I've gone through the elements, the five elements for the
20 granting of a variance. You know, it's the Board's absolute in
21 their discretion to make a decision on this. I would just say
22 to you, you know, we're asking for two variances, whatever the
23 Board's decision is, obviously Target is going to abide by it.

24 VICE CHAIRMAN FRANCIS: I think before we make a
25 decision, I think it's important for us to research the
26 legislative history and pray there is a reason or rational

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2 given for why they came up with this law. We are all
3 intelligent people and none of us can think of a reason why.

4 MS. PREVETE: I don't disagree with you.

5 VICE CHAIRMAN FRANCIS: That's my only thing. I want
6 to cover all basis with this decision, because as Mr. Donatelli
7 pointed out, this will set a precedent with regards to future
8 applications and I hope -- and I hope we don't get any more.

9 MEMBER GOODSELL: Agreed. I don't think if we reserve
10 decision that we will delay the Target opening in any way. I
11 really don't, because the public is coming whether you like it
12 or not.

13 MS. PREVETE: Yes. I would tend to agree with you.

14 VICE CHAIRMAN FRANCIS: If we are going to research
15 legislative history, then we have to continue this.

16 CHAIRMAN MAMMINA: I'm sure Ms. Prevete understands and
17 I'm sure Target understands as well.

18 MS. PREVETE: Understood.

19 CHAIRMAN MAMMINA: I've done retail work, I get it.

20 MS. PREVETE: Is there any other information that you
21 need from us, we are happy to submit it after you do your
22 research if that reveals anything that you might need to know.

23 VICE CHAIRMAN FRANCIS: Sure. Absolutely. Yes.

24 MEMBER DONATELLI: Thank you.

25 CHAIRMAN MAMMINA: Okay. Thank you.

26 VICE CHAIRMAN FRANCIS: Thank you.

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MS. PREVETE: Okay. So we will continue.

CHAIRMAN MAMMINA: Yes. Thanks.

SECRETARY WAGNER: So we have an extension of time request for Appeal Number 21017 for 2003 Jericho Turnpike in New Hyde Park.

VICE CHAIRMAN FRANCIS: What is it?

SECRETARY WAGNER: It was to legalize existing office space with substandard parking.

MEMBER DONATELLI: What application was that?

SECRETARY WAGNER: It 21017 of 2003 Jericho Turnpike. It just came in today.

MEMBER DONATELLI: And what was the application?

SECRETARY WAGNER: Appeal 21017.

MEMBER DONATELLI: To do what?

SECRETARY WAGNER: To legalize office space with not enough parking.

VICE CHAIRMAN FRANCIS: And they need --

SECRETARY WAGNER: And they need an extension of time, because the -- it says the -- they retained services of expeditor to file applications and documents to get the building permit, but the expeditor has not done what he said he was going to do and so the applicant is unable to get the permits in a timely fashion so they need an extension of time.

VICE CHAIRMAN FRANCIS: Okay.

MEMBER DONATELLI: First extension?

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SECRETARY WAGNER: I believe it is. Yeah. This was
2021. Yeah. Does anybody want to move it?

MEMBER DONATELLI: I'll move it.

VICE CHAIRMAN FRANCIS: I'll second.

SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Vice Chairman Francis?

VICE CHAIRMAN FRANCIS: Aye.

SECRETARY WAGNER: Chairman Mammina?

CHAIRMAN MAMMINA: Aye.

SECRETARY WAGNER: The extension is granted.

And then does somebody want to move to adopt SEQRA?

VICE CHAIRMAN FRANCIS: I'll move it.

SECRETARY WAGNER: Second?

MEMBER HERNANDEZ: Second.

SECRETARY WAGNER: All in favor?

MEMBER DONATELLI: Aye.

MEMBER HERNANDEZ: Aye.

VICE CHAIRMAN FRANCIS: Aye.

CHAIRMAN MAMMINA: Aye.

SECRETARY WAGNER: SEQRA is adopted.

(TIME NOTED: 1:14 p.m.)

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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 3rd day of April, 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 15th day of May, 2024.



NICOLE L. BASILE