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TOWN OF NORTH HEMPSTEAD
BOARD OF ZONING APPEALS
PUBLIC HEARINGS

Wednesday
April 17, 2024
10:07 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: 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 and welcome to the Town of North Hempstead Zoning Board of Appeals. And we like to kind of go through the way that -- that we operate here incase you've been to another zoning board and we may do things differently or in case you've never been to a zoning board and we can tell you to just relax, you know, and we'll -- we will -- we will be here to help out as much as we can. So the way that -- that we do things here is the calendar is generally called in order it's listed and I will call the first case and continue down the line, and as I call the case -- let me back up half a second. Our secretary Ms. Wagner will call the case first and then I will repeat the case and then when that happens, we will ask the applicant and the applicant only to come on up to the podium. I will ask if there's anybody else in the room that's interested in the case, either for the case or oppose to the case and we just ask for a show of hands on that so that we know that there are other people who wish to speak. So name and addresses on the record to our stenographer. This is a quasi judicial proceeding so we have a stenographer for this and a record is kept. So at that point, we'll turn the podium over to the applicant. The applicant will put their case onto the record, the Board will ask

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2 whatever questions it, you know, it may seem fit and then if
3 there is anyone else who wishes to speak, we'll ask the
4 applicant just to take a seat up in the front and then those
5 people have the opportunity to speak. Anyone who wishes to
6 speak, either in opposition or in support, we limit that to
7 three minutes. We can get this room filled with people so, you
8 know, if we don't have some kind of a limit, you know, it gets
9 out of hand. As I like to say, we don't chop anybody's head
10 off at the end of the three minutes, but we ask that you try
11 not to repeat each other and that we respect that three minute
12 rule. So if there is any opposition or support, the applicant
13 then gets the last turn at the podium and they would then
14 either get to support or refute what anyone had said and at
15 that point the hearing is over. You will not have to come
16 back. It is very, very seldom that we will have a second
17 hearing, but that's not impossible but truly is seldom. So at
18 that point, the Board will do one of four things. We will
19 either approve the application, deny the application, we may
20 continue or reserve the application. If we continue, that can
21 be for a number of reasons. We might ask the applicant, you
22 know, for a document from your closing or, you know, or, you
23 know, a document that we have this other survey that shows this
24 or that. The -- the Board may want to go look at the property,
25 you know, again. So that would be when we continue. When
26 we're looking for some other piece of information. If we are

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to reserve the application, that means the Board has everything that they need, you know, and needs to deliberate, you know, about that further and we do all of our deliberations in person. When -- when we deliberate we're on our, we call it our TV station. Live stream. Thank you. Thank you, Deborah. We are on our live stream. So in this day and age, you can watch from your kitchen table, or you can you watch from your office, you can watch from your car but don't be the driver. Okay. So everyone can hear what the Board has to say about their application and watch the process of our decision. You can come here and sit in the room. We don't necessarily decide every case that day. As a matter of fact, it's very infrequent when we decide all of those cases on any given day and, you know, so we need, you know, we need time. As I said, maybe we want to look at the property, maybe we offer some compromise or something on it so that would be if we continue. So what I will -- so the last thing that I'll say, as I said in the beginning, yes, we all live and die by, you know, our cell phones, you know, and our laptops and all of that and that's all okay. We just ask that you put them on silent and if you need to make a call or take a call, it's okay. You know, just stand up, walk out, you know, into the lobby area and that's all right. I mean if you want to stretch your legs, you can go the same thing. If anyone is coming to meet you, please pass that onto them as well and then the last thing is that truly,

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2 truly we ask that be no cross talk at all while, you know,
3 while the hearings are going on. You know, our stenographer is
4 excellent, but, you know, it's very hard for her to hear what
5 the applicant might be saying or the Board and so, you know,
6 again, somebody else is coming, you know, just tell them the
7 same and sometimes we, as the Board, will violate that
8 suggestion. So we all have to deal with ourselves as well. So
9 I think with all of that said, Ms. Wagner, do we have any
10 modifications to the calendar today?

11 SECRETARY WAGNER: No, Chairman, we do not have any
12 modifications.

13 CHAIRMAN MAMMINA: Okay. So if we do not, then will
14 you please call the first case.

15 SECRETARY WAGNER: Appeal Number 21531, Diana Ho; 170
16 Hillside Avenue, Manhasset; Section 3, Block 40, Lot 510 in the
17 Residence-C Zoning District. Variances from 70-102.C(2),
18 70-102.C and 70-100.1, to legalize and to construct a pool
19 barrier fence in a front yard forward of the rear building
20 line, and to construct a pool and an outdoor kitchen/BBQ in a
21 side yard.

22 CHAIRMAN MAMMINA: You've heard Appeal Number 21531,
23 Diana Ho. Is there anyone in the room other than the applicant
24 who wishes to speak? Seeing no one. Please give your name and
25 address.

26 MR. MASSONE: Good morning, Ladies and Gentlemen of the

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ZBA. Michael Massone, Massone Masonry, 182A East Shore Drive, Massapequa, New York 11758. I'm here today representing Diana and Dave Ho of 170 Hillside, Manhasset, who also happen to be the business owners of Elite Auto Repair, which is right across the street on Manhasset Avenue. We are requesting a variance to maintain an existing fence and to construct a pool and outdoor kitchen in the side yard of their property. This variance is what I like to consider a technical variance because of the shape of their property. Being that -- sorry, guys. Being that the -- the electronics again. Being that the shape of the property is a flag lot, technically the only place to put the structures is on the right hand side of the property. If the home was in the middle of the street somewhere another block, you know, we are meeting all of the necessary setbacks, it's just shifted from the rear of the home to the right side of the property.

CHAIRMAN MAMMINA: Okay. So maybe you want to talk a little bit about what you're saying is the nonconformity and how that affects the various yards that you have here and how, you know, side yard may -- may actually be used as a rear yard or whatever.

MR. MASSONE: Correct. So the rear yard of the home doesn't allow me to place these structures while still meeting the setbacks of the property lines. So the spacing on the right hand side of the home gives me the ability to put the

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2 structures to conformity off of the setbacks that -- that the
3 town allows.

4 MEMBER GOODSSELL: So right now what's the distance
5 between the house and the side of the property closest to the
6 Long Island Expressway. I have the survey up in front of me.
7 I think I'm reading it correctly so how much is there?

8 MR. MASSONE: So from --

9 MEMBER GOODSSELL: Standing at the front door looking at
10 the house.

11 MR. MASSONE: Correct.

12 MEMBER GOODSSELL: From the back door to the property
13 line. There's a stockade fence back there behind the stone
14 patio.

15 MR. MASSONE: Got it. Okay. So -- so it's roughly
16 about 44 feet.

17 CHAIRMAN MAMMINA: Back up a little, because when you
18 get to your America's got talent.

19 MR. MASSONE: Too close to the microphone.

20 CHAIRMAN MAMMINA: I'm sorry, but you're eating the
21 microphone is what the term is.

22 MR. MASSONE: It's roughly about 44 feet from the rear
23 door to the fence line.

24 MEMBER GOODSSELL: And because of the unique shape of
25 this property, what are the current homeowners using their
26 backyard side, yard for right now?

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2 MR. MASSONE: Currently there is an existing patio back
3 there that is going to be removed. There was also a gazebo
4 structure there that's going to be removed, as well as a shed
5 that's going to be removed in order to replace it with said
6 swimming pool and said outdoor kitchen, as well as a new patio.

7 MEMBER GOODSSELL: And let me pull your proposed plans
8 up. You need a fence around the proposed swimming pool which
9 you need a variance for.

10 MR. MASSONE: So we are here -- there is already a
11 fence around the property that we are here to request a
12 variance to maintain.

13 MEMBER DONATELLI: Is there a reason why the fence
14 cannot be brought to the rear building line. That's one of the
15 requirements as you know of -- of -- of a pool fence. That it
16 be brought to the rear property line and it's really more of a
17 safety issue, because the town code really does not want the
18 ability of small children, you know, things that might be
19 challenged by a pool. They want absolute views of whatever
20 might be in the backyard and that might be compromised if the
21 fence comes forward of the rear building line. So my question
22 is, is there a reason why the pool fence cannot be brought to
23 the rear building line?

24 MR. MASSONE: I -- the reason is the homeowners are
25 requesting to maintaining the six foot fence because of
26 privacy. We can change it to a four foot fence.

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2 MEMBER DONATELLI: No, but by code it has to be a six
3 foot fence around the pool. But my question is that I see that
4 the existing fence is along, I guess what -- I don't see a
5 compass rose here, but -- yeah. I don't see a north south
6 designation on this. But in other words, I -- I see -- I see
7 where the variance, the six foot PVC fence is located. But my
8 question -- okay. So my question is why can't the fence be
9 brought from the side yard lot line -- well, what would be
10 really the front yard lot line to the back of the house as
11 oppose to bringing it all the way forward to what appears to be
12 a brick wall?

13 CHAIRMAN MAMMINA: Mr. Donatelli, if I could maybe
14 clarify for you. It's fair enough to say we're not up to the
15 six foot fence yet. That's the other fence that I think you're
16 asking for.

17 MEMBER DONATELLI: Yeah. I'm just --

18 CHAIRMAN MAMMINA: What Mr. Donatelli is saying is that
19 safety factor is no -- so it might be that you get both fences.

20 MR. MASSONE: I understand. The movement of the fence
21 up to the rear of the property -- of the home, the structure
22 would be something I would have to discuss with the homeowners
23 and I don't see that being a problem. It still gives them
24 ample space to have everything in their backyard. I guess in
25 looking at it, it's probably that they are looking for the
26 extra space as a play area for the children so that it's not a

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2 fence and then a separate play area in front of that new fence.

3 MEMBER DONATELLI: Yeah, no, I understand. But as I
4 said, we really consider that as a safety issue.

5 MR. MASSONE: Totally respect it. I understand that.

6 MEMBER DONATELLI: We are very caution of it.

7 MEMBER HERNANDEZ: Let's backtrack to the lot first.
8 Okay. The way this lot is located is basically an easement
9 driveway to an internal lot. That's what we call it. That's
10 what it is.

11 MR. MASSONE: That's correct.

12 MEMBER HERNANDEZ: Because of that, the easement
13 driveway is so narrow that it becomes the front of the lot. So
14 technically speaking, the house is supposed to be facing --
15 it's supposed to be ending the furthest away from that entry.
16 That 64 foot wide or whatever it is piece, that's the backyard
17 of the house. This house, when it was built way before any of
18 this stuff was put into code --

19 MR. MASSONE: Totally understand.

20 MEMBER HERNANDEZ: -- was built way, way back in that
21 internal rectangle more or less back there. Okay. So what we
22 would call legally the backyard doesn't exist.

23 MR. MASSONE: Correct.

24 MEMBER HERNANDEZ: Because the house is all the way up
25 against the neighbor's backyard. So your property -- your
26 clients property is surrounded by everybody else's backyard.

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2 MR. MASSONE: Correct.

3 MEMBER HERNANDEZ: All right. You have no street
4 access except for that driveway.

5 MR. MASSONE: Absolutely.

6 MEMBER HERNANDEZ: But legally that's the front of your
7 house.

8 MR. MASSONE: Oh, yes. I understand.

9 MEMBER HERNANDEZ: So now you're asking to build a pool
10 in what is legally your side yard.

11 MR. MASSONE: That's correct.

12 MEMBER HERNANDEZ: That's because that's the only place
13 that is actually usable and it's not really a side yard the way
14 we would think of it as a side yard, because you never see it
15 from the street. You never see it. All the neighbor's see is
16 the back of it.

17 MR. MASSONE: Understood.

18 MEMBER HERNANDEZ: So the question that we're asking
19 is, when you want a barrier fence to protect the backyard of
20 the house. Now we talk about your backyard, which is really
21 the side yard.

22 MR. MASSONE: Correct.

23 MEMBER HERNANDEZ: When we talk about that, we want to
24 be able to stand in one place by the back wall of the house,
25 look right, look left, look forward and see the whole backyard
26 so that if there is a little child somewhere, they can't go and

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2 hide in the corner behind me where I can't see them. Where
3 your present fence is, if I'm standing on the deck with my back
4 to the wall of the house looking at the pool and I look to my
5 right and I'm using these words so that you can look at the
6 plan. Okay. There is a couple of spots back there where your
7 fence is where a child could be hiding and I can't see them.
8 The spots are near the pool equipment. If you look down at the
9 pool equipment. That's where you have your pool lot, your
10 fence lot. I think what Mr. Donatelli is saying is why can't
11 that fence be moved to the furthest most rear part of your
12 house, which is that jut out that you have right up against the
13 pool deck. So therefore, your pool equipment will be outside
14 of what you are calling your backyard enclosed area.

15 MR. MASSONE: Now I understand.

16 MEMBER HERNANDEZ: Now you understand?

17 MR. MASSONE: Now I 100 percent understands.

18 MEMBER HERNANDEZ: Now you can address the question.

19 CHAIRMAN MAMMINA: And the lady has a very lovely
20 little baby.

21 MR. MASSONE: Plus three more.

22 MEMBER HERNANDEZ: Bless you.

23 MR. MASSONE: So yes, that is -- that's not even a
24 question and moving the fence there would be no issue
25 whatsoever. Now I totally 100 percent get it.

26 MEMBER DONATELLI: Sorry if I wasn't quite as clear.

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2 This is the first case of the day. The brain is just --

3 MR. MASSONE: It might be easier to just pick up the
4 house and twist it around.

5 MEMBER HERNANDEZ: Yeah.

6 MEMBER DONATELLI: But I would agree for all intents
7 and purposes, the side yard definitionally functions as a rear
8 yard.

9 MEMBER HERNANDEZ: Correct.

10 MEMBER DONATELLI: And we've certainly have had cases
11 like that.

12 MEMBER HERNANDEZ: Absolutely.

13 MR. MASSONE: I don't think when the house was built
14 many, many years ago that they took any of that into
15 consideration. It's just, you know.

16 MEMBER HERNANDEZ: No. They built it where they felt
17 was convenient and the order they wanted it.

18 MR. MASSONE: That's correct. Just to throw a little
19 extra detail into it as well. The proposed swimming pool is
20 going to contain an automatic cover as well, which is rated for
21 walking safety. With the three -- with the four children,
22 including the newborn, it's very, very important that, you
23 know, safety is of the utmost importance to the family and to
24 me as well.

25 CHAIRMAN MAMMINA: My daughter's pool, she has that as
26 well, but in the winter it still tracks water.

1 Appeal #21531

2 MR. MASSONE: Oh, no, you can't use it as a winter
3 cover. Yeah. It's actually rated to walk on, but if you use
4 it as a winter cover, it voids the warranty, because the cover
5 tracks and the covers are actually so strong where we've had
6 instances where people have -- somebody has turned their
7 waterfalls on with the cover on the pool and it actually pulls
8 the walls of the pool in. It bends the pool. So it's not a
9 winter cover. She will still have a smart mesh cover that's
10 drilled into the paviors that will extend and will act as her,
11 you know, safety winter cover.

12 CHAIRMAN MAMMINA: That's terrific. That is terrific.
13 It's built in suspenders.

14 MR. MASSONE: It helps keep the heat in too.

15 SECRETARY WAGNER: So let me show him this.

16 MEMBER HERNANDEZ: The Chairman marked up the drawing
17 so that we could --

18 MR. MASSONE: I need one of those. I only got this
19 little tiny thing.

20 CHAIRMAN MAMMINA: Well, if you want, I can mark that
21 one.

22 MR. MASSONE: That would be wonderful.

23 CHAIRMAN MAMMINA: I think you understood what we were
24 talking about.

25 MR. MASSONE: Absolutely.

26 SECRETARY WAGNER: They're asking you to add this

1 Appeal #21531

2 fence.

3 CHAIRMAN MAMMINA: Correct. You can leave it there,
4 but you're going to have a nice corral for the family horse.

5 MR. MASSONE: Would you guys be objective to me taking
6 the existing and moving it back?

7 CHAIRMAN MAMMINA: No. No.

8 MR. MASSONE: I think that's probably what we're gonna
9 end up doing.

10 MEMBER HERNANDEZ: I meant to follow the discussion
11 that we had. Once you do that, now you have one part of your
12 fence, the one facing the other house across that avenue that
13 is six feet long, that technically speaking is not supposed to
14 be there. Okay. Because that is in the front of the house.
15 Now, I was the one that said that because it's your neighbor's
16 backyard, they could and they probably do have a fence there
17 unless they are using yours as their fence.

18 MR. MASSONE: Yeah, that I'd have to double check.

19 MEMBER HERNANDEZ: So because they have the right to
20 have a six foot fence there, we are allowing you to keep it
21 there because the odds are they have a fence there or they're
22 using yours.

23 MR. MASSONE: Understood.

24 MEMBER HERNANDEZ: If you took it down then it might be
25 open.

26 MR. MASSONE: Correct.

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2 VICE CHAIRMAN FRANCIS: You need your copy to be marked
3 up?

4 MR. MASSONE: No. I'm gonna do it right now actually
5 while I'm here.

6 MEMBER HERNANDEZ: Any other questions? No. I move
7 that we grant the application as amended because of all the
8 various reasons that we have discussed along the way and just
9 make sure that reflects in the approval, because there are a
10 few changes.

11 MR. MASSONE: I'd also just like to submit a letter
12 from a well known architect, you know, the area who is also --
13 he visited the property and went through everything and, you
14 know, I would just like to submit this on the homeowners
15 behalf.

16 CHAIRMAN MAMMINA: How well known is he here, because
17 we have Mr. Alberto here and myself so I don't know.

18 SECRETARY WAGNER: So you don't have any problem with
19 the outdoor kitchen and pool in the side yard?

20 MEMBER HERNANDEZ: No, again for the same reasons.
21 It's functionally the backyard of the house.

22 MR. MASSONE: Okay.

23 MEMBER HERNANDEZ: Technically it's the side yard, but
24 it's functionally the backyard.

25 MR. MASSONE: I get it. I get it. The side yard
26 functions as the backyard.

1 Appeal #21531

2 MEMBER DONATELLI: Who shovels the driveway in the
3 winter? That's quite a driveway.

4 MR. MASSONE: Definitely. Definitely is good for
5 parking. And I'll stay out of trouble staging material in
6 there too.

7 SECRETARY WAGNER: That will be Exhibit 1.

8 MEMBER DONATELLI: I will second the motion.

9 CHAIRMAN MAMMINA: We have a motion and a second.
10 Please poll the Board.

11 SECRETARY WAGNER: Member Hernandez?

12 MEMBER HERNANDEZ: Aye.

13 SECRETARY WAGNER: Member Donatelli?

14 MEMBER DONATELLI: Aye.

15 SECRETARY WAGNER: Member Goodsell?

16 MEMBER GOODSSELL: Aye.

17 SECRETARY WAGNER: Vice Chairman Francis?

18 VICE CHAIRMAN FRANCIS: Aye.

19 SECRETARY WAGNER: Chairman Mammina?

20 CHAIRMAN MAMMINA: Aye. So the application is granted.
21 Off the record.

22 (A discussion was held off the record.)

23 MR. MASSONE: Chairman, Ladies and Gentlemen, thank you
24 so much. Have a wonderful day.

25 CHAIRMAN MAMMINA: Thank you.

26 MEMBER HERNANDEZ: Thank you.

1 Appeal #21532

2 VICE CHAIRMAN FRANCIS: Best of luck.

3 CHAIRMAN MAMMINA: So let's call the next case, please.

4 Thank you.

5 SECRETARY WAGNER: Appeal Number 21532, Petros and
6 Alexandra Konidaris; 66 Quaker Ridge Road, Manhasset; Section
7 3, Block 145, Lot 94 in the Residence-A Zoning District.
8 Variance from 70-31.A, to construct a garage addition that is
9 too close to the side property line and with smaller than
10 required total (aggregate) side yards.

11 CHAIRMAN MAMMINA: You've heard Appeal Number 21532,
12 Petros and Alexandra Konidaris. Anyone in the room interested
13 in the application other than the applicant? Seeing no one.
14 Please give your name and address.

15 MR. KONIDARIS: Petros Konidaris, 66 Quaker Ridge Road,
16 Manhasset, New York 11030. Good morning.

17 CHAIRMAN MAMMINA: Good morning. Do you have the
18 architect here today?

19 MR. KONIDARIS: The architect is not here today.

20 CHAIRMAN MAMMINA: Okay. Because the Board sees three
21 different conflicting numbers in terms of how large the house
22 is going to be regarding its permitted floor area and one of
23 those numbers is close to a 1,000 square feet over. The two
24 other numbers conflict with each other and I know that that's
25 not denied by -- or that's not pointed to by the building
26 department.

1 Appeal #21532

2 MEMBER GOODSSELL: We now how much square footage you're
3 permitted. What we're having a problem with is in several
4 different places your architect's numbers don't agree.

5 MR. KONIDARIS: Okay.

6 MEMBER GOODSSELL: So we are trying to figure out how
7 much over you actually are.

8 MR. KONIDARIS: Okay. Can I possibly --

9 MEMBER GOODSSELL: Over the amount of square footage
10 you're allowed.

11 MR. KONIDARIS: For the house itself?

12 MEMBER HERNANDEZ: Yes. And the problem is that if we
13 ignore that and we just address what you're here for and you go
14 and build that, you will have a problem later on if there was a
15 mistake made by either the architect or the building
16 department.

17 MR. KONIDARIS: Okay. Can I possibly try to shed some
18 light. Again, I'm not an architect but --

19 CHAIRMAN MAMMINA: I think your architect should go
20 down to the zoning office and ask them first what the problem
21 is and then you can go to the building department, but you may
22 end up right back here again before us.

23 MS. ALGIOS: Why don't we hear the case on this
24 variance?

25 CHAIRMAN MAMMINA: I don't want to.

26 MS. ALGIOS: Well, the issue is if we continue it and

1 Appeal #21532

2 we get a revised GFA.

3 CHAIRMAN MAMMINA: I disagree.

4 MR. KONIDARIS: So I have approved plans.

5 CHAIRMAN MAMMINA: We've got them. We see them.

6 MS. ALGIOS: Are they connected? Are the variances --

7 CHAIRMAN MAMMINA: Well, it's connected to a side yard
8 that's created by increasing the size of the purporting which
9 increases the size of the garage and only increases it more.
10 So I think it's within the right of the Board, you know, even
11 if he wants to continue.

12 MS. ALGIOS: Why don't we do this. Why don't we second
13 call this.

14 CHAIRMAN MAMMINA: I don't have a problem with having
15 someone from the building department to come over.

16 MS. ALGIOS: And then maybe, Mike, you can go over and
17 get Glen or Scott, somebody to come over.

18 CHAIRMAN MAMMINA: I would suggest that they look at it
19 ahead of time, because I don't know maybe he can explain this.
20 I think it's up to the architect to do.

21 MR. KONIDARIS: I do have filings in, because we just
22 -- I was here for a renovation that was already done. It was a
23 very small addition to the second. Not 1,000 square feet and
24 today maybe that's why we see multiple filings.

25 CHAIRMAN MAMMINA: It's not multiple filings. It's
26 within the drawings there are two conflicting numbers on the

Appeal #21532

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2 drawings. Then on your architect's sheet, okay, of all the
3 zoning, you know, he says in here -- hold on, let me get back
4 to it. He says that the maximum permitted gross is 2,995.81
5 and the proposed gross floor area is 3,742.28. So I read lots
6 and lots of accuracy into computing that and then when I go to
7 his breakdown, it doesn't make any sense. He says on here that
8 the second floor is 1,352 square feet. Without even doing the
9 calculations and I'll just hold the drawing up, you know, for
10 the record. This is 1,352 square feet. He's saying that this
11 is 1,405 square feet. There's a 15.7 times 26.8 that is not
12 included in his second floor calculation and, you know, he's
13 saying that that's -- that the difference in that is worth
14 about 50 square feet. I don't know.

15 MEMBER GOODSSELL: But then when we add in the expanded
16 garage, the first floor seems to be he has on his plans the
17 first floor as 1,405.66 square feet. But if we add in the
18 increase garage, it's much greater than that. So we can't tell
19 -- we can't tell what the final square footage of the house is
20 going to be.

21 MR. KONIDARIS: Understood.

22 MEMBER GOODSSELL: Do you know that answer?

23 MR. KONIDARIS: Offhand I don't have those answers. If
24 I had sometime to sit here and I don't want to waste your time
25 doing that, because what I was thinking would be a nominal
26 increase in the square footage of the garage is really --

1 Appeal #21522

2 MEMBER GOODSSELL: Correct. However, your architect --

3 MR. KONIDARIS: I understand.

4 MEMBER GOODSSELL: -- seems to indicate that the nominal
5 square footage of the garage plus the second floor addition is
6 still within the allowable increase. But when we add up the
7 numbers it's way over. So we don't know if there's a typo, we
8 don't know if there's a miss add and that's Mr. Mammina's
9 concern.

10 MR. KONIDARIS: Okay.

11 SECRETARY WAGNER: I'll show you the zoning analysis
12 sheet.

13 MR. KONIDARIS: Thank you.

14 CHAIRMAN MAMMINA: Why don't we move onto the next case
15 first so we don't take any more time.

16 MEMBER GOODSSELL: And that is really the issue. It's
17 not -- we haven't even gotten to the setbacks, but that is the
18 issue. What is the final square footage of the proposed new
19 house.

20 SECRETARY WAGNER: You ready?

21 VICE CHAIRMAN FRANCIS: Yup.

22 SECRETARY WAGNER: We're going to do a second call
23 possibly on Appeal Number 21532.

24 Appeal Number 21522, Zahid Khan (John Doko); 162 Cow
25 Neck Road, Port Washington, Section 4, Block 95, Lot 71 in the
26 Residence-B Zoning District. Variance from 70-100.2(A)(2), to

1 Appeal #21522

2 legalize fencing in the front yard.

3 CHAIRMAN MAMMINA: You heard Appeal Number 25122, Zhaid
4 Khan. Is there anyone in the room interested in the applicant
5 other than the applicant? Seeing no one. Please give your
6 name and address.

7 MR. KHAN: Good morning. Zahid Khan, 350 West 15th
8 Street, New York. Previous owner of 16 Cow Neck Road, Port
9 Washington.

10 VICE CHAIRMAN FRANCIS: Go right ahead, sir.

11 MR. KHAN: So when we bought the house in 1999, there
12 was a six feet fence around a small part of the front yard. We
13 had the retaining wall replaced. It was railroad ties and it
14 was really disintegrated so we built a new retaining wall. The
15 old fence had to come down and we put up a four foot fence
16 instead of a six foot fence, and I think the old owner did not
17 have a permit for the fence so we are just trying to legalize
18 the fence now.

19 MEMBER DONATELLI: Sir, just a few questions. I'm
20 sorry. How long have you been the owner of the property?

21 MR. KHAN: I bought it in 1999 and we sold it in 2023.

22 MEMBER DONATELLI: 2022. Okay.

23 MR. KHAN: January 2023.

24 MEMBER DONATELLI: And how long has the fence been
25 there, to your knowledge?

26 MR. KHAN: It's been then when we bought it in 1999.

1 Appeal #21522

2 MEMBER DONATELLI: And can you describe to us -- we try
3 to see all properties prior to the hearing, because we all want
4 to familiarize ourselves and I certainly, as the person from
5 Port Washington, I'm very, very familiar with your premises,
6 but can you describe for the record please, where your house
7 sits, how high it is off the road, whether or not this fence is
8 visible. Help us go through the factors that we have to
9 consider.

10 MR. KHAN: Sure. It's built on top of a hill. I'm not
11 sure how high the hill is. I have photographs. But it is
12 quite high off the road and the fence is facing the street and
13 it's, like I said, it's a four foot fence and it's been there
14 since 1999.

15 MEMBER DONATELLI: I'm sorry, what was that?

16 MR. KHAN: There is a four foot fence being there but
17 like I said there was a six foot fence that was there since
18 1999.

19 MEMBER DONATELLI: All right.

20 MEMBER GOODSSELL: Standing at the street there are a
21 series of retaining walls.

22 MR. KHAN: Yes.

23 MEMBER GOODSSELL: That's not what you're here for.

24 MR. KHAN: No.

25 MEMBER GOODSSELL: It looks like they did a very nice
26 job on the retaining walls.

1 Appeal #21522

2 MR. KHAN: Thank you. It took a long time to get.
3 Thank you.

4 MEMBER GOODSSELL: I was reminded of a castle up on a
5 hill, which I'm sure is lovely to shovel in the wintertime.

6 MR. KHAN: Thank God I don't have to do that.

7 MEMBER GOODSSELL: I believe what we're talking about is
8 at the very top you have what we would call a front yard fence,
9 which we generally do not allow and it seems to be proposed of
10 a wooden fence.

11 MR. KHAN: Yes.

12 MEMBER GOODSSELL: And it shields the front door and the
13 front of the house.

14 MR. KHAN: Not the front door. That's the back door.
15 The front door is to the left and it's not hidden at all.

16 MEMBER DONATELLI: It's along the side of the property.
17 Can you describe for us your backyard. What is the elevation
18 of your backyard, is it functional?

19 MR. KHAN: So like I said it's built on top of hill.
20 The backyard is really -- it's very narrow and there's a hill
21 going back up to small wood oaks. So it's like five feet of
22 like --

23 MEMBER GOODSSELL: Are there more retaining walls in the
24 backyard?

25 MR. KHAN: No. It's -- it's like a three feet
26 retaining wall on the patio level. Patio level, but not tall.

1 Appeal #21522

2 MEMBER DONATELLI: Sir, there are five factors that we
3 are required to consider by law. I understand you're not the
4 architect, you're the homeowner. Let me walk you through the
5 five questions and if you would please just do your best to try
6 and answer them.

7 MR. KHAN: Okay.

8 MEMBER DONATELLI: We, as a Board have to consider each
9 application based on these five factors so then we weigh the
10 five factors. So please just try and help me answer these
11 questions.

12 MR. KHAN: Sure.

13 MEMBER DONATELLI: The first question is whether an
14 undesirable change would be produced in the character of the
15 neighborhood or any kind of detriment to the other properties
16 if we were to grant these variances?

17 MR. KHAN: No.

18 MEMBER DONATELLI: Okay. Can you tell me a little bit
19 why?

20 MR. KHAN: Because it's, like I said, I've been there
21 since 1999 so neighbors are aware of it and actually, we will
22 be reducing the height of the fence from six to four feet.

23 MEMBER DONATELLI: Okay. But also because the property
24 is so high, it's really not visible from the street. Is that
25 true?

26 MR. KHAN: The fence itself?

1 Appeal #21522

2 MEMBER DONATELLI: Well, it's not visible from the
3 street in the sense that if someone is in the street --

4 MR. KHAN: Yeah. You have to look up to see.

5 MEMBER DONATELLI: You have to really strain your neck
6 to look up.

7 The second question is whether there is some way that
8 your benefit can be achieved by some other method that would
9 not require a variance?

10 MR. KHAN: The problem is we try to do the guardrail,
11 but the new owner, they have like little children and it's a
12 safety issue. They didn't want to --

13 MEMBER DONATELLI: If you were to bring your fence back
14 to a complaint spot, for example up to the front of the
15 building line but no further than that, would that space be
16 usable?

17 MR. KHAN: If your bring it back? It's like if you
18 look at the pictures, there's a steep drop.

19 MEMBER DONATELLI: If you were to bring the fence back
20 to the front of the house. In other words the now the fence
21 protrudes in front of the house.

22 MR. KHAN: Yes.

23 MEMBER DONATELLI: If we were to bring the fence back
24 to the front of the house where it's in a compliant space,
25 would that make the side yard usable?

26 MR. KHAN: No. You would just lose all the front of

1 Appeal #21522

2 it.

3 MEMBER DONATELLI: It would be too small and as your
4 said earlier, you do not have much of a backyard because of the
5 elevation.

6 MR. KHAN: Right. Exactly.

7 MEMBER DONATELLI: I'm trying to help you here.

8 MR. KHAN: Thank you. Thank you.

9 MEMBER DONATELLI: Whether the requested area variance
10 is substantial. That's really, as you indicated before, you
11 had a six foot high fence. It's actually slightly more
12 complaint even though it's not in a complaint space. But it --
13 it -- it does substantially protrude in front of the house.
14 But again, I think that is mitigated by the elevation.

15 Whether the proposed variance will have any adverse
16 environmental impact. It doesn't really have much of an impact
17 at all.

18 MR. KHAN: No. No.

19 MEMBER DONATELLI: And whether the variance is self
20 created. Pretty much every variance is self created.

21 MR. KHAN: Okay.

22 MEMBER DONATELLI: I don't have much more you can use
23 in terms of an argument. Does anyone else have any questions?

24 MEMBER GOODSSELL: I do. What made you select the type
25 of fence that you put up?

26 MR. KHAN: I think it was similar to the one we had

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previously.

MEMBER GOODSELL: So there was a fence there previously?

MR. KHAN: Yeah. Yes.

MEMBER GOODSELL: And you have replaced that fence -- that fence. Does that fence function as a guardrail?

MR. KHAN: Exactly. Exactly.

MEMBER GOODSELL: It does. And what is behind that fence?

MR. KHAN: It's a brick patio. Small patio.

MEMBER GOODSELL: It's a brick patio. Is there any grass there?

MR. KHAN: Yes. There used to be, but we replaced it with bricks.

MEMBER DONATELLI: And am I seeing what appears to be some sort of a basketball hoop behind the fence?

MR. KHAN: No. That was there. That's gone. We removed that. Yes.

MEMBER DONATELLI: Any other Board members have any other questions regarding this?

VICE CHAIRMAN FRANCIS: No.

MEMBER HERNANDEZ: No. I would just like to make a comment that this house built on what is a hillside. The house has been sort of cutoff to create a flat surface to put a house in and unfortunately that's all they levelled. The size of the

1 Appeal #21522

2 house, a few feet to the right, a few feet to the left and
3 that's it.

4 MR. KHAN: Yeah. Nothing in the back.

5 MEMBER HERNANDEZ: So the only outdoor space that they
6 left you is little bit of the -- in front of the house.

7 MR. KHAN: Yes.

8 MEMBER HERNANDEZ: Which you are calling the patio
9 which is technically your outdoor space for a table or some
10 chairs or something.

11 MR. KHAN: Yes. Exactly.

12 MEMBER HERNANDEZ: That's the nature of the plot of
13 land that's forcing it.

14 MEMBER DONATELLI: And I know when we have granted
15 fences such as this in the past, it has been, for similar
16 circumstances, where the homeowner really has no other choice
17 because of the topography, because of the elevation, because of
18 lack of the use of the rear yard so we try and give some sort
19 of a yard to the neighbor and so I personally have no issue
20 with this application. If you all are on board, I make a
21 motion that we grant the application.

22 CHAIRMAN MAMMINA: Okay. We have a motion by Member
23 Donatelli. Do we have a second?

24 MEMBER HERNANDEZ: Second.

25 CHAIRMAN MAMMINA: Second by Member Hernandez. Please
26 poll the Board.

1 Appeal #21482

2 SECRETARY WAGNER: Member Goodsell?

3 MEMBER GOODSSELL: Aye.

4 SECRETARY WAGNER: Member Hernandez?

5 MEMBER HERNANDEZ: Aye.

6 SECRETARY WAGNER: Member Donatelli?

7 MEMBER DONATELLI: Aye.

8 SECRETARY WAGNER: Vice Chairman Francis?

9 VICE CHAIRMAN FRANCIS: Aye.

10 SECRETARY WAGNER: Chairman Mammina?

11 CHAIRMAN MAMMINA: Before I vote aye, I'd also just

12 like to say while aesthetics have absolutely nothing to do with

13 this Board, it is a very nice and very expensive cedar fence.

14 MR. KHAN: Thank you so much. Really appreciate it.

15 MEMBER DONATELLI: Not to mention the retaining wall.

16 MR. KHAN: Oh, yeah. The retaining wall. Yeah.

17 MEMBER DONATELLI: Good luck to you.

18 MR. KHAN: Thank you so much. Really appreciate it.

19 SECRETARY WAGNER: Appeal Number 21482, Phyllis Scobbo;

20 1212 Port Washington Boulevard, Port Washington; Section 5,

21 Block 25, Lot 4 in the Residence-C/Business-B Zoning District.

22 Variances from 70-51.A, 70-101.1.B, 70-208.F and

23 70-100.2(4)(a)[5], to legalize a two-story rear addition too

24 close to a side property line and expanding a non-conforming

25 dwelling, a roofed over patio too close to a side property

26 line, and a fence that is too high on a property with a

1 Appeal #21482

2 nonconforming dwelling in a business district being reviewed
3 under the rules of the Residence-C district pursuant to
4 70-208.K.

5 CHAIRMAN MAMMINA: You've heard Appeal Number 21482,
6 Phyllis Scobbo. Is there anyone in the room interested in the
7 application other than the applicant? Seeing no one. Please
8 give your name and address.

9 MR. MIGATZ: Bruce W. Migatz, law firm Albanese and
10 Albanese, 1050 Franklin Avenue appearing for the applicant
11 Phyllis Scobbo.

12 CHAIRMAN MAMMINA: Good morning.

13 MR. MIGATZ: Good morning. Let me please hand in
14 premarked Exhibits 1 through 6, which I have placed in a
15 binder. One for the record and one for each member of the
16 Board.

17 The owner of the subject property is 1212 Port
18 Washington Boulevard LLC and the members of that LLC are
19 Phyllis Scobbo and one of her sons Frank Scobbo. Frank Scobbo
20 is with me this morning, as is Frank's brother Andrew, as is
21 Don Alberto the project architect.

22 Exhibit one is a photograph of the subject house, 1212
23 Port Washington Boulevard. The property for the first 100 feet
24 is zoned Business-B and the rear portion is zoned Residence-C.
25 The structure was first constructed in 1913, according to the
26 Nassau County Department Assessment records. The assessment

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record card is Exhibit 2 in the document I handed up. The property has been owned by the Scobbo family since the 1920s. The rear portion of the property if you've been to the site and you will observe that the rear portion is used for commercial storage by the Scobbo contracting company. I have been advised by your counsel, that the building department after quite some time, has now recognized that that use of the rear portion for commercial purposes is indeed a prior nonconforming use and that is not before the Board today. What is before the Board today is to maintain three structures. Since the dwelling is in the Business-B District, pursuant to 70-208.K of the town code, applicants -- applications concerning single family and two family dwellings located in the business or industrial district that existed at in the lawful effective date of this chapter shall be reviewed in accordance with the requirements of Residence-C. That actually was added as the benefit people to people who own houses in a business zone to allow them to improve them without seeking a variance for nonconformity. So looking at the first item we are seeking to maintain, which is the rear addition to the house and that is shown in Exhibit 3. That photograph is actually taken from the adjacent property 1210, which is also owned by the Scobbo family. There you can see the rear addition to the house. That was constructed, to the best recollection of Frank and Andrew Scobbo, sometime in the 1970s when their father was in charge of the business and

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1 -- and the property. Exhibit 4 is a photograph of the fencing
2 that is the subject of this application. You can see a
3 stockade fence that goes up the driveway. It goes behind the
4 dwelling and if you go back to the prior photograph, it's also
5 on the other side of the house. That stockade fence is six
6 feet high. It was erected about five years ago. I am told it
7 used to be a chain link fence there and that was replaced with
8 this fence. Then as shown in the photograph Exhibit 4, there
9 is a chain link fence and gate, which secures the rear storage
10 yard and that is seven feet high. The notice of disapproval
11 cites a variance needed because a six foot fence in a residence
12 zone both only allowed along the rear property line and those
13 fences are not on the rear property line and a seven foot fence
14 is not permitted at all. The third and final variance sought
15 is shown in photograph Exhibit 5. The disapproval notice
16 refers to this as a roofed over patio. It's really a concrete
17 slab that -- that has -- has a cover on top of it to protect
18 what is being stored there and that roof extends over the
19 property line. And the application before you is to remove the
20 portion of the roof that is over the property line and maintain
21 a four inch setback between that roof and the property line.
22 The code requires three foot setback for any accessory
23 structure.
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25 So let's turn to the balancing test. Will there be an
26 adverse undesirable impact on the community if these variances

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are granted. With respect to the rear yard -- the side yard for the rear addition to the dwelling, the code requires five feet and 1.9 feet is existing and it has existed for about 50 years without any known detriment to the neighbors or the community. The property to the left, 1210 is owned also by the Scobbo family and they have no objection to a 1.9 foot setback to maintain this rear addition. Now, if -- if the property -- if the house is changed to an office, the business zone does not require any side yard setback. So if you put an office in this dwelling, that rear addition is permitted. So how can you have an adverse impact upon the neighbors if it's permitted if there's an office in the building but not permitted if there's residents in the building. I don't think it can be an adverse impact. Maintain this six feet and seven foot fencing. Here again, this -- the fencing is in the business zone but it's being treated as Residence-C pursuant to the code that I cited. In the business zone you can have seven foot fences and they do not have to be on the property line. So here again, if this house is converted to an office, those fences are legal. They're permitted. So I don't think that the fact that the house is used as a residence creates an adverse impact on the community, if it can be allowed if there's an office in that building. The third, maintain what they called a roofed over patio. There again, that four inch setback is adjacent to 1210 Port Boulevard, which is also owned by the Scobbo family and

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2 they have no objection to that. That -- that roof has existed
3 for many, many years. Frank and Andrew don't remember when
4 that was put up, but it's been there for as long as they can
5 remember without any adverse impact. The benefit sought by the
6 applicant is to maintain these structures. That benefit cannot
7 be achieved by any other method other than the variance. Are
8 the variances substantial. Well, you have to look at the whole
9 picture and not just the mathematical numbers of the variance
10 requested. And not to beat a dead horse, but if the house is
11 used as an office, we wouldn't be here. So I don't think it
12 can be deemed substantial merely because it's a residence as
13 oppose to a house. Whether the variances if granted would have
14 an adverse impact on the environment or the physical condition
15 of the neighborhood. The setback variances for the fence and
16 for the rear addition are Type II actions under SEQRA being not
17 having an adverse impact on the environment. I'm not sure how
18 you will classify that a roof over a concrete slab, which is in
19 the residence zone but being used for business, either Type II
20 or unlisted. In either event, I submit it has no adverse
21 impact on the environment. And whether or not the difficulty
22 is self created. In this case it's not, because the Scobbo
23 family has owned this property prior to the adoption of the
24 first zoning code. So self created practical difficulty is
25 defined as when an applicant seeks a variance from a code
26 section which was in effect when the applicant acquired the

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property. Here, when the Scobbo family acquired the property, the code sections were not in effect. So it's not self created. And that's our presentation unless the Board has any questions.

MEMBER GOODSELL: Yes, I do. You've said a couple of times if the first floor was being used as an office. Is it being used as an office right now?

MR. MIGATZ: No. Not the first floor. The entire structure.

MEMBER GOODSELL: Entire premises is being used as an office space.

MR. MIGATZ: Residence.

MEMBER GOODSELL: And in your opinion, this stockade fence that replaced a chain link fence. Does that grant an element of privacy and possibly security to the residence who live there?

MR. MIGATZ: Thank you for bringing that up, because I meant to say that. The purpose of the stockade fence is to screen the commercial yard in the rear from the residents and the purpose of the chain link fence is to secure the commercial yard. This came back to the point you raised. When someone looks at the side yard setback and they say, oh, wow look that's not five feet, it's 1.9. That person standing on the street does not know if that building is occupied as a residence or as an office. That's why I say that when you look

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2 at it, if the person doesn't know well it's an office so that
3 1.9 is permitted. No, it's a residence it has to be five feet.
4 So we look at it physically, I submit to you it's not
5 substantial and it doesn't have any adverse impact if it could
6 preexist if it was an office.

7 MEMBER GOODSSELL: The other point I want to bring up is
8 that yes, the Scobbo family may own the property next door and
9 years ago, Mr. Migatz, I represented two homeowners in New Hyde
10 Park, brother and sister who couldn't care less about the
11 property lines between them so they had a garage, vegetable
12 garden, a general backyard. Until one of them died and the
13 property was sold, then everyone cared a great deal where the
14 structures were. Could you address possibly the issue if the
15 Scobbo family sells one of these what the impact might be?

16 MR. MIGATZ: Sure. A person who buys that buys it
17 knowing that there is an insufficient side yard setback.
18 Meaning property condition disclosure form, Ms. Goodsell,
19 right?

20 MEMBER GOODSSELL: The new property.

21 MR. MIGATZ: The new one right. We have to list all
22 these things. Okay. So the person who is buying the property,
23 they're on notice and if they don't like the fact that there's
24 a 1.9 foot setback, you don't buy the property.

25 MEMBER DONATELLI: I would just like to make some
26 comments, which is I'm very familiar with this property, as I

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2 am with many properties along the stretch of Port Washington
3 Boulevard. There is very little rhyme or reason to the way
4 some of the properties are located. Many of the properties
5 predate the code and certainly this property, I won't say very
6 unique, because that grates on my ears but it is quite unique.
7 I think quite unique works. Not very unique. But I would say
8 that since this property predates the code and since the rear
9 addition really just maintains the existing side yard setback,
10 it doesn't really expand any further into the side yard
11 setback, the property is split zoned and in fact, the -- the --
12 the property is also used in the rear for commercial purposes
13 resulting in the need for a seven foot fence, because there is
14 some commercial property that is being stored back there. For
15 all of these reasons, I really -- I would move this Board to
16 approve the application.

17 CHAIRMAN MAMMINA: We have a motion by Member
18 Donatelli. Do we have a second?

19 VICE CHAIRMAN FRANCIS: Second.

20 CHAIRMAN MAMMINA: Seconded by Vice Chairman Francis.
21 Please poll the Board.

22 SECRETARY WAGNER: Member Goodsell?

23 MEMBER GOODSSELL: Aye.

24 SECRETARY WAGNER: Member Hernandez?

25 MEMBER HERNANDEZ: Aye.

26 SECRETARY WAGNER: Member Donatelli?

1 Appeal #21532

2 MEMBER DONATELLI: Aye.

3 SECRETARY WAGNER: Vice Chairman Francis?

4 VICE CHAIRMAN FRANCIS: Aye.

5 SECRETARY WAGNER: Chairman Mammina?

6 CHAIRMAN MAMMINA: Aye. Application is granted.

7 MR. MIGATZ: Thank you. Have a good day.

8 CHAIRMAN MAMMINA: Off the record.

9 (A discussion was held off the record.)

10 SECRETARY WAGNER: So Appeal Number 21532, Petros and
11 Alexandra Konidaris, 66 Quaker Ridge Road, Manhasset; Section
12 3, Block 145, Lot 94 in the Residence-A Zoning District is
13 adjourned until June 5th.

14 MR. KONIDARIS: Thank you.

15 CHAIRMAN MAMMINA: Thank you very much and thank you,
16 you know, for seeing where that was.

17 SECRETARY WAGNER: Next appeal, Appeal Number 21533,
18 Veronica Cook; 21 Pearsall Place, Roslyn Heights; Section 7,
19 Block 47, Lot 114 in the Residence-C Zoning District.
20 Variances from 70-50.C and 70-101.B, to construct a second
21 story addition and a porch that are too close to the street.

22 CHAIRMAN MAMMINA: You've heard Appeal Number 21533,
23 Veronica Cook. Is there anyone in the room who is interested
24 the application other than the applicant? Seeing no one.
25 Please give your name and address.

26 MR. BOLDEN: Sure. My name is Victor Bolden,

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B-O-L-D-E-N, and 141 Church Street, New Haven, Connecticut.
Veronica Cook is my sister. That's my brother-in-law Charlie
Cook.

CHAIRMAN MAMMINA: He looks like the enforcer.

MR. BOLDEN: I have a legal background, but I'm not
here in any legal capacity. I'm just here helping my sister
out. So my sister Veronica Cook and her husband Charlie Cook
purchased a home on 21 Pearsall Place in Roslyn Heights on
December the 23rd of 2020 and they now wish to put a second
floor on the house. They actually want to actually provide
space for my elderly parents. My sister wants to take in my
elderly parents and so the addition onto her house in order to
facile that is necessary. When they were going through that
process, they learned that the property, where it was built,
was too close to the street and so even any work that would
need to be done would need the variance so that's essentially
why they're here. As well as the porch, because the house,
which, as I understand it, was built before the zoning regs
were in place was built too close in -- then the rules allowed.
So they seeked a variance. I understand that you all apply
these -- the five factors and as I understand it, in terms of
there wouldn't be an undesirable change for the community in
making this particular -- allowing this particular variance. I
think that there certainly would be a benefit for the
applicant, but I don't think it can be achieved with a feasible

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alternative given where the house was built when it originally was done. And the question about whether it's substantial, I think the challenge is obviously given where the property was built creates that issue. But we don't -- we have not been informed of any adverse impacts on the property and the difficulty wasn't self created, because it was there when the house was built.

MEMBER DONATELLI: So working for family sometimes is the hardest job of all because --

MR. BOLDEN: I'm not working for them, I'm just helping out. I actually didn't think I was supposed to talk. I was gonna come and just be supportive.

VICE CHAIRMAN FRANCIS: I've represented every member of my family.

MR. BOLDEN: I'm not representing them.

VICE CHAIRMAN FRANCIS: They're still talking to me.

MR. BOLDEN: Yes, sir.

MEMBER DONATELLI: Let me just kind of help guide you.

MR. BOLDEN: Yes, sir.

MEMBER DONATELLI: So the house right now has a certain footprint.

MR. BOLDEN: Yes.

MEMBER DONATELLI: Are you building up over that existing building footprint?

MR. BOLDEN: Yes. Exactly.

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2 MEMBER DONATELLI: So the existing house has a
3 footprint where the front yard setback is 21 feet and you are
4 merely building up, you are not coming any close to the street?

5 MR. BOLDEN: That's correct. Yeah.

6 MEMBER DONATELLI: And as to the porch, can you tell us
7 about the porch. The law allows the porch to encroach five
8 feet beyond the front yard setback. So --

9 MR. BOLDEN: My understanding -- go ahead.

10 MEMBER DONATELLI: It's supposed to be 20 feet and what
11 are you proposing is the setback?

12 MR. BOLDEN: My understanding is what the architect
13 wants to do is only go out four feet with the porch and create
14 a design to keep it in the character of the neighborhood.

15 CHAIRMAN MAMMINA: I looked at -- go ahead.

16 VICE CHAIRMAN FRANCIS: A four foot porch is almost
17 unusable as a porch. I mean that's very, very narrow.

18 MR. BOLDEN: Yeah. I think they really wanted to do
19 six but they were -- I think they were concerned about the
20 variance.

21 CHAIRMAN MAMMINA: The bay window then further
22 encroaches onto the porch, you know, which I'm a pretty skinny
23 guy so I could probably, you know, get by there, you know,
24 turning sideways. I'm -- I'm not opining one way or another,
25 but it was just an observation, you know, when I looked at it.

26 MEMBER DONATELLI: Well, I had expressed just an

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2 opinion in the past, but it -- it -- it is my opinion that
3 porches tend to provide for better community. People tend to
4 sit on porches when they're not housed in their homes. They
5 see their neighbors, they say hello, it adds some sense of
6 community. Now that is probably referral to our evaluation of
7 the five factors, but I will say that -- I guess my -- my
8 question is another -- my question is do we know what the
9 average front yard setback is in the area?

10 MR. BOLDEN: My understanding is I think a lot of the
11 homes in the area similarly have the same setback. That's my
12 understanding.

13 MEMBER DONATELLI: Well, typically we have the
14 calculations somewhere in the plans. I don't see it now. Give
15 me a moment. Perhaps some of the other Board members have some
16 questions in the meantime.

17 MEMBER HERNANDEZ: I have a comment to make. Perhaps
18 you can correct me if I'm wrong. We try to visit the houses
19 whenever we can. Okay. So we can -- at least I try to drive
20 by. This street, if I remember correctly, happened to be a
21 relatively small street with only a few houses on it. The
22 first house you see from the street is actually the side yard
23 of the houses facing the side street.

24 MR. BOLDEN: That's exactly right.

25 MEMBER HERNANDEZ: And if I remember correctly, the
26 house directly in front of this one is also very far forward.

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2 MR. BOLDEN: Yes. Very much so.

3 MEMBER HERNANDEZ: So this house is very much in common
4 in your community being that one little street that you're on.

5 MR. BOLDEN: Yes.

6 MEMBER HERNANDEZ: So maybe around the corner, two
7 blocks away someone has 30 foot front yard, but you're
8 immediate space does not.

9 MR. BOLDEN: It does not. Exactly.

10 MEMBER HERNANDEZ: So it really fits into the
11 environment.

12 MR. BOLDEN: That's true. Yes. That's exactly it.
13 Yeah.

14 MEMBER DONATELLI: So I do want to add, I was able to,
15 notwithstanding the fact that I needed to glasses to read this.
16 I was able to look on Page A1 and on the upper right hand
17 corner it does list the average front yard setback as being
18 11.25 feet. So the average of the other houses in the area is
19 actually -- encroaches more onto the front yard than the
20 proposed application does.

21 MEMBER GOODSSELL: Even just looking on Google Earth,
22 it's a very short street. Really it is like a driveway for
23 five or six houses on Pearsall Place and you can see all the
24 houses come very close to the front -- to the street. The
25 houses are very close to the street. So this one in it's
26 current state appears to be setback the furthest of the five or

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2 six houses on the street.

3 MEMBER DONATELLI: So it is a uniquely situated house
4 on a lot so -- so that would certainly work to differentiate it
5 in my mind from other such applications that may come before
6 us.

7 VICE CHAIRMAN FRANCIS: Right.

8 MEMBER DONATELLI: At 11.25 feet.

9 MEMBER GOODSELL: And the other thing to note is that
10 even with these additions, you are not over the GFA. Not your
11 clients -- your relatives are not over the GFA, which is a big
12 deal to us.

13 MEMBER DONATELLI: The other observation that I would
14 make is that the proposed front yard porch would be over a
15 portion of the house. Looking at the house on the left side it
16 will not carry over to the right side of the steps. Does
17 anyone else have any other questions, comments, concerns?

18 MEMBER HERNANDEZ: No. I'm okay with this.

19 MEMBER DONATELLI: Mr. Chairman, I make a motion that
20 we grant the application.

21 CHAIRMAN MAMMINA: We have a motion by Member
22 Donatelli. Do we have a second?

23 VICE CHAIRMAN FRANCIS: Second.

24 CHAIRMAN MAMMINA: Seconded by Vice Chairman Francis.
25 Please poll the Board.

26 SECRETARY WAGNER: Member Hernandez?

1 Appeal #21534

2 MEMBER HERNANDEZ: Aye.

3 SECRETARY WAGNER: Member Goodsell?

4 MEMBER GOODSSELL: Aye.

5 SECRETARY WAGNER: Member Donatelli?

6 MEMBER DONATELLI: Aye.

7 SECRETARY WAGNER: Vice Chairman Francis?

8 VICE CHAIRMAN FRANCIS: Aye.

9 SECRETARY WAGNER: Chairman Mammina?

10 CHAIRMAN MAMMINA: Aye. So application is granted.

11 MR. BOLDEN: Thank you have much. You ALL have a good
12 day now.

13 SECRETARY WAGNER: Next appeal, Appeal Number 21534,
14 Yin Liu and Dingyong Li; 956 North Seventh Street, New Hyde
15 Park; Section 8, Block 19, Lot 192 in the Residence-C Zoning
16 District. Variance from 70-51, to legalize a one-story rear
17 addition too close to a side property line.

18 CHAIRMAN MAMMINA: You've heard Appeal Number 21534,
19 Yin Liu and Dingyong Li. Is there anyone in the room
20 interested in the application other than the applicant? Seeing
21 no one. Please give your name and address.

22 MS. ING: Hi. Good morning, Mr. Chairman and the
23 Board. My name is Mojang Ing and address 12 Granada Crescent,
24 White Plains. I'm here to represent the owner Yin Liu, to
25 maintain the preexisting closed open sun porch, which is too
26 close to the side yard. The sun porch has a permit back in

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2 1959 and received a certificate in 1997. It's required -- the
3 side yard requires a five foot side yard setback, but right now
4 it only has 3.4 foot side yard. So it is not a self created
5 difficulty. It's there. It preexist condition before the
6 owner bought the -- the house and we want to maintain the
7 existing condition. The house has the same style with many
8 other houses in the neighborhood that has the same one-story
9 addition at the back and small side yards. I looked up on the
10 property card in 2005, that's the earliest I can find and that
11 already shows a one-story framing.

12 MEMBER GOODSELL: We're listening. We have another
13 comment, but we are listening so go ahead.

14 MS. ING: Oh, okay. I think that's pretty much it.

15 MEMBER GOODSELL: This property was just in front of us
16 in December.

17 MS. ING: Yes. I was here and Mr. Chairman missed the
18 meeting so I'm here back again to see him, I guess. I guess
19 that's what the building department wants.

20 MEMBER GOODSELL: And the Chairman is very flattered
21 that you came.

22 CHAIRMAN MAMMINA: Thank you.

23 MEMBER GOODSELL: But what a -- how come this addition
24 didn't come in front of us in December when the property
25 legalized the stairs going to the attic space?

26 MS. ING: That what is my question to the building

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2 department, which was never answered. I don't know why. It's
3 the same. Nothing has changed.

4 MEMBER GOODSSELL: It hasn't and I drove past this house
5 and said I've seen this house. I'm having deja vu. I have
6 seen this house. It's one of four houses that were obviously
7 built at the same time. It is no different than the others.
8 There is no change to it since it was last in front of us.

9 MS. ING: Right. Right.

10 MEMBER GOODSSELL: And we were just commenting we don't
11 usually make people come in front of us twice so obviously
12 something got missed somewhere.

13 MS. ING: I think maybe because the -- this whole case
14 was started before Covid. So there was a lot of paperwork
15 might get mixed up that's -- I'm just thinking and the owner
16 just trying to finish what was started before Covid few years
17 ago. They are trying to renovate the kitchen and the bathroom.
18 That was it. That's how this whole thing got started.

19 MEMBER GOODSSELL: Let's just clarify the record. Since
20 your clients bought the house, they have not added this
21 addition. This existed the same way the attic space existed
22 when they purchased the house. Is that correct?

23 MS. ING: Correct. Yeah. That's what I was told.
24 Yes.

25 MEMBER GOODSSELL: This is, Mr. Chairman --

26 CHAIRMAN MAMMINA: I'm sorry. Go ahead.

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2 MEMBER GOODSSELL: That's okay. This is a very narrow,
3 long, deep property. It was not visible to me that whatever
4 addition is in this -- this second story addition that is too
5 close to the street it is not apparent that it is -- it is --
6 it is pretty much the same as other houses on the block. I
7 really have no objection to this and I feel badly that the
8 applicant had to come in front of us a second time, having done
9 all the work the first time. The neighbors must be wondering
10 what is going on.

11 MS. ING: Yeah. We kept sending letters to them.

12 MEMBER GOODSSELL: And I'm sure they called and said now
13 what did you do so. All right. If the Board has questions,
14 feel free but otherwise I'm familiar with this area, I'm
15 familiar with the house. I have no objection to this
16 application and I make a motion that we grant the variance.

17 CHAIRMAN MAMMINA: We have a motion by Member Goodsell.
18 Do we have a second?

19 VICE CHAIRMAN FRANCIS: Second.

20 CHAIRMAN MAMMINA: Seconded by Vice Chairman Francis.
21 Please poll the Board.

22 SECRETARY WAGNER: Member Hernandez?

23 MEMBER HERNANDEZ: Aye.

24 SECRETARY WAGNER: Member Donatelli?

25 MEMBER DONATELLI: Aye.

26 SECRETARY WAGNER: Member Goodsell?

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2 MEMBER GOODSSELL: Aye.

3 SECRETARY WAGNER: Vice Chairman Francis?

4 VICE CHAIRMAN FRANCIS: Aye.

5 SECRETARY WAGNER: Chairman Mammina?

6 CHAIRMAN MAMMINA: Aye. Application is granted. Off
7 the record.

8 (A discussion was held off the record.)

9 MS. ING: Thank you. Have a nice day.

10 CHAIRMAN MAMMINA: You're welcome.

11 VICE CHAIRMAN FRANCIS: You too.

12 SECRETARY WAGNER: Next appeal, Appeal Number 21535,
13 Tina Yu; 66 Cherry Lane, Carle Place; Section 10, Block 19, Lot
14 70 in the Residence-C Zoning District. Variances from 70-49
15 and 70-100.1, to legalize a detached garage that is too close
16 to a property line and makes a dwelling too big.

17 CHAIRMAN MAMMINA: You've heard Appeal Number 21535,
18 Tina Yu. Is there anyone interested in the application other
19 than the applicant? Seeing no one. Please give your name and
20 address.

21 MR. WILLIAMSON: Hi. My name is Nick Williamson. I'm
22 the architect for the project. My address is 2355 Mermaid
23 Avenue, Wantagh, New York. Good morning.

24 CHAIRMAN MAMMINA: Good morning.

25 VICE CHAIRMAN FRANCIS: Good morning.

26 MR. WILLIAMSON: I'm here representing my client Ms.

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2 Yu, she couldn't appear this morning. But I'm here to maintain
3 an existing garage that's been on the property for sometime
4 before she purchase the property. She did recently extend the
5 garage four feet to fit her car. Until then she hadn't been
6 able to do that. So we're looking for two variances, one for
7 buildable area and a side yard setback.

8 VICE CHAIRMAN FRANCIS: You said the garage has been on
9 the property sometime?

10 MR. WILLIAMSON: Yeah.

11 VICE CHAIRMAN FRANCIS: Can you define sometime?

12 MR. WILLIAMSON: Before my client owned the house and I
13 believe -- I don't want to say -- they've been there she said
14 about 10 years, but I could be mistaken on that.

15 MEMBER DONATELLI: And when you say that your client
16 extended the garage, without a permit?

17 MR. WILLIAMSON: Yes.

18 MEMBER HERNANDEZ: Extended backwards into her property
19 not sideways towards the neighbor, correct?

20 MR. WILLIAMSON: Correct.

21 CHAIRMAN MAMMINA: I'm a Carle Place person having --
22 having lived there for over 43 years and I do know that part of
23 the world and, you know, we were refer to it as the old part of
24 Carle Place and, you know, historically there are many old
25 houses there and when the Long Island Railroad came through
26 there, it caused development to happen around that -- that part

1 Appeal #21535

2 of the world. And there are many older houses there, you know,
3 that are built at a very odd configuration. I mean this lot is
4 very -- the buildings are very compacted, you know, on that --
5 on that lot, but not unusual, you know, for that neighborhood.

6 MR. WILLIAMSON: Right.

7 CHAIRMAN MAMMINA: My own opinion is that by, you know,
8 adding it onto, you know, onto the back when you had a garage
9 that's 18.3 feet deep before you did this, you know, is
10 essentially unusable for a modern, you know, car. There are
11 cars that certainly fit in there, but, you know, adding the
12 four feet or so onto the back of that and toward the -- toward
13 the north and I think there is one more house and then there's
14 a gas station and, you know, that sort of thing.

15 MR. WILLIAMSON: Right.

16 CHAIRMAN MAMMINA: That is there. I mean some of its
17 impact on the community, you know, is not anything that's
18 significant and probably not something that anybody was even
19 aware of.

20 MR. WILLIAMSON: Yeah. It wasn't meant maliciously. I
21 believe she got some information saying that she could do this
22 without a permit.

23 MEMBER GOODSSELL: Mr. Williamson, I'm seeing a deed
24 that they purchased the property barely two years ago.
25 November of 2022. That doesn't sound correct.

26 MR. WILLIAMSON: Okay. Okay. I could be mistaken.

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2 I'm not sure when she bought it. She just told me it was there
3 and she's been there a while.

4 MEMBER GOODSSELL: She may have been there as a tenant.

5 MR. WILLIAMSON: Yeah. Yeah.

6 MEMBER GOODSSELL: It's a very busy section of town and
7 she may have bought it from the owners.

8 MR. WILLIAMSON: Yeah. I could be mistaken.

9 MEMBER GOODSSELL: But I'm looking and the applicants
10 deed is from November 2022.

11 MEMBER DONATELLI: You're an architect. Is that
12 correct?

13 MR. WILLIAMSON: Yes.

14 MEMBER DONATELLI: Are you familiar with the five
15 factors?

16 MR. WILLIAMSON: Yes, I am.

17 MEMBER DONATELLI: Can you go over them, please?

18 MR. WILLIAMSON: Sure. Okay. So based on the five
19 factors, the garage is existing so I don't believe there's any
20 change to the character of the neighborhood and you guys are
21 familiar with the area. I don't believe, you know, her goal is
22 to fit her car in there so I don't believe there's any way to
23 achieve that beyond extending the garage and that seems to be
24 the only direction that makes sense. I don't believe the
25 variance is both. I believe the building area is about 125
26 square feet and the setbacks are about a foot and a half so I

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2 don't believe them to be substantial. I don't see any adverse
3 impacts on the physical environment or nearby surround. Again,
4 this is existing. Whether the alleged difficulty was self
5 created. I just believe the homeowner did this mistakenly.
6 She was just trying to park her car there.

7 MEMBER DONATELLI: Let me just address the overage of
8 the square footage.

9 MR. WILLIAMSON: Yes.

10 MEMBER DONATELLI: The garage exceeds 300 square feet.
11 Therefore, according to the code, the entire square footage of
12 the garage is added to the square footage of the house, which
13 then puts you 1.45 square feet over the maximum. Had it not
14 been for the addition to the garage, the square footage of the
15 house would have been complaint. So that's the first
16 observation I will make. The second observation that I think
17 Mr. Hernandez already made to me is that this was -- perhaps
18 Ms. Goodsell. One of us. I don't recall. That the -- that
19 the garage was merely extended towards the back of the property
20 so that it's not visible from the front.

21 MEMBER HERNANDEZ: And encroaching in the back not in
22 the front.

23 MEMBER DONATELLI: It's not encroaching. It 's
24 basically inline with what was already there. So in terms of
25 self created, of course if the garage was extended then it was
26 self created. But when we factor in the fiver factors, to have

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2 brought the garage into compliance would be to move the side
3 wall of the garage further in from the side yard lot line and
4 that, of course, when we weigh the five factors, in my opinion,
5 that would make the project unfeasible because of the expense
6 of building a whole new garage wall.

7 CHAIRMAN MAMMINA: Okay. I think that's a motion by
8 Member Donatelli.

9 MR. WILLIAMSON: Yeah. I do believe it was
10 noncompliant on the buildable area before the garage extension.
11 The extension is about 100 feet. Just short of a 100 feet. I
12 think she was just short.

13 MEMBER DONATELLI: But it adds to the garage and it
14 adds to the square footage.

15 MR. WILLIAMSON: It does. That is correct.

16 MEMBER DONATELLI: So I'm --

17 CHAIRMAN MAMMINA: And we have a motion so that means
18 that it's time to not talk.

19 MEMBER DONATELLI: I make a motion that we grant the
20 application.

21 CHAIRMAN MAMMINA: We have a motion from Member
22 Donatelli. Do we have a second?

23 MEMBER HERNANDEZ: Second.

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

26 SECRETARY WAGNER: Member Goodsell?

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2 MEMBER GOODSSELL: Aye.

3 SECRETARY WAGNER: Member Hernandez?

4 MEMBER HERNANDEZ: Aye.

5 SECRETARY WAGNER: Member Donatelli?

6 MEMBER DONATELLI: Aye.

7 SECRETARY WAGNER: Vice Chairman Francis?

8 VICE CHAIRMAN FRANCIS: Aye.

9 SECRETARY WAGNER: Chairman Mammina?

10 CHAIRMAN MAMMINA: Aye. Application is granted.

11 MR. WILLIAMSON: Okay. Thank you.

12 MEMBER DONATELLI: Off the record.

13 (A discussion was held off the record.)

14 SECRETARY WAGNER: Next appeal, Appeal Number 21536,

15 Joseph Romain; 176 Rushmore Street, Westbury, Section 11, Block

16 27, Lot 27 in the Residence-C/New Cassel Overlay District,

17 Variance from 70-100.2(A)(4), to legalize fencing that is too

18 tall and located in a front yard past the front building line.

19 CHAIRMAN MAMMINA: You heard Appeal Number 21536,

20 Joseph Romain. Is there anyone who wishes to speak in favor or

21 opposition to the application? Seeing no one. Please give

22 your name and address.

23 MR. CHURCHWARD: Hi. My name is Ryan Churchward, I

24 represent Churchward Architecture. My address is 15 Parkway

25 Drive, Westbury, New York 11590. I'm here with the homeowner

26 Joseph Romain. We're here because the current vinyl fence

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2 installed in 2021, '22 roughly was installed past the front
3 building line and the current vinyl fence is taller. Six feet
4 and the zoning code allows side yards four foot and five foot
5 respectfully. The homeowner would like to keep the current
6 fence design for two reasons. People speed up and down
7 Rushmore Street. There have been two incidents, one with a
8 police report and one without at the house. One was first
9 crashing into the property damaging the chain link fence and
10 the other removed a front yard bush.

11 VICE CHAIRMAN FRANCIS: Do you have a police report to
12 submit?

13 MR. CHURCHWARD: Yes, we do and a picture. The
14 homeowner has grandchildren living in the house and with the
15 vehicle situation of Rushmore Street, he wants to make sure the
16 kids have a secure play area. The taller fence keeps the balls
17 and other objects in the back and side yards on the property
18 and keeps the kids from running in the street. The final
19 reason is the crime issue in New Castle area. The taller fence
20 keeps Miss Prints from entering the backyard and even looking
21 into the backyard looking for property easily to remove.
22 Regarding the five factors. An adverse affect to the
23 neighborhood. We don't think so. The other properties in the
24 area both have tall fences facing the street and additional
25 chain link fence past their front building lines. The benefit
26 to the homeowner is protecting his kids and property and

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creating privacy. Is it substantial change to the neighborhood? Based on what we see in the neighborhood, they have tall stockade fences plus other chain link fences that pass the front building line. There is really no environmental adverse affects and yes it was self created by in the mind of creating safety and privacy for his grand children.

MEMBER GOODSELL: I'm very interested in how somebody ran up on his front lawn. The house is in the middle of the block and it's not on a curve, it's not on the hill. I'm --

SECRETARY WAGNER: Is that an exhibit?

MR. CHURCHWARD: Yes. That is an exhibit we will submit.

SECRETARY WAGNER: That will be Exhibit 1.

VICE CHAIRMAN FRANCIS: Is the photograph part of the police report?

MR. CHURCHWARD: Yes.

VICE CHAIRMAN FRANCIS: Okay. So with regard to the fences, notwithstanding what we see in the neighborhood. I happen to live in New Castle. The town Board was very specific in enacting the fence law and as you stated, it's four feet in front, five feet along the sides, six feet in the rear and nothing in front of the building line. Without -- the only -- the only time that we have varied that rule is when the property houses an autistic child. That's the only -- to my memory, that's the only time we've ever varied a fence.

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2 Notwithstanding that, I don't hear a reason for us to do it
3 with regard to this application.

4 MEMBER GOODSSELL: We understand that your client would
5 like privacy. That's what fences create. When the client or
6 when your client asked us to vary, Mr. Francis is correct,
7 varying, you have to give us a reason. Everybody wants a
8 fence.

9 MR. CHURCHWARD: And security.

10 MEMBER GOODSSELL: Sometimes people want eight foot
11 fences, because they want the privacy. Because we do not
12 normally allow front yard fences, you have to give us a reason
13 why these pieces coming out are necessary.

14 MR. CHURCHWARD: If those pieces were removed, those
15 two beyond the building line. Would that be an acceptable
16 reason to -- to keep the other portions that are taller?

17 MEMBER GOODSSELL: The other portions -- both portions
18 of the fence and the gate they are both six foot?

19 MR. CHURCHWARD: Yes.

20 MEMBER GOODSSELL: We don't normally play let's make a
21 deal.

22 MEMBER DONATELLI: The law is as follows; six feet
23 along the rear lot line, five feet along the side yard lot line
24 and then any return facing the feet has to be facing the street
25 so it's six, five, four and one of the concerns that we always
26 have is first of all, the fences are not allowed forward of the

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building line.

MR. CHURCHWARD: Understood.

MEMBER DONATELLI: One of the concerns that we do have is that anything that we do here may set precedent for anything that comes before us in the future and of course we are not the town Board. We are empowered to grant variances under certain circumstances, but we can't substitute our judgement for what the town Board has set as part of the building code. So that would be my first observation. My second observation is that as I read that accident report, it's not really -- it's a police accident report. So it's really talking about an accident that occurred there and in front of the house and I think it speaks of the chain link fence that was damaged but -- right. Right. I mean the town Board really wants front yards to be left open.

MEMBER GOODSELL: I do want to point out that the neighbors house sits forward of this section of the applicants house and it sits forward and they would be permitted a four foot fence and a four foot fence on their side where your client has installed a six foot fence so.

VICE CHAIRMAN FRANCIS: And with regard to other fences that are similar to this in terms of height. I'm willing to bet my salary that they are all put up without a permit. So we can't -- we can't say that it's the character of the neighborhood when the thing we're talking about was put up

Appeal #21536

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2 illegally so. And, you know, just to get back to the property
3 itself, there's nothing unique about the property itself,
4 notwithstanding what I said about an autistic child. But there
5 is nothing else in terms of the grade of the property and where
6 it's situated. It's not on a corner property that would make
7 it unique to the extent that we would vary the code. So I
8 know, you know, I know it's a pain in the neck to cut this
9 fence down, but the problem is, I'm sure this fence was
10 installed without a permit also. Because if it was installed
11 with a permit, it would have been four feet, five feet, six
12 feet. So it's a pain in the neck to make it comply, but I
13 think that's what's going to have to happen.

14 MR. CHURCHWARD: Understood.

15 MEMBER DONATELLI: May I ask a question, sir. Did your
16 client receive any violations? Is your client in court?

17 MR. CHURCHWARD: No.

18 VICE CHAIRMAN FRANCIS: How did this come before us?

19 MR. CHURCHWARD: No. We were doing a second floor
20 addition and through the process of record review, the town
21 said you have certain items that you have to maintain and there
22 was a previous application for overbuilding in the basement
23 that we had to maintain also and so when they do the maintains,
24 they kind of look at everything and they saw the fence and
25 they're like that's not -- you don't have an application for
26 this please maintain it.

Appeal #21537

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MEMBER DONATELLI: But you do not have a violation from the town?

MR. CHURCHWARD: No. No violation, no.

VICE CHAIRMAN FRANCIS: So I think, Mr. Chairman, what I want to do is, I really want to reserve decision on this right now. I want to take another look at the house and the neighborhood and give this a little bit more thought before we make a final decision.

CHAIRMAN MAMMINA: Agreed. Yup. All right. So we'll reserve decision on the application, which we don't need any more information from the applicant and this will probably not be decided today, because we would like to take another look.

MR. CHURCHWARD: Understood. Thank you.

SECRETARY WAGNER: Next appeal, Appeal Number 21537, Country Glen, LLC (Nava Health MD, Inc.); 119 Old Country Road, Carle Place; Section 9, Block 670, Lot 27 in the Industrial-B Zoning District. Variances from 70-103.A, 70-196(J) (1) (b) and 70-196(J) (1) (f), to construct interior alterations to convert a retail space to a health center with not enough parking, and a wall sign that is too tall and too high.

CHAIRMAN MAMMINA: You heard Appeal Number 21537 Country Glen, LLC, Nava health MD, Inc. Is there anyone in the room who would like to speak regarding this application other than the applicant? Seeing no one. Please give your name and address.

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2 MR. SBARRO: Good morning or almost good afternoon. My
3 name is Gianni Sbarro. I'm an attorney with Forchelli, Deegan,
4 Terrana LLP with an office at 333 Earle Ovington Boulevard in
5 Uniondale 11553. Thank you all for having me this morning.

6 VICE CHAIRMAN FRANCIS: I don't think we have a choice.

7 MR. SBARRO: And the rest of the team as well.

8 MEMBER GOODSELL: We like you any way.

9 MR. SBARRO: Thank you. I'd just like to submit three
10 exhibits. One is a brochure and another one is a pamphlet.

11 SECRETARY WAGNER: This will be Exhibit 1 and 2.

12 MR. SBARRO: So here presenting with me is Sean Mulryan
13 of Mulryan Engineering, Michael McNerney, the landlord's
14 architect and Brandon Ausgotharp from Nava Health.

15 The requested application relates to the property known
16 as 119 Old Country Road, which is a 5,000 square foot tenant
17 space located at Country Glen Center on the north side of Old
18 Country Road in Carle Place. As you all know the center is
19 27.65 acres and it's designated on the Nassau County Land and
20 Tax Map as Section 9, Block 670, Lot 27. According to the town
21 zoning map, it's located in the IB district. The center is
22 developed with approximately 285,500 square feet of tenant
23 space and the uses provided within include restaurants, medical
24 offices, general offices, a supermarket, barbershop, bank,
25 retail stores and many more. A proposed addition to the center
26 is Nava Health and Vitality Center, which is a vertically

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2 integrated tech enabled healthcare practice combining
3 integrative, functional, preventative and regenerative medicine
4 and they currently develop new types of holistic medicine and
5 wellness services in locations throughout Maryland, Virginia
6 and Florida and they're in the process of expanding in North
7 Carolina, New Jersey and New York. Essentially it's a one stop
8 wellness center with services that aim to address the root
9 causes of patients symptoms in a single location. Nava is
10 proposing upgrades to the 5,000 square foot tenant space, which
11 is formally occupied by a retail clothing store known as
12 Catherine's. In doing so, they're seeking a change of tenancy
13 which will include a change of occupancy to a medical office
14 and the proposed improvements include updates to the interior
15 design, interior layout and signage. As a result, the medical
16 office will have an attractive and modern appearance and it
17 will be another valuable addition to the center, as well as the
18 community. Notably this center has received the benefit of
19 numerous variances over the years which this Board knows of.
20 One was the most recent was a parking variance from section
21 70-103.A, which is what we are seeking today which was granted
22 on October 12, 2022 under Appeal Number 21298. By the
23 decision, this Board approved a parking variance increasing the
24 total deficiency to 224 spaces. Excuse me, off street parking
25 spaces at the center. Today Nava is seeking variances from
26 section 70-103.A, as I said before, section 70-196(J) (1) (b), as

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well as 70-196(J) (1) (F), for insufficient off street parking and for sign that exceeds permitted vertical measurement and height above the ground level below. Pursuant to the requirements of 70-103.A, the building department has determined that this now requires 1,285 off street parking spaces. There are currently 1,044 off street parking spaces provided at the center so a variance for a deficiency of 241 parking spaces is required. According to section 70-196(J) (1) (B), a sign on a building wall facing a public street shall not exceed 54 inches in vertical measurement and today we're asking for a sign that is 66 inches in vertical measurement. Lastly, according 70-196(J) (1) (F) of the code, the top of a wall sign must not be higher then 18 feet of above the meeting level of the ground below it and we're asking for a sign that is 20 feet below the -- excuse me -- the top of the sign is 20 feet above the ground below it.

At this point I'd like to introduce Sean Mulryan, our traffic engineer to discuss the details of the traffic engineering report that were submitted with our application and if it's okay with the Board, after that I'd like to conclude by running through the five factors.

CHAIRMAN MAMMINA: Thank you.

MR. SBARRO: Thank you.

MR. MULRYAN: Good afternoon. My name is Sean Mulryan, Mulryan Engineering, 1225 Franklin Avenue in Garden City, New

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2 York. As Mr. Sbarro mentioned, this is the second time in the
3 last few years that we've been here on this particular piece of
4 property. It is a very large shopping center located on two
5 very busy roadways in Nassau County. One being Old Country
6 Road and the other Glen Cove Road. The subject site is
7 somewhat of a flag lot in that it connects the two pieces of
8 property. I say it's a flag lot although it's not shaped that
9 there way, because there is a lower level on Glen Cove Road and
10 then an upper level where the subject site is located. The
11 subject site has numerous parking spaces surrounding different
12 properties, different uses. Last time we were here was for a
13 conversion to a restaurant, today we're here for a conversion
14 from a retail use to a medical office building. Medical office
15 building is located in a, what I'll call corner but it's two
16 angled pieces of building that are connected so the frontage of
17 that site is very small relative to the size of the actual
18 unit. So from the parking lot, it's a small frontage that
19 opens up once you enter into the building. It's located near
20 the front of the property on Old Country Road and as you can
21 see in the area on my left, your right, there is a significant
22 portion of parking that is underutilized near Old Country Road.
23 This is a building that may utilize that parking lot or that
24 portion of that parking lot. In front of that building or to
25 the side is a restaurant, which would operate essentially at
26 different time periods. So they use the same areas of the

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parking lot but at different peak times. On the other side of this application or other side of this store is PC Richards, which would, again, use the parking during the same time periods, but the parking demand would be shared and that's one of the things that helps us in shopping center cases where there are different use and different peaks. So again, this is located next to one retail center and next to a restaurant. So the peaks of a store is very close to this property are off peak from one another. Again, we've looked at this subject site on two separate occasions. This is our third visit out to this site. During all three visits we found that there is ample parking on the subject site to provide for the uses that will provide. If there's any questions from the Board I'll be happy to try to answer them.

MEMBER GOODSELL: I've been to that center many times. I've never had a problem parking except during Christmas holidays when there is always a problem parking everywhere. So putting aside the Christmas exception, I don't have an issue with the parking, Mr. Chairman.

MR. MULRYAN: And I will say that when we came in on the last application, I was pleasantly surprised I guess at how busy it was when it initially opened and I was more happy that it calmed down a little bit after it opened. But that restaurant was very successful and very busy in the first couple of weeks. It has since calmed down a little bit, but

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again, their off peak demands so we believe this is a good application and as you said, this site has recently been redone over the last 20 years. Has a lot of landscaping and they put a lot of effort into keeping this center clean and tidy.

CHAIRMAN MAMMINA: I'm old enough to remember when it wasn't there. I do have a question, Mr. Sbarro. A couple of questions. I'm just curious, what does vertically integrated mean?

MR. SBARRO: You know what, I'll let Brandon explain it.

CHAIRMAN MAMMINA: Let's hold off. Let me ask my other questions then. I believe that the term, maybe that was by Mr. Mulryan, medical office building was used. It's a space, right?

MR. SBARRO: It's a space. Correct.

CHAIRMAN MAMMINA: It's not the whole building. I'm just curious and maybe the gentleman can answer that. Is this licensed like an Article 28 diagnostic treatment center by the Department of Health. If it's being called medical. I mean that's just my take on it.

MR. SBARRO: So the building department classification was a medical office, but again, I believe Mr. Ausgotharp can explain a little bit further about what exactly is being done in the location and as well as the vertical integrative aspect.

MR. AUSGOTHARP: How you doing. Brandon Ausgotharp

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2 representing Nava 9755 McGaw Road, Columbia, Maryland.
3 Vertically integrated basically means that we don't do symptom
4 analysis and symptom diagnostics. So when you come in it's
5 root cause. So we start at the ground level of what your DNA
6 tells you you are, what your bloods telling us you have an
7 issue with and then we go on from there. So we integrate each
8 level on top of -- I'm sorry. We integrate each level of where
9 your problems start and you feel. So every service we have
10 compliments the other. That's the vertical integration. Is
11 there other questions you have?

12 MEMBER GOODSELL: You don't have any medical devices or
13 equipment?

14 MR. AUSGOTHARP: No, ma'am. No.

15 CHAIRMAN MAMMINA: I'm just curious in what is a
16 vampire facelift?

17 MR. AUSGOTHARP: I have no idea. In all fairness --

18 MEMBER DONATELLI: Does it have to be done at night?

19 MR. AUSGOTHARP: I'm assuming. Yeah. Tighten your
20 lips up. I don't know. I built the first five Nava facilities
21 10 years ago as a contractor through a partner. I invest -- my
22 careers went other directions with government contracting and I
23 came back to work for them in December of last year. So to be
24 fair, as I told my boss, I'm being thrown to the wolves here.
25 Five months and I already have my first variance. But yeah, I
26 don't know what a vampire facelift is.

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2 MEMBER GOODSSELL: Well, we don't bite. Vampire
3 otherwise.

4 MEMBER DONATELLI: How many employees do you
5 anticipating having, physician assistants, whatever you might
6 call them?

7 MR. AUSGOTHARP: Onsite? Roughly 13 a day.

8 CHAIRMAN MAMMINA: How many a day, I'm sorry?

9 MR. AUSGOTHARP: 13.

10 MEMBER DONATELLI: 13 employees.

11 MR. AUSGOTHARP: So we have front desk staff who
12 operates and does your welcoming, we have nurse practitioners,
13 nurses and then doctors and physicians assistants. Everything
14 is scheduled so it's not like people just come in randomly.

15 MEMBER DONATELLI: So by appointment?

16 MR. AUSGOTHARP: Yes. It's appointment based.

17 CHAIRMAN MAMMINA: There's 13 people for all of that?
18 It's not a trick question. Yes, 13?

19 MR. AUSGOTHARP: Yes, 13 full-time employees.

20 CHAIRMAN MAMMINA: You have eight phlebotomy chairs in
21 here, 11 treatment rooms, you know, in here. I guess it
22 doesn't affect my opinion, you know, on the parking variance.

23 MR. AUSGOTHARP: Right.

24 CHAIRMAN MAMMINA: Only because it's self limiting.
25 You know, if I think this is the greatest thing on earth and I
26 drive there and I can't park, I'm going to go someplace else or

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I'm just going to leave. I'm not going to park in a neighborhood or something in order to get here and we have many, many circumstances like this around Roosevelt Field, which is a very popular area and this shopping center, you know, which is a popular area so.

MS. ALGIOS: I found out what a vampire facelift is. I had to know. It is a cosmetic procedure that uses the patients blood. It injects plasma and hyperchloruric acid. It's noninvasive and only requires topical anesthesia.

CHAIRMAN MAMMINA: There you go. Mike, I think we should both go.

MR. MASSONE: Yeah, I'm signing up.

MEMBER DONATELLI: So I do have another question.

MR. AUSGOTHARP: Sure.

MEMBER DONATELLI: I'm looking at the floor plan. I guess I can describe it as the southern most portion of the space. It looks like there are a bunch of chairs. Are these -- those chairs, there are eight chairs in one room. Are those -- is that a communal space or is that a waiting room? Let me tell you what page I'm looking at. I'm sorry. Page A1.4.

MR. AUSGOTHARP: All right. Mr. Donatelli, that's our IV therapy room. So we have seven chairs kind of in this circular rectangular room. That's our IV therapy. So there's large recliners with IVs on the wall.

MEMBER DONATELLI: So in other words, might you have

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2 seven people in that room at the same time getting IVs.

3 MR. AUSGOTHARP: Yes. Yes. And then we also offer, if
4 you look directly across the hall there's a private IV room.

5 MEMBER DONATELLI: I'm sorry?

6 MR. AUSGOTHARP: Across the hall there's one chair very
7 similar to that, it's a private IV room. IV therapy is a big
8 part of our business.

9 CHAIRMAN MAMMINA: They take your blood and throw it on
10 your face.

11 MR. AUSGOTHARP: Exactly. That actually happens in the
12 procedure rooms in the back. Three procedure rooms, we try to
13 get six to seven therapy rooms -- facility therapy rooms are
14 for massage treatments that we give. Procedures are anything
15 outside of echoscope, which is electrolysis from point A to
16 point B. They will do some of the cosmetics or the esthetics
17 as we call them.

18 MR. SBARRO: Mr. Donatelli, just to your point of, you
19 know, the number of chairs and, you know, different rooms in
20 the building, you know, on average, other locations have
21 roughly 15 customers coming in per day. At a maximum, their
22 busiest location is 90 people and that's a larger location
23 that's been around for much longer. So there really is a large
24 spread and we don't anticipate it to be at the high end. We're
25 kind of hoping it will be at the high end, but it's likely
26 gonna be in the middle.

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2 MEMBER DONATELLI: Yes, and I appreciate that. You
3 know, again, it is self limiting because it's not like you can
4 park on Glen Cove Road if you can't find parking in the lot.
5 We do hope that all of our applicants are successful, but
6 certainly, you know, we've heard that there is ample space or
7 there should go sufficient space in this lot for such a
8 business. And I think it's also, you know, we -- it's an
9 interesting -- that step on health care, it's an interesting
10 take on it.

11 MR. AUSGOTHARP: I appreciate you saying that.

12 CHAIRMAN MAMMINA: My understanding from clients is
13 that in the ethnically Russian parts of Brooklyn. Because the
14 question came up by a real estate developer client, a real
15 estate broker client, you know, just asking the medical
16 questions and zoning and, you know, all of that sort of thing.
17 So it's kind of fascinating.

18 MR. AUSGOTHARP: I will encourage you guys to check it
19 out as a potential customer, but it works, man. It works.

20 MEMBER DONATELLI: Any other questions? Oh, the sign.
21 Yeah. Yeah. And actually, Mr. Sbarro, if we can, let's talk
22 about the signs. The variances that you're seeking
23 particularly the height and the size.

24 MR. SBARRO: Sure. And if I can run through the
25 factors, maybe some of them might -- your questions will be
26 answered. Okay. So beginning with the requested variances

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will not create an undesirable change in the character of the neighborhood nor detriment to nearby properties. As demonstrated by Mr. Mulryan, the existing off street parking is more than adequate to accommodate the proposed uses on site without any negative impact on the community or the neighborhood. As the Board knows, this center is designed to attract customers who will go through multiple tenants businesses in a single visit. So that along with Nava's appointment based schedule, we see that the parking demand will be spread throughout the day and will not create any issues here in that sense. This particular area also is primarily commercial and as you all mentioned, it's very self regulating. Any houses or residential buildings are located across Old Country Road so there won't be any spillover as well. Moreover, there's numerous signs of similar size and scale within the center and all throughout Old Country Road. So the proposed sign will blend harmoniously and I actually have for the Board an additional exhibit packet.

CHAIRMAN MAMMINA: Does that have pictures of those signs in it? That's my issue, the Nava part just seems very large.

MR. SBARRO: It does, yes.

CHAIRMAN MAMMINA: I don't think you can compare it with the Catherine's part.

MR. SBARRO: So I think with some of the other signs in

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2 this packet, you might be able to see the comparison of what
3 we're proposing. Also, just that Nava sign I would like to
4 bring it to the Board's attention, we actually kept it within
5 the band that the Catherine sign was in beforehand.

6 MEMBER DONATELLI: Catherine of course is so many more
7 letters so of necessity it's longer but the letters are smaller
8 than the Nava font.

9 MEMBER HERNANDEZ: When it initially hits you.
10 However, more than that, is that Catherine were letters
11 superimposed on the wall. This you have a white backdrop. So
12 the whole sign becomes a white big rectangle up there that
13 really hits you in the face. So unless -- there's a lot of
14 signs on that --

15 MR. SBARRO: There is --

16 MEMBER HERNANDEZ: Stop and Shop is just letter.
17 Barnes & Noble, letters. PC Richards, letters. Anthony's
18 letters. REI letters. So do you want me to keep going?

19 MR. SBARRO: So you will see the -- the --

20 MEMBER HERNANDEZ: That's what hits you visually is the
21 big white.

22 MR. SBARRO: The guitar center has that large pick
23 behind it, which is in the panoramic. Additionally, REI has
24 that large REI square next to Recreational Equipment
25 Industries.

26 CHAIRMAN MAMMINA: For me anyway it's not the height of

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2 the sign and we want them to be successful, you know, with the
3 proper sign.

4 MEMBER HERNANDEZ: Right.

5 CHAIRMAN MAMMINA: It's just that, you know, the
6 letters are so big.

7 MEMBER HERNANDEZ: And the letters are big but the
8 white background I think really highlights.

9 CHAIRMAN MAMMINA: It amplifies it.

10 MEMBER HERNANDEZ: It highlights how big the sign is.

11 CHAIRMAN MAMMINA: The Guitar Center has a pick
12 underneath it.

13 MEMBER DONATELLI: Your client mentioned other
14 locations?

15 MR. SBARRO: Yes.

16 MEMBER DONATELLI: Where are the other locations?

17 MR. SBARRO: North Carolina, Florida, Virginia.
18 They're opening up in New Jersey right now, as well as New
19 York.

20 MEMBER DONATELLI: Do you happen to have any samples of
21 the signs that they might have on these other locations?

22 MR. SBARRO: I do not have any samples on me.

23 MR. AUSGOTHARP: I might have one.

24 MEMBER GOODSSELL: Yeah. I'd like to see what the sign
25 is like. I'd like to see if this is a logo that's on the
26 others as well or whether this is an individual design for this

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space. The height does not bother me. Nothing beats Barnes & Noble, which is high as anything and I understand the client wants visibility because they're in a corner. They would like somebody driving in to see where they are. But I kind of agree with the other Board members that that white sign does highlight Nava.

VICE CHAIRMAN FRANCIS: Mr. Sbarro, let me just ask you one question about the colors. Are those colors trademark with regards to the name of the business itself. Is that a trademark of the business?

MR. SBARRO: No. Excuse me, they are.

MEMBER HERNANDEZ: So the Nava lettering I would imagine, like the N with the stripe going through it, that's branding but the background to it is not part of your branding?

MR. AUSGOTHARP: No. The white is part of it. We put white as our typical background.

MEMBER HERNANDEZ: Unless you talk about the brochure. Then it's blue.

MR. AUSGOTHARP: Yeah. Exactly. So the blue and the white are standard colors we use for it and then the Nava N it spells Nava.

VICE CHAIRMAN FRANCIS: So the Nava N is a trademark, correct?

MR. AUSGOTHARP: Yes. Yes.

VICE CHAIRMAN FRANCIS: The color scheme is not?

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2 MR. AUSGOTHARP: It's part of our branding package.

3 MEMBER DONATELLI: So as I look at your application,
4 page -- Page 4 of four, I see another sign Nava Health, which
5 is the blue lettering on the black background which looks like
6 the letters are back lit which tends to be much more elegant.
7 I mean we're not an as aesthetic Board, but of course if
8 something is going to jump out and offend the eye, it seems to
9 me that most, if not all, of the other signs are that red. If
10 the landlord --

11 MEMBER HERNANDEZ: These letters are channel
12 illuminated.

13 MEMBER DONATELLI: My question is as follows; if the
14 landlord has a theme, I guess if the landlord has approved the
15 sign application, then it's really not for us to say. On the
16 other hand, it would be nice that would clash less with what is
17 already there. We are not an aesthetic Board.

18 MR. SBARRO: Mike can speak to that.

19 CHAIRMAN MAMMINA: Also, the Nava letters itself should
20 be -- I don't know, maybe you can present that other people who
21 are in that one story part have letters the same size as -- as
22 Nava and that would be helpful to me. But I'm very familiar
23 with this is shopping center and I just don't think so, you
24 know, but, you know, the way that I mean that.

25 MR. SBARRO: I understand.

26 CHAIRMAN MAMMINA: Stop and Shop certainly, Barnes &

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2 Noble is way up high and that does go with the architecture of
3 the building. We do appreciate what you're saying about this
4 blending with the architecture of the sign.

5 MR. McNERNEY: If I may. Michael McNerney, 8 Chivalry
6 Lane, Nesconset, New York 11767 representing the landlord. If
7 I may, the -- the landlord did have questions. It is
8 dissimilar to most of the signs in the shopping center.

9 MEMBER HERNANDEZ: Yes, it is.

10 MR. McNERNEY: But it's also, you have to understand
11 it's been a very difficult space to rent. Okay. Because of
12 it's limited eye appeal, it's limited visual impact, a large
13 size 5,000 square feet and I can tell you the rents at the
14 Country Glen Center ain't cheap. So we did look at this and
15 ownership and I discussed it and they were okay with it only
16 because of A, the color of the sign doesn't react well with the
17 background color of the building, like a red does. Nava is --
18 that is their Nava blue if you understand what I'm saying. So
19 we felt that it was a something that was acceptable. It's
20 acceptable to the landlord. So if it's acceptable to this
21 Board, understand that it's acceptable to ownership.

22 MEMBER GOODSELL: That sign that you're showing us,
23 that's illuminated at night?

24 MR. SBARRO: Yes.

25 CHAIRMAN MAMMINA: The letters are channel letters. So
26 the white part is not illuminated.

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MR. SBARRO: Correct. And as we have in are addendum, these letter will be illuminated on schedule with other locations in the center. So it will go on and shut off in tandem.

MEMBER HERNANDEZ: You know, listen, I know that shopping center well obviously. We all do know it well. That's why I knew I -- I could count that I wasn't going to find any that every single one of these in that shopping center, I just looked at everyone of them. None of them have even this fixed screen, which has red and blue in their colors. They have background panel almost mimics the color of the shopping center so that it fades away into the wall. That one does exactly the opposites. It really hits you in the face. So it really draws your eye to it way too much and I know it's in an unusual corner. Okay. And I know it's -- but the size of it is probably okay. I have no problem with the size. It's in the band. I don't have a problem that it's too high, but I do find that that clashes the --

MR. SBARRO: So would the Board be willing to approve this if perhaps the background was less stark white in the middle, just because there is that issue as Mr. McNerney pointed out, this space is facing an interior parking lot, it's difficult to see and again, this is a location that will likely have little traffic but we're hoping to still have an eye appeal that people will inquire and want to know what's going

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2 on in this space. So perhaps there's a center ground here that
3 can be approved. And obviously I have four other factors if
4 the Board would like me to run through. I would be more than
5 willing to.

6 MEMBER DONATELLI: Would the applicant be willing to
7 consider the current sign plan and the size but on a black
8 background as shown on Page 4 of four or in the alternative, I
9 guess would the applicant because the -- the shopping center is
10 comprised of mostly red signs but individual letters not on a
11 background just attached directly to the wall, because that is
12 also similar to the other shopping center alternatives. Either
13 one of those alternative would help it blend it a bit more
14 while not comprising visibility.

15 MR. SBARRO: So the applicant's colors are white and
16 blue. So would the Board be amendable to perhaps an in
17 between, you know, white and blue background or a matching
18 background and a white paint on the actual building itself?

19 CHAIRMAN MAMMINA: Can the letters health be in white
20 to keep in blue and white.

21 MR. AUSGOTHARP: So Boca Raton is our most recent
22 location and because of the way that building is lined up, it
23 was too smaller sections. So we have Nava in big white letters
24 and then we health under in white letters but it's on a blue
25 background. We work those two colors so we can go out of the
26 way.

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2 MEMBER DONATELLI: I'm sorry, is your suggestion a blue
3 background with white letters.

4 MR. AUSGOTHARP: It's an option. We are very big on
5 our branding.

6 CHAIRMAN MAMMINA: So it would look like the logo here?

7 MR. AUSGOTHARP: Yes. I can give you guys the address,
8 I don't know if it's illuminated if you were to, like, use
9 Google Maps for the Boca Raton facility, but I have it on my
10 phone a picture I took of the sign being illuminated at night.

11 MEMBER DONATELLI: Well, if I understand your
12 suggestion, then it would be a blue background with white
13 lettering that's similar to what is listed on your brochure.
14 The Chairman will tell you we get to keep your phone.

15 MR. AUSGOTHARP: It's a work phone, you can have it.
16 It's all yours.

17 MEMBER DONATELLI: So what you're showing us is two
18 separate signs with Nava on one sign and health on the other.
19 So what we're suggesting is -- right. The same color scheme
20 for one sign with the coloring reversed.

21 MR. AUSGOTHARP: Just flipped. Yeah. I mean I can
22 talk to the designer. I don't think that's an issue.

23 CHAIRMAN MAMMINA: The letters as they are except they
24 in white instead of being blue.

25 MR. SBARRO: So either that option or obviously what
26 was mentioned before is that we just put the letters themselves

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2 as they are blue and gray and we can just paint the band.

3 CHAIRMAN MAMMINA: If you do that and I understand, you
4 know, again, we are not an aesthetic Board and I always hate
5 signs for that reason and I know everyone wants their sign, but
6 if there is the ability to compromise it white on white, I do
7 think --

8 MR. SBARRO: White on blue.

9 CHAIRMAN MAMMINA: -- that it tempers it a little bit
10 against that bright white background, because even look, you
11 know, your argument could be look at PC Richard, but they are
12 that whole thing is white.

13 MR. SBARRO: We understand.

14 CHAIRMAN MAMMINA: So it's a different kind of
15 background.

16 MEMBER DONATELLI: We understand about cooperate look
17 to the sign and -- and we certainly want all of our tenants to
18 be successful and so we understand that you would like a
19 certain visibility but I think if we to switch the colors, I
20 think that would make it more palatable.

21 MR. SBARRO: The applicant is perfectly fine with that.

22 SECRETARY WAGNER: So we should continue this then and
23 send revised plans.

24 MR. SBARRO: Could the application be conditioned upon
25 that modification?

26 SECRETARY WAGNER: Well, the building department won't

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2 know exactly what we approved without specifically seeing the
3 plan. They're going to want to see the plan. It's not --

4 MEMBER DONATELLI: I think you're hearing a very
5 favorable response from the Board, but I think in terms of
6 procedure, I think it's best if we have something. Because as
7 difficult it is for us to go through it, it would be more
8 difficult for the building department to go through. I think
9 your plans require quite a bit of interior alteration work and
10 so I think that you probably have a lot of character work
11 before you actually put a shovel in the ground and speaking as
12 one Board member, if you can get us a revised sign plans, I
13 think we could probably vote on this very quickly. As soon as
14 we receive it and that might be best to all parties.

15 MR. SBARRO: That's understandable. And one question I
16 have and I'm not sure of the logistics of it, Deborah, maybe
17 you can weigh in. There's the parking variance and then
18 there's the two sign variances. Perhaps we can approve the
19 parking variance today so my client can begin working?

20 SECRETARY WAGNER: We can't approve.

21 MS. ALGIOS: We can't do that.

22 SECRETARY WAGNER: It's all presented as one appeal.

23 MR. McNERNEY: Can we just have one second?

24 CHAIRMAN MAMMINA: How far along are they with the
25 construction?

26 MR. McNERNEY: Construction drawings are done 100

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percent.

CHAIRMAN MAMMINA: So you're not under construction yet?

MR. McNERNEY: We don't have a permit yet. We can't get a permit until we have a parking variance and my client -- the client is willing to take the sign as is no white background, blue letters in the size that it is if it can get approved today. We need this parking variance in order to get to the building department. If they can't be separated, he is willing to take the sign blue letters, no white background today.

VICE CHAIRMAN FRANCIS: Blue letters with no background.

MR. McNERNEY: No background, blue letters, illuminated channel letters mounted on the wall no white background.

MR. SBARRO: So it would essentially match PC Richards and the rest.

MS. ALGIOS: Now they removing the white background.

SECRETARY WAGNER: All right. So conditioned upon the lettering with no white background.

MEMBER DONATELLI: Let me try and make a motion and please jump in and correct me if I'm wrong. So the applicant is here for a parking variance of, it looks like about 140 spots or so in the shopping area. We've heard testimony that there is sufficient parking onsite and certainly is acceptable

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to me. So that part of the application for the parking variance, I make a motion that we grant that. With respect to the sign, the applicant has altered the application such that the -- the lettering for Nava Health will appear without the white background, will appear flush mounted to the building, backlit.

SECRETARY WAGNER: So is that called pin mounted when they just have the lettering?

MR. McNERNEY: No. These are flush mounted to the face of the building.

CHAIRMAN MAMMINA: But they're an inch and a half off the building so that the light comes through.

MR. McNERNEY: Is that what's shown in the detail?

CHAIRMAN MAMMINA: That's what's shown in the detail.

MR. McNERNEY: Then there you go.

MEMBER DONATELLI: That they be mounted directly to the building without the white background and that they be backlit and we are approving the sign as to the height, as to the location and as to the vertical height of the -- of the building. So as to the height 21 feet verses 18 feet and as to the vertical height of five feet six inches overall. No, I'm sorry. That is to four feet five as shown on the applicant's diagram without -- without the white background.

MR. SBARRO: Right.

CHAIRMAN MAMMINA: Also, that it is on the sign band

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2 just for any future applications.

3 MEMBER DONATELLI: Right.

4 MR. SBARRO: That's correct. Just one point, Mr.
5 Donatelli, you had said 140 spaces or so is the variance. It's
6 241.

7 MEMBER DONATELLI: Forgive me. My application this
8 morning -- my language this morning was cloudy because it was
9 the first case now it's the last case and so you're -- thank
10 you for correcting me.

11 SECRETARY WAGNER: You need a vampire facelift.

12 MEMBER DONATELLI: So that is my motion.

13 CHAIRMAN MAMMINA: Do we have a second?

14 VICE CHAIRMAN FRANCIS: Second.

15 MEMBER HERNANDEZ: Second.

16 CHAIRMAN MAMMINA: Give it to Mr. Hernandez. Second by
17 Member Hernandez. Please poll the Board.

18 SECRETARY WAGNER: Member Hernandez?

19 MEMBER HERNANDEZ: Aye.

20 SECRETARY WAGNER: Member Goodsell?

21 MEMBER GOODSSELL: Aye.

22 SECRETARY WAGNER: Member Donatelli?

23 MEMBER DONATELLI: Aye.

24 SECRETARY WAGNER: Vice Chairman Francis?

25 VICE CHAIRMAN FRANCIS: Aye.

26 SECRETARY WAGNER: Chairman Mamamina?

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

MR. SBARRO: Thank you very much. Thank you. Have a
nice day.

MR. McNERNEY: Thank you.

VICE CHAIRMAN FRANCIS: Good luck.

MEMBER DONATELLI: Good luck. Welcome to the
neighborhood.

SECRETARY WAGNER: Do we want to move SEQRA?

VICE CHAIRMAN FRANCIS: Yeah, I'll move it.

SECRETARY WAGNER: Second?

MEMBER GOODSSELL: I'll second.

SECRETARY WAGNER: All in favor?

MEMBER HERNANDEZ: Aye.

VICE CHAIRMAN FRANCIS: Aye.

MEMBER DONATELLI: Aye.

MEMBER GOODSSELL: Aye.

CHAIRMAN MAMMINA: Aye.

SECRETARY WAGNER: SEQRA is adopted.

(TIME NOTED: 12:39 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 17th 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 5th day of June, 2024.

Nicole L. Basile

NICOLE L. BASILE